



## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

**December 12, 2018**

Robert P. Giacalone, R.Ph., J.D., President, called the meeting to order at 10:17 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; Michael L. Gonidakis, Esq.; Amol Soin, M.D.; Michael Schottenstein, M.D.; Richard Edgin, M.D.; Ronan M. Factora, M.D.; Betty Montgomery; and Sherry L. Johnson, D.O. The following member did not attend: Mark A. Bechtel, M.D.

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

#### MINUTES REVIEW

**Dr. Saferin moved to approve the draft minutes of the November 14, 2018, Board meetings, as written. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

#### APPLICANTS FOR LICENSURE

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



**Exhibit “A” and the allied professional applicants in Exhibit “B,” as listed in the Handouts provided to Board members. Dr. Schachat seconded the motion. A vote was taken:**

ROLL CALL:

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

The motion carried.

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

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- abstain
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- abstain
Dr. Johnson	- 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: Denise Ann Hamilton, M.D.; James Prommersberger, D.P.M.; and Joseph Froilan Yurich, M.D. A roll call was taken:

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye



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

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

ROLL CALL:

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

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

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

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

DENISE ANN HAMILTON, M.D.

Mr. Giacalone directed the Board's attention to the matter of Denise Ann Hamilton, M.D. No objections have been filed. Ms. Lee was the Hearing Examiner.

**Dr. Schottenstein moved to approve and confirm Ms. Lee's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Denise Ann Hamilton, M.D. Dr. Soin seconded the motion.**

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

Dr. Edgin stated that the Board proposed action regarding Dr. Hamilton is based on allegations that Dr. Hamilton had violated the Findings, Order, and Journal Entry issued by the Board on December 13, 2017,



and effective on December 14, 2017, by failing to enter into the necessary financial and/or contractual arrangement and by failing to submit to random toxicology screenings.

Dr. Edgin continued that on June 14, 2017, the Board summarily suspended Dr. Hamilton's license to practice medicine and surgery in Ohio based on allegations that she had relapsed on alcohol. Dr. Hamilton did not timely request a hearing. The Board issued its Findings, Order, and Journal Entry on December 13, 2017. The Board found that, in or about May 2017, Dr. Hamilton was being monitored by the Ohio Physicians Health Program (OPHP) under the one-bite reporting exemption for impairment. On or about May 19, 2017, Dr. Hamilton submitted a random urine drug screen which tested positive for alcohol. OPHP confronted Dr. Hamilton about the positive result, and, while Dr. Hamilton admitted her relapse to OPHP, she stated she did not intend to inform the Board of her relapse. OPHP reported this relapse to the Board on May 22, 2017. On May 23, 2017, Dr. Hamilton left a voicemail for Board staff informing the Board that she had suffered severe burns which had become infected and was going to the hospital. The hearing examiner at that time noted that Dr. Hamilton's speech in the recording of this voicemail was "slurred and somewhat incoherent." On May 24, 2017, Dr. Hamilton left a second voicemail in which her speech was much clearer and reported her relapse.

Dr. Edgin stated that the Board determined in its 2017 Order that Dr. Hamilton had relapsed in or around May 2017. Her license was suspended for an indefinite period of time, but not less than 90 days, retroactive to June 14, 2017. The 2017 Order requires Dr. Hamilton to submit to random toxicology screens at least four times per month and to enter into the necessary financial and/or contractual arrangements with the designated testing facility in order to facilitate the screening process.

Dr. Edgin stated that Dr. Hamilton attended North Chicago Medical School, then completed a general surgery residency at the University of California Davis, followed by an anesthesiology residency at Stanford University. However, Dr. Edgin noted that the Board does not have an actual record of this, and Dr. Hamilton's testimony included many inconsistencies. When Dr. Hamilton was asked when she attended medical school, she replied "2003." When Dr. Hamilton was asked when she finished her training, she replied "1994," which would have been impossible if she did not graduate medical school until 2003. When she was questioned later about these dates, Dr. Hamilton said that 2003 date for graduating medical school was not correct and that it had to have been around 1999. Dr. Hamilton then said that she completed her general surgery residency in 2003, then she switched to Stanford for anesthesiology training. When asked when she completed the anesthesiology residency, she replied that she thought it was about 2004; Dr. Edgin commented that this date would not fit with finishing the surgical residency in 2003.

Dr. Edgin stated that Dr. Hamilton apparently practiced cardiac anesthesiology in a private practice in southern California. Dr. Hamilton stopped practicing about one year prior to moving to Ohio in 2012 and she has never practiced in Ohio, though she did obtain an Ohio medical license in January 2013.

Dr. Edgin stated that Angela Moore, a Compliance Officer with the Board, testified that Dr. Hamilton was given the contact information for First Source Solutions, formerly known as FirstLab, a Board-approved testing company. After a period of time, on February 5, 2018, Ms. Moore was informed by First Source Solutions that Dr. Hamilton had failed to set up an account. Dr. Hamilton had a personal appearance at the Board's offices on April 9, 2018. Dr. Hamilton and her attorney were present at the personal appearance and were read the terms of the Order about signing up with First Source Solutions. On October 11, 2018, Ms. Moore again emailed First Source Solutions to determine if Dr. Hamilton had set up an account but was again informed that she had not.



Dr. Edgin continued that Dr. Hamilton testified that in 2014 she went to Shepherd Hill, a Board-approved treatment provider, where she was treated for approximately two months. Dr. Hamilton further testified that she went to Shepherd Hill because she had been drinking too much. Dr. Hamilton initially denied that she was diagnosed at Shepherd Hill, but she later stated that she had been diagnosed with alcohol dependence. Dr. Hamilton testified that one of her urinary drug screens tested positive for alcohol in 2017, which resulted in the Board's 2017 Order. Dr. Hamilton further testified that she had been burned when taking food out of her oven and it slipped and landed on her arms and legs, and she drank because she was in pain.

Dr. Edgin stated that according to the State's exhibits, Dr. Hamilton was offered multiple opportunities to register with the testing facility and to confirm that she has done so with the Medical Board. Dr. Hamilton has said that she drinks when she is sad and her mother has been very sick. Dr. Edgin stated that it was felt that Dr. Hamilton had multiple opportunities to register on the computer or by phone and that, even though her mother was sick, she could have done this without having to visit the facility except for the testing.

Dr. Hamilton has said that she does not think her license should be revoked, stating that she has not done anything wrong, she has never treated a patient in Ohio, and she has never put a patient in danger. Dr. Hamilton said that she would never take care of a patient while under the influence. Dr. Hamilton also said that she felt that the Board was making her out to be an ugly person and that "this is a bully system."

Dr. Edgin stated that Dr. Hamilton was given multiple opportunities to comply with the Board's order. The Proposed Order would non-permanently revoke Dr. Hamilton's Ohio medical license and levy a civil penalty of \$1,000.

In response to questions from Ms. Montgomery, Mr. Giacalone stated that Dr. Hamilton would be able to reapply for a license in the future since the revocation is non-permanent.

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

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

The motion to approve carried.

JAMES PROMMERSBERGER, D.P.M.

Mr. Giacalone directed the Board's attention to the matter of James Prommersberger, D.P.M. Objections



to Ms. Shamansky's Report and Recommendation have been filed and were previously distributed to Board members.

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

Dr. Prommersberger was represented by his attorney, James McGovern.

Dr. Prommersberger stated that he plans to fully comply with the Board's Order. Dr. Prommersberger stated that he has changed his practice slightly to accommodate the West Virginia Consent Order and he will continue to do that.

Mr. McGovern stated that Dr. Prommersberger has demonstrated that he has insight into his mistakes and practice deficiencies and he has worked very hard to improve his practice. Mr. McGovern stated that even before the compliant was made, Dr. Prommersberger was adapting to the times and he has completed a great deal of continuing medical education (CME). Mr. McGovern stated that Dr. Prommersberger would be appreciative of the opportunity to continue to practice in Ohio.

Mr. McGovern stated that before today's meeting, he spoke with Assistant Attorney General Wilcox and discussed the fact that Mr. Wilcox favors an Order that mirrors Dr. Prommersberger's West Virginia Consent Order. Mr. McGovern stated that he, also, favors mirroring the West Virginia Order. Mr. McGovern stated that Dr. Prommersberger has found practicing under the West Virginia Order to actually be easier than his practice before the Order.

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

Mr. Wilcox stated that the West Virginia Consent Order placed Dr. Prommersberger under a 3-year stayed suspension, then established several probationary terms. Mr. Wilcox opined that Ohio's Order should contain the West Virginia probationary terms. Mr. Wilcox specifically referenced the following probationary terms:

- Dr. Prommersberger shall confine his practice to podiatric medicine and surgery and treatment of podiatric medical conditions;
- Dr. Prommersberger shall not prescribe any medications classified as benzodiazepines;
- Dr. Prommersberger shall not prescribe opiate-based or narcotic medications for any purpose, with the exception that he may prescribe a 14-day supply of such drugs for podiatric patients with acute pain or post-operative pain;
- Dr. Prommersberger shall not practice chronic pain management and must refer any chronic pain management to an outside specialist; and
- Dr. Prommersberger shall maintain a prescription log for opiate or narcotic controlled substances.

Mr. Wilcox opined that these conditions should be placed on Dr. Prommersberger's Ohio medical license, and that he be allowed to request removal of those limitations at some time in the future.



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

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

Dr. Schachat stated that Dr. Prommersberger in first licensed to practice podiatric medicine in Ohio in 1990. Around July 2017, Dr. Prommersberger entered into a Consent Order with the West Virginia Board of Medicine which, among other things, prohibited him from prescribing benzodiazepines and limited his ability to prescribe opiates. The West Virginia Consent Order was based on a report from the Kentucky Office of Inspector General, where Dr. Prommersberger is also licensed. The Kentucky report revealed that Dr. Prommersberger wrote over 1,100 prescriptions between December 2014 and December 2015, 90% of which were for hydrocodone combination products, and a majority were written for quantities of 60 pills or greater per month. The West Virginia Board independently reviewed 14 of Dr. Prommersberger's medical records and found patterns of inappropriate prescribing.

Dr. Schachat continued that during the hearing, Dr. Prommersberger acknowledged his history of prescribing opiate pain killers in fairly high volumes, which is unusual for a podiatrist. Dr. Prommersberger offered plausible explanations for his prescribing habits, which the West Virginia Board seemed to accept. These explanations were that 1) Dr. Prommersberger's patient cases included more traumatic injuries than the norm due to coal miner accidents and other industrial accidents, and 2) there was a relative scarcity of pain management expertise available in Dr. Prommersberger's community.

Dr. Schachat stated that Dr. Prommersberger testified persuasively that he has changed his prescribing practices. Dr. Schachat noted that Dr. Prommersberger has taken a continuing medical education (CME) course on prescribing and another CME course on medical record-keeping. The evidence demonstrates that Dr. Prommersberger has been compliant with his West Virginia Consent Order.

Dr. Schachat stated that there has been discussion about whether the Ohio Order should match the terms and conditions of the West Virginia Order. Dr. Schachat noted that Dr. Prommersberger and/or his attorney have suggested a reduction in the Proposed Order's fine of \$3,000; Dr. Schachat assumed this request was due to financial constraints. Dr. Schachat stated that he is generally opposed to discussing a respondent's financial urgencies and needs because the Board is not able to investigate or corroborate a respondent's financial situation.

Dr. Schottenstein opined that Dr. Prommersberger has demonstrated good progress and a good attitude in terms of improving his practice of podiatric medicine. Dr. Schottenstein noted that Dr. Prommersberger appears to still have a substantial number of chronic pain patients that he is gradually weaning from his practice. Dr. Schottenstein suggested that it would make sense to include a requirement for a practice monitor in the Board's Order to make sure that process continues appropriately.

Dr. Schottenstein appreciated Mr. Wilcox's suggestion that the Proposed Order be amended to mirror the West Virginia Order. Dr. Schottenstein recalled that Dr. Prommersberger had not been prescribing benzodiazepines prior to the West Virginia Order, and West Virginia's restriction on his ability to prescribe those medications may have been done in an abundance of caution. Regarding the proposed restriction on Dr. Prommersberger's ability to prescribe opioids that would result from mirroring the West Virginia Order, Dr. Schottenstein expressed concern that Dr. Prommersberger could potentially be in a position of cutting his chronic pain patients off from medication if he cannot refer them to other providers in an



expeditious manner. Dr. Schottenstein specified that under the West Virginia Order, Dr. Prommersberger can only prescribe a 14-day supply of opioids unless it is for acute or post-operative pain.

Dr. Schachat stated that the provision in the West Virginia Order limiting Dr. Prommersberger to the care of podiatric conditions can be removed since podiatrists are not allowed to manage non-podiatric conditions anyway. Dr. Schottenstein agreed and opined that the provision is redundant and unnecessary.

Mr. Giacalone observed that Dr. Prommersberger and his attorney have requested that the \$3,000 fine, which must be paid within 30 days, either be reduced to \$1,000 or that Dr. Prommersberger be given 90 days to pay the fine. Dr. Schottenstein commented that he would be in favor of giving Dr. Prommersberger 90 days to pay the \$3,000 fine.

Dr. Factora noted that under the Board's current definitions, pain treated for up to six weeks is considered "acute" pain. Dr. Factora recommended that Dr. Prommersberger be limited to prescribing only a 14-day supply of opioids, but he could see the patient again and, if necessary based on clinical judgment, prescribe another 14-day supply, and could repeat that process over a six-week period if necessary. Dr. Factora stated that this would give Dr. Prommersberger more time to find a practitioner to whom he could refer a patient if he anticipates the need for chronic pain management. Dr. Schottenstein found Dr. Factora's suggestion to be fair, but noted that treatment could go on for two or four weeks before Dr. Prommersberger realizes that the patient will need ongoing chronic pain treatment and that he must find another provider who can accept a referral. Dr. Factora agreed and commented that the patient could be referred to a primary care physician or another specialist not in pain management who could prescribe the needed medications. Dr. Factora added that Dr. Prommersberger will have to work hard to ensure that no patient falls through the cracks. Dr. Schottenstein agreed with Dr. Factora's suggestion.

Dr. Schottenstein further recommended a winddown period be included for the probationary terms and conditions so that Dr. Prommersberger will have time to refer his current chronic pain patients. Dr. Factora agreed and stated that Dr. Prommersberger must identify and refer the patients quickly so that the prescriptions are filled appropriately. Responding to a question from Dr. Factora, Ms. Anderson replied that 30 days is a standard winddown period. Dr. Factora and Dr. Schottenstein agreed that the Order should include a 30-day winddown period and that the probationary terms and conditions should become effective on the 31<sup>st</sup> day after the effective date of the Order.

Ms. Montgomery questioned whether the Ohio Board, if confronted with this fact pattern as an Ohio case and not as a bootstrap case from another state, would have imposed the same sanctions that the West Virginia Board did in 2017. Ms. Montgomery suggested that the Ohio Board would have issued a stronger Order than West Virginia if it had seen the case first. Ms. Montgomery expressed concern that eight months passed between Dr. Prommersberger's West Virginia Consent Order and the Ohio Board's Notice of Opportunity for Hearing. Ms. Montgomery further expressed concern that in prioritizing cases, the Board appears to assume that a physician who does not live in Ohio will not practice in Ohio, even if the physician has an active Ohio medical license. Mr. Giacalone suggested that the Board discuss Ms. Montgomery's general concerns later in the meeting. Mr. Groeber stated that he can address Ms. Montgomery's concerns in his Operations Report.

Dr. Soin stated that since he joined the Board in 2013, he does not recall the Board ever discussing how a respondent's patients will get their medications after the Board takes action on a respondent's license, even if the respondent had many patients with legitimate pain. Dr. Soin stated that he cares for the



citizens and patients of Ohio, but he is puzzled by the breadth of today's discussion. Dr. Schottenstein stated that in reviewing the hearing transcript and the testimony of the witnesses, he felt that Dr. Prommersberger is a licensee about whom the Board has the liberty to have such a conversation because he has moved in the right direction.

Mr. Giacalone stated that he has struggled with this case. Mr. Giacalone noted that Dr. Prommersberger, a podiatrist, wrote 1,100 prescriptions for controlled substances between December 2014 and December 2015, 90% of which were for hydrocodone combination products. Mr. Giacalone agreed with Dr. Soin's comments and stated that the Board should also be concerned for the people whose lives have been destroyed by Dr. Prommersberger's prescribing practices. Mr. Giacalone also observed that according to the record, a pharmacist had warned Dr. Prommersberger to avoid young patients because they will abuse prescribed narcotics. Mr. Giacalone stated that, in fact, Dr. Prommersberger should have known that it is not just young people who can become addicted to narcotics. Mr. Giacalone opined that the West Virginia Order was not stringent enough. Mr. Giacalone also questioned how Dr. Prommersberger could have been unaware in the years 2014 and 2015 that there was an opioid crisis and that over-prescribing narcotics had led to addiction.

Dr. Schottenstein stated that the changes that have been suggested for the Proposed Order are not for the benefit of Dr. Prommersberger, but for the benefit of Dr. Prommersberger's chronic pain patients who will go into withdraw if their needs are not met. Dr. Schottenstein felt that Dr. Prommersberger has moved in the right direction and can be trusted to continue moving in the right direction, and therefore the Board can spare his patients the suffering and stress that would come with a more restrictive and abrupt Order.

Ms. Montgomery noted that Dr. Prommersberger testified that he only recorded the last seven days of his 14-day prescriptions and did not make a record of the first seven days of the prescriptions. Ms. Montgomery asked the physicians on the Board if there was any rationale for recording the prescriptions in this manner. Dr. Factora replied that a physician should always document the reasons for prescribing a controlled substance, how the patient responded to it, any side-effects, and a plan to reduce the dosage in the future. Dr. Schottenstein commented that Ms. Montgomery seems to be referring to Dr. Prommersberger's prescribing log that he keeps for the West Virginia Board, not his medical records. Dr. Schottenstein stated that Dr. Prommersberger testified that there had been a change in West Virginia law that prompted him to record the prescriptions that way in the log.

Dr. Soin wished to make one more comment in case Board members were making a decision based on concerns about patients' access to appropriate care. Dr. Soin stated that his community, the Dayton area, was hit hard by the opioid crisis and many pill mills were shut down in that area. Dr. Soin stated that although many practices closed in a very short time in the Dayton area, he and other practitioners were able to triage those patients and get them appropriate treatment. Dr. Soin stated that the system will work, patients will find a way to get treatment, and there are enough practitioners out there to handle patients' needs. Dr. Soin stated that compassion for patient care is a very good and positive thing, but it should not result in the Board allowing a practitioner with a poor history to continue prescribing these medications.

Dr. Schottenstein asked if any other Board members had suggestions for the Board Order. Dr. Soin stated that he had been concerned about the suggestion to remove the 14-day limit on Dr. Prommersberger's opioid prescribing, but he is much more comfortable with the suggestion to keep the 14-day limit with the ability to renew the prescription over a six-week period. Mr. Giacalone suggested that a suspension of Dr. Prommersberger's podiatric medical license would be appropriate. Dr.



Schottenstein stated that he was not opposed to a suspension if that is the consensus of the Board. Ms. Montgomery stated that she would agree with a suspension.

Dr. Schachat opined that a suspension of Dr. Prommersberger's license may have been more reasonable when these incidents first occurred. However, Dr. Schachat pointed out that time has passed and Dr. Prommersberger has taken CME courses and made changes in his practice. Mr. Giacalone opined that a practitioner should not benefit because the Board failed to act swiftly enough. Mr. Giacalone stated that he supported a suspension because it would be a penalty for Dr. Prommersberger's wrong-doing, not because a suspension would make a difference in his practice. Dr. Schachat stated that he tends to be more lenient in cases based on another state's action because the Ohio Board is unable to review records and first-hand evidence on out-of-state events. Mr. Giacalone commented that he has not been impressed with other state's orders and he tends not to defer to them. Mr. Giacalone further pointed out that that, unlike many other cases based on out-of-state actions, this case includes additional testimony and more information than is typically available.

Ms. Anderson asked the Board to table this topic so that a draft amended Order reflecting the Board's discussion can be drafted. Ms. Anderson stated that the Board seems to have a consensus for the following amendments:

- Requirement for a monitoring physician;
- Restriction of Dr. Prommersberger's ability to prescribe benzodiazepines;
- Limitation of Dr. Prommersberger's opioid prescribing so that he may only prescribe a 14-day supply, which may be repeated over a six-week period;
- Chronic pain patients must be referred to pain management, as indicated in the West Virginia Consent Order;
- The fine of \$3,000 must be paid within 90 days of the effective date of the Order;
- The terms of the Order shall become effective 30 days after the mailing of the Order; and
- All limitations shall be lifted when Dr. Prommersberger is released from the Order.

**Dr. Schottenstein moved to table this topic. Dr. Soin seconded the motion.** All members voted aye. The motion to table carried.

JOSEPH FROLIAN YURICH, M.D.

Mr. Giacalone directed the Board's attention to the matter of Joseph Frolian Yurich, M.D. 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 Dr. Yurich. Five minutes will be allowed for that address.

Dr. Yurich was represented by his attorney, Beth Collis.

Ms. Collis stated that the Board has proposed taking action in that case based on a first-degree misdemeanor conviction for Failure to Stop After an Accident. Ms. Collis stated that, as noted by Mr. Porter, Dr. Yurich is truly remorseful for his action that took place in 2015. Ms. Collis stated that she



agrees in general with the Hearing Examiner's Proposed Order, she disagreed with the assertion that Dr. Yurich lacked candor in his testimony concerning the accident. Ms. Collis stated that Dr. Yurich provided detailed testimony over several days at hearing as to what he believed happened, how he contacted the police that night, and how he cooperated with the investigation.

Ms. Collis stated that this case is an aberration in an otherwise exemplary life. Ms. Collis stated that Dr. Yurich is board certified by the American Board of Surgery and he is a highly trusted and respected physician, a decorated military officer, and a devoted husband and father. Ms. Collis noted that the record includes many letters of support from Dr. Yurich's colleagues and friends regarding his professionalism, his character, and his quality of care; Ms. Collis stated that she had received dozens of such letters and she has to ask them to stop sending the letters because they were becoming too voluminous for the record.

Ms. Collis stated that whether the Board suspends Dr. Yurich's medical license for 30 days or for 180 days as recommended in the Proposed Order, it will not change what took place in 2015. Ms. Collis stated that Dr. Yurich will have to live with his conduct for the rest of his life. Ms. Collis reminded the Board that it is not limited by its disciplinary guidelines and she requested that a short suspension or short sanction be imposed so that Dr. Yurich can return to practice and spend his life helping others.

Dr. Yurich stated that he is from Youngstown, Ohio, he attended Youngstown State University and the Northeast Ohio Medical University. Following medical school, Dr. Yurich chose to stay in Youngstown and he completed a five-year surgical residency. Dr. Yurich stated that he was commissioned in the United States Army Reserves and he completed three combat tours, two in Iraq and one in Afghanistan on forward surgical teams. Dr. Yurich stated that he plans to serve his country and its brave soldiers. Dr. Yurich also stated that he is a devoted husband and father of five, ages 1 to 14. Dr. Yurich stated that he supports his family and his parents, who have labored all their lives so that others can better themselves. Dr. Yurich stated that his parents instilled in him a sense of pride in his roots and the importance of family.

Dr. Yurich continued that nearly four years ago, a tragic accident occurred that he was responsible for, and that will remain in his mind forever. Dr. Yurich stated that when he was going home in his boat, he was speeding did not see any other boats or boat lights that night. Dr. Yurich suddenly struck something, but he did not know what at the time. Dr. Yurich stated that he was thrown, became confused, and panicked. Dr. Yurich stated that his first instinct was to go home, and he will regret that decision as long as he lives. Upon returning home, Dr. Yurich and his wife discussed the events and learned from friends that an accident had occurred on the lake. Dr. Yurich stated that he contacted the police that night and fully cooperated with law enforcement. Dr. Yurich was later informed that someone had died in the accident and another person was injured. Dr. Yurich stated that this news devastated him, as he had spent his life trying to help people and he could not believe he had caused a catastrophic injury to another person.

Dr. Yurich wished that he had stopped to see what caused the accident and he regretted that he was not able to help anyone that night. Dr. Yurich stated that while I cannot change what happened that night, he can continue to conduct his life in a helping manner. Dr. Yurich stated that since that time, he has continued to provide surgical care to all patients, insured and uninsured. Dr. Yurich stated that he has also been the team leader volunteering for a new robotics program at the hospitals where he is credentialed. Dr. Yurich added that in caring for his patients, he is able to focus exclusively on their care no matter what else is happening in his life. Dr. Yurich stated that since the accident, he has been doing volunteer work for a free medical clinic and he also serves at a soup kitchen caring for those in need. Dr.



Yurich stated that he plans to continue that and he wish that he had done these things earlier.

Dr. Yurich stated that while he cannot change the past, he takes full responsibility and he is here today to accept any sanctions that the Board imposes on his medical license. Dr. Yurich stated that he has maintained poise and professionalism, and he prays only to move forward as a stronger, better person. Dr. Yurich wished to remain a compassionate physician serving his patients, his family, his community, and his country. Dr. Yurich stated that each day he is remorseful for his actions on the night in question and he continues to try and better myself and those around him by not forgetting his transgressions.

Mr. Giacalone asked if the Assistant Attorney General wished to respond. Ms. Snyder stated that she did wish to respond.

Ms. Snyder stated that the first words spoken by Dr. Yurich after he slammed his speedboat into the fishing boat, killing Neil Cuppett and launching Bruce Lindamood into the water, were, "What the fuck are you doing here?" Ms. Snyder emphasized that instead of asking if they were okay, asking if he could help or call for help, or even throwing them a life preserver, Dr. Yurich said "What the fuck are you doing here?" Ms. Snyder stated that these are not the words of someone who did not know what happened. Ms. Snyder added that the fact that Dr. Yurich said these words has already been decided beyond a reasonable doubt. Following a two-week criminal trial, a judge found the Dr. Yurich knowingly left the scene of an accident.

Ms. Snyder stated that the fact the Dr. Yurich collided with that fishing boat and launched Mr. Cuppett and Mr. Lindamood into the water is horrible, but what is truly shocking is that Dr. Yurich ran away. Ms. Snyder stated that Dr. Yurich's first instinct was to leave because he knew he had been drinking that night, he knew he had been speeding, and he knew he had run into a boat. Ms. Snyder stated that when Dr. Yurich arrived at home, he waited to get his story straight and to sober up. Dr. Yurich waited an hour before reporting the accident. Ms. Snyder stated that it may not have made a difference if Dr. Yurich had stayed at the accident scene to help, but Dr. Yurich did not know that when he left. Ms. Snyder opined that the fact that Dr. Yurich left the scene is all the Board needs to know about his character and his fitness to practice as a physician.

Ms. Snyder stated that it if for the Board to decide whether this crime is a crime of moral turpitude. Ms. Snyder commented that this this was not a crime of moral turpitude, then she does not know what is. Ms. Snyder stated that complicated legal analysis is not required to see that this was depraved behavior for a physician. Ms. Snyder stated that the criminal justice system held Dr. Yurich to the standard of an average person, but the Board must hold him to the standard of a physician.

Ms. Snyder stated that Proposed Order is for the minimum penalty under the Board's disciplinary guidelines for a crime of moral turpitude, which includes a minimum suspension of 180 days. Ms. Snyder noted that Dominic Maga, D.O., a physician who had failed to pay his taxes, was given a minimum 180-day suspension. Ms. Snyder asked if leaving two men in the water to die was the same as not paying one's taxes. Ms. Snyder stated that Dr. Yurich has displayed a level of depravity and that the Board must send a message that physicians are not above the law. Ms. Snyder opined that it would be appropriate to permanently revoke Dr. Yurich's Ohio medical license, but if there is to be a suspension then it should be for a minimum of two years.

Ms. Montgomery exited the meeting at this time.



**Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Joseph Frolian Yurich, M.D. Dr. Schachat seconded the motion.**

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

Mr. Gonidakis stated that the Board's proposed action is based on Dr. Yurich's conviction of Failure to Stop After Accident. The Board has alleged that Dr. Yurich's conviction constitutes a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude.

Mr. Gonidakis wished to thank the Hearing Examiner, Mr. Porter, for doing an excellent job laying out the facts of this case in the Report and Recommendation. Mr. Gonidakis also hoped that all Board members were able to view the enlarged satellite photo of Berlin Lake, which was included in the Hearing Record as State's Exhibit 11 and demonstrates where Dr. Yurich was, where the accident occurred, where Mr. Cuppett lost his life, and other pertinent aspects of this case. Mr. Gonidakis encouraged any Board member who has not viewed the enlarged photo to do so.

Mr. Gonidakis briefly reviewed Dr. Yurich's medical education and background. Mr. Gonidakis noted that Dr. Yurich also serves as a major in the U.S. Army Reserve and has been deployed to Afghanistan once and to Iraq twice. Mr. Gonidakis thanked Dr. Yurich for his service.

Mr. Gonidakis continued that Dr. Yurich admits to being indicted in 2015 for, among other things, Failure to Stop After Accident, and that he was found guilty of the indictment following a seven or eight-day bench trial. Dr. Yurich was sentenced to ten days in jail in Mahoning County, 90 days of house arrest, suspension of his driver's license, 200 hours of community service, and probation. Mr. Gonidakis noted that Dr. Yurich continues to serve his probation today.

Mr. Gonidakis stated that the incident in question occurred on Berlin Lake, where Dr. Yurich and his wife own a lake house. Dr. Yurich admits that on May 8, 2018, after dinner with his family, he took his boat at about 9:00 p.m. or 9:30 p.m. to visit friends on the lake approximately two miles away. Dr. Yurich and his friends visited a nearby bar where he consumed several alcoholic beverages in the course of the night. Dr. Yurich has admitted that he knew the nighttime speed limit on the lake was 10 m.p.h. and that the area around the bridge where the collision occurred was a no-wake zone.

Mr. Gonidakis stated that Bruce Lindamood, who survived the crash, was on a fishing boat with Neil Brian Cuppett, who did not survive. Mr. Lindamood testified that he and Mr. Cuppett were fishing at idle at night near the bridge. Mr. Lindamood believed that Dr. Yurich's boat was moving at about 50 m.p.h. when it collided with his boat, though that speed cannot be substantiated. Mr. Lindamood further testified that after the impact, he found himself in the water. Mr. Lindamood testified that the boat that hit him stopped and when Mr. Lindamood called out for help, the driver of the other boat left after making the statement previously mentioned by Ms. Snyder ("What the fuck are you doing out here?"). Mr. Cuppett died from his injuries, according to the police report. Mr. Gonidakis stated that eyewitness Melissa Namy reported that when Dr. Yurich left their campsite to go home late that evening, he was going faster than usual.

Mr. Gonidakis noted that Dr. Yurich has acknowledged that he collided with the other boat, but he has stated that he did not realize there had been an accident until after he got home and his wife called 911, which was an hour or longer after the accident. Dr. Yurich claims to have no recollection of any events



during the collision. Mr. Gonidakis commented that this is a very troubling issue and set of facts. Mr. Gonidakis stated that the Proposed Order would suspend Dr. Yurich's medical license for a minimum of 180-days following a 30-day winddown period, and would require Dr. Yurich to take an ethics course.

Mr. Gonidakis stated that the judge in Dr. Yurich's bench trial ruled against him and he served time in jail, but that does not take away from the Board's duty to determine if a minimum 180-day suspension is appropriate. Mr. Gonidakis stated that he does not have a specific proposal at this time, but he was troubled with the proposed minimum 180-day suspension based on the Board's history and standards. Mr. Gonidakis questioned what message is sent by a minimum 180-day suspension. Mr. Gonidakis stated that he welcomed the opinions of his fellow Board members on whether an appropriate suspension would be 180 days, or two years as suggested by Ms. Snyder, or some other length of time.

Dr. Schottenstein stated that it is undisputed that Dr. Yurich was driving his boat across Berlin Lake the night of May 8-9, 2015, that a collision occurred with another boat which resulted in a loss of life and severe injury, and that Dr. Yurich left the scene of the accident. At Dr. Yurich's trial, the judge had to determine whether Dr. Yurich knew that an accident had occurred and whether it had been safe for Dr. Yurich to stop his boat and remain at the scene. Dr. Schottenstein noted that the judge found inconsistencies in Dr. Yurich's court testimony. By finding Dr. Yurich guilty, the judge determined that Dr. Yurich had knowledge of the accidental collision, that it was Dr. Yurich's obligation to stop his boat at the scene, and that it was safe for him to do so. Dr. Schottenstein stated that 4731-13-24, Ohio Administrative Code (OAC), states that a plea of guilty to, or a finding of guilt, regarding a crime is evidence of commission of all aspects of that crime. Dr. Schottenstein stated that it is therefore not the Board's role to relitigate what the judge has already determined.

Dr. Schottenstein continued that the Board has alleged in its citation that Dr. Yurich's misdemeanor conviction involves moral turpitude. Dr. Yurich's attorney has maintained that leaving the scene of an accident is not a crime of moral turpitude, and therefore advocates that the case should be dismissed. Dr. Schottenstein stated that the question of whether Dr. Yurich's conviction involves moral turpitude is the crux of this case. Dr. Schottenstein stated that one cannot be specific about what constitutes moral turpitude because the social mores and values of society change over time and even differ among different segments of society. Dr. Schottenstein opined that the definition of "moral turpitude" is necessarily vague and that it falls to administrative bodies such as licensing boards to weigh in regarding the application of that characterization. Dr. Schottenstein further opined that the Medical Board may apply community standards in its determination of moral turpitude. Dr. Schottenstein felt that the Board is justified to apply 4731-13-24, OAC, which includes the "moral turpitude" assignment.

Dr. Schottenstein found Dr. Yurich's behavior to be inexplicable. Dr. Schottenstein opined that the absence of impairment almost made the matter worse because that implies that Dr. Yurich was in his right mind when this behavior occurred, and that behavior is contrary to justice, honesty, and morality. Dr. Schottenstein stated that he appreciated that opinion in *Rogers v. Ohio Board of Nursing*, which found that misdemeanor criminal conduct does not in and of itself constitute moral turpitude. However, Dr. Schottenstein opined that there is an egregious quality to Dr. Yurich's conduct that greatly violates the moral sentiment and accepted moral standards of the community. Dr. Schottenstein felt that evidence of an intent to deceive and evade may be inferred from surrounding circumstances. Dr. Schottenstein further commented that Dr. Yurich's behavior as described was reprehensible and violates the social contract, which is one's duty to one's fellow man or to society. Dr. Schottenstein stated that one may infer a selfish motive and a desire for personal gain by fleeing the scene of the accident.



Dr. Schottenstein stated that Dr. Yurich's defense counsel has made much of his reported memory loss. Dr. Schottenstein stated that even if the Board agrees that Dr. Yurich suffers from situation-specific amnesia surrounding the collision, he would contend that loss of memory of one's behavior does not relieve one from the responsibility for one's behavior. Dr. Schottenstein stated that Dr. Yurich is still ultimately responsible for the behavior he engaged in, whether he can remember it or not, and memory impairment is not exculpatory. Dr. Schottenstein stated that it was reckless to drive a boat at twice the speed limit in the dark of night. Dr. Schottenstein opined that it is not plausible that crashing into a boat and ejecting its occupants is akin to hitting a rock. Dr. Schottenstein stated that he believes the witness who heard Dr. Yurich curse at him and that the witness was not mistaken in what he heard.

Dr. Schottenstein stated that he felt sadness as he contemplated this tragedy, the impact on its victims, and the trauma to the victims' friends and family. Dr. Schottenstein opined that the particulars of this case are a shock to the conscious of the public and that the characterization of "moral turpitude" applies.

Dr. Schottenstein stated that, like Mr. Gonidakis, he also questions the minimum 180-day suspension. Dr. Schottenstein stated that he would be open to the idea of a longer suspension, given the loss of life and severe injury and trauma that occurred. Dr. Schottenstein felt that a minimum one-year suspension would be appropriate based on previous cases that involve the demise of a patient. Dr. Schachat stated that he would second such a motion for purposes of discussion.

**Dr. Schottenstein moved to amend the Proposed Order so that the suspension of Dr. Yurich's medical license would be for a minimum of one year. Dr. Schachat seconded the motion.**

Mr. Gonidakis questioned whether a one-year suspension is long enough. Dr. Schottenstein opined that a minimum one-year suspension can be justified due to the mitigating factors. Dr. Schottenstein listed the mitigating factors as 1) Dr. Yurich has no prior disciplinary record, 2) this situation is unlikely to recur, and 3) Dr. Yurich has shown remorse. Mr. Gonidakis added another mitigating factor, that Dr. Yurich has notified all of the facilities at which he practices and his employers and hospital administrators have not taken disciplinary action following the notifications. However, Mr. Gonidakis stated that he wonders if a one-year suspension is long enough given the fact pattern, the loss of life, and the decision of the court.

Mr. Giacalone stated that he is bothered quite a bit by the fact the Dr. Yurich fled the scene of the accident. Mr. Giacalone stated that it is bad enough when an individual flees an accident scene, but Dr. Yurich, as a physician, knows what the consequences are to the patients and fled anyway. Mr. Giacalone stated that he struggles with the fact the Dr. Yurich takes lives into his hands every day, yet he fled in this situation and left people to die. Mr. Giacalone agreed that a 180-day suspension is insufficient, but he could agree to a one-year suspension or even an 18-month suspension.

Dr. Schachat stated that he also struggled with this case. Dr. Schachat stated that an accident can cause someone to become so startled and upset that they sort of have immediate post-traumatic stress disorder (PTSD) and cannot behave rationally, and such people can go on and perform some rote actions. Conversely, Dr. Schachat stated that physicians are trained to deal with emergencies and crises, so he would hold Dr. Yurich to a higher standard than an average person. Dr. Schachat opined that Dr. Yurich actually behaved less appropriately than an average person would have. Dr. Schachat stated that he would support a suspension of longer than one year.

Dr. Schottenstein agreed with Dr. Schachat's comments. Dr. Schottenstein stated that there is such a thing as situation-specific amnesia, which is a form of dissociative amnesia that can occur with a sudden



trauma. Dr. Schottenstein stated that a collision could potentially have provoked situation-specific amnesia, and he regretted that there was no medical testimony to address that possibility. However, Dr. Schottenstein reiterated that memory-loss is not exculpatory. Dr. Schottenstein stated that one is responsible for one's behavior during an episode of memory-loss, just as an individual in an alcoholic blackout is still responsible for their behavior. Dr. Schottenstein stated that an individual's behavior cannot be excused just because there is no memory of it. Dr. Schottenstein added that this all assumes that Dr. Yurich is being honest about his memory loss and was not malingering.

Mr. Giacalone stated that this matter was tried and decided by a judge who had much more information than the Board has, and that judge convicted Dr. Yurich. Mr. Giacalone stated that he will not look at a record and try to assess someone's credibility because that issue has already been decided. Mr. Giacalone stated that the question before the Board is what penalty it should impose on Dr. Yurich.

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

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

The motion to amend carried.

**Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Joseph Frolian Yurich, M.D. Mr. Gonidakis 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
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye

The motion to approve carried.

#### PROPOSED FINDINGS AND PROPOSED ORDERS

Mr. Giacalone stated that in the following matter, the Board issued a Notice of Opportunity for Hearing.



No timely request for hearing was received. The matter was reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and it is now before the Board for final disposition. This matter is disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In this matter, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

RONNIE CHRISTOPHER PARKER, D.O.

**Dr. Schottenstein moved to find that the allegations as set forth in the May 9, 2018 Notice of Opportunity for Hearing in the matter of Dr. Parker have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky's Proposed Findings and Proposed Order. Dr. Soin seconded the motion.**

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

Dr. Soin stated that the Board had ordered Dr. Parker to a 72-hour inpatient chemical dependency examination. The Board's action was based on the allegations that Dr. Parker was arrested in Pikeville, Kentucky on or about May 29, 2017, and cited with Operating a Motor Vehicle Under the Influence of Alcohol. The police report indicated that Dr. Parker's blood alcohol level at the time of his arrest was .237. Dr. Parker pleaded guilty plea and was found guilty of one count of Operating a Motor Vehicle with an Alcohol Concentration of 0.08 BAC or greater. Dr. Soin stated that during a November 6, 2017 telephone conversation with a Board representative, Dr. Parker reported that he had a family member with a serious medical condition that had been difficult for him, and that in October 2017 he had entered into a two-year abstinence contract with the Kentucky Physicians Health Foundation that included urine screening and daily breathalyzer testing.

Dr. Soin stated that the letter ordering the examination advised Dr. Parker that failure to submit to the examination would constitute an admission of the allegations against the him, unless the failure was due to circumstances beyond his control. Dr. Parker contacted the Board Enforcement Attorney James Roach to raise concerns about his ability to pay for the examination. Although the Board was under no obligation to do so, it agreed to reschedule the examination, giving Dr. Parker almost six weeks of additional time to be able to gather the funds to pay for it. Dr. Parker was again advised of the consequences of failing to submit to the examination. Dr. Parker nonetheless failed to attend the examination and failed to provide evidence of circumstances beyond his control that prevented him from submitting to it.

Dr. Soin stated that Dr. Parker has not shown any evidence of circumstances beyond his control that caused him to fail to attend the examination. Dr. Soin stated that the Proposed Order is to revoke Dr. Parker's Ohio medical license.

Dr. Schottenstein commented on the question of whether an inability to pay for an examination could qualify as evidence of circumstances beyond one's control. Dr. Schottenstein stated that the phrase "circumstances beyond one's control" implies that something unexpected happened that prevents the situation from continuing normally, something that one cannot influence or cannot change. For example, Dr. Schottenstein stated that a tornado closing an airport would be a circumstance beyond one's control, as would an illness causing one to miss school.

Dr. Schottenstein opined that "circumstances beyond one's control" does not describe Dr. Parker's situation, which is a financial hardship. Dr. Schottenstein stated that financial hardship does not constitute "circumstances beyond one's control" because it is not unexpected and it is subject to change



and influence. For instance, a person can get a second job, budget to spend less, or take out a loan. Dr. Schottenstein added that if financial hardship was determined to be a valid example of a circumstance beyond one's control, then every licensee would adopt that position because hardship is relative. Dr. Schottenstein stated that if the Board were to universally apply that criteria, then multiple licensees would fail to submit to examination, and that would arguably cause societal harm.

Dr. Schottenstein stated that he supports the Proposed Order in the matter of Dr. Parker.

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

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

The motion carried.

The Board meeting was recessed at 11:45 a.m. The meeting resumed at 12:50 p.m. Ms. Montgomery was present when the meeting resumed.

#### EXECUTIVE SESSION

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

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

The motion carried.



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

The Board returned to public session.

### EXECUTIVE SESSION

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

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

The motion carried.

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

The Board returned to public session.

### FINDINGS, ORDERS AND JOURNAL ENTRIES

Mr. Giacalone stated that in the following matter, the Board issued a Notice of Opportunity for Hearing and documentation of Service was received. There was no timely request for hearing filed, and more than 30 days have elapsed since the mailing of the Notice. This matter is therefore before the Board for final disposition. This matter is non-disciplinary in nature, and therefore all Board members may vote.

#### JULIE A. HALDEMAN, M.T.

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

**Dr. Saferin moved to find that the allegations set forth in the May 11, 2018 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Haldeman’s application for**



restoration of her Ohio massage therapy license, pending successful completion of the MBLEX within six months of the signing of the Acknowledgment of Receipt. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

#### RULES AND POLICIES

##### SUBACUTE AND CHRONIC PAIN RULES FOR ADOPTION AND RESCISSION

**Dr. Saferin moved that Rules 4731-11-01 and 4731-11-02 be adopted as amended; new Rule 4731-11-14 be adopted; and all six Rules in Chapter 4731-21, Ohio Administrative Code, be rescinded, with an effective date of December 23, 2018. Dr. Rothermel seconded the motion. A vote was taken:**

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

The motion carried.

##### LIMITED BRANCH RULES FOR ADOPTION

**Dr. Saferin moved that Rules 4731-1-04, 4731-1-05, 4731-1-07, and 4731-1-15, as amended, be adopted with an effective date of December 31, 2018. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

#### PROPOSED MEDICATION-ASSISTED TREATMENT RULES

Ms. Debolt asked that two physician members of the Board designated to work with staff on reviewing the comments on these proposed rules, and to bring any appropriate recommendations to the Board. Ms. Debolt stated that Dr. Rothermel and Dr. Schottenstein have agreed to provide assistance.

**Dr. Saferin moved that Dr. Rothermel and Dr. Schottenstein be assigned to assist the staff in reviewing comments received at the Public Rules Hearing for proposed Rules 4730-4-01, 4730-4-03, 4730-4-04, 4731-33-01, 4731-33-03, and 4731-33-04, and to recommend any amendments to the proposed Rule language that might be appropriate. Dr. Saferin further moved that any recommendations be brought to the Medical Board for approval at its February 13, 2019 meeting. 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
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye

The motion carried.

#### DIETETICS ADVISORY COUNCIL REPORT

Mr. Smith stated that the Council met yesterday and welcomed the new educator member, Dr. Mary Jon Ludy of Bowling Green. The Council discussed the recent Common Sense Initiative (CSI) decision on the Board of Certification Nutrition Specialists' anti-trust referral, in which CSI found that the Medical Board's implementation of the dietetics rules was consistent with statute and was not a pretext for anti-competitive conduct. The Council also discussed draft frequently asked questions (FAQ) on dietetics. Mr. Smith stated that those FAQ's will be presented for the Board's approval at the January 2019 meeting so that



they can be posted on the Board's website.

### PROPOSED ADVISORY COUNCIL MEETING DATES, 2019

Mr. Groeber stated that the Board's three advisory committees (Physician Assistant Policy Committee, Dietetics Advisory Council, and Respiratory Care Advisory Council) are each required by statute to meet at least four times per year. Mr. Groeber stated that one committee will meet each month on a rotating basis to meet this requirement. Mr. Groeber noted that the Physician Assistant Policy Committee may need to meet multiple times in the first few months of 2019 due to changes that are being made to that Committee.

### REPORTS AND RECOMMENDATIONS

#### JAMES PROMMERSBERGER, D.P.M.

**Dr. Schottenstein moved to remove the topic of James Prommersberger, D.P.M., from the table. Dr. Soin seconded the motion. A vote was taken:**

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

The motion carried.

Mr. Giacalone asked the Board to take time and briefly review the drafted amended Order, which has been provided to all Board members.

**Dr. Schottenstein moved to amend the Proposed Order to read as follows:**

It is hereby ORDERED that:

- A. **FINE:** Within ninety days of the effective date of this Order, James E. Prommersberger, D.P.M., shall remit payment in full of a fine of three thousand dollars (\$3,000). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.
- B. **PROBATION:** Commencing on the thirty-first day following the date on which this Order becomes effective, the license the certificate of Dr. Prommersberger to practice podiatric medicine and surgery in the State of Ohio shall be subject to the following PROBATIONARY terms, conditions, and limitations until he can demonstrate to the satisfaction of the Board that he has been released from the terms of



the West Virginia Consent Order, or for a period of one year, whichever is longer:

1. **Limitation/Restriction:** During the time that Dr. Prommersberger is subject to probation, his license to practice podiatric medicine and surgery in the State of Ohio shall be LIMITED and RESTRICTED as follows:
  - a. Dr. Prommersberger shall not prescribe any controlled substance medications which are classified as benzodiazepines.
  - b. Dr. Prommersberger shall not prescribe controlled substance medications which are classified as opiate based or narcotic for any purpose, except that he may prescribe up to a fourteen-day supply of opiate based and/or narcotic controlled substance medication to a podiatric patient for the treatment of acute pain or for post-operative pain. Dr. Prommersberger may continue to prescribe such medication for a period of up to six weeks if, in his clinical judgment, such prescribing is warranted. Dr. Prommersberger shall document in the patients' medical records the basis for such continued prescribing.
  - c. If any of Dr. Prommersberger's patients require chronic pain management using controlled substances, Dr. Prommersberger shall refer the patient to an appropriate pain management specialist and/or other qualified health care provider.
2. **Obey the Law:** Dr. Prommersberger shall obey all federal, state, and local laws, and all rules governing the practice of podiatric medicine and surgery in the state in which he is practicing.
3. **Declarations of Compliance:** Dr. Prommersberger shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Evidence of Compliance with the Consent Order of the West Virginia Board of Medicine:** At the time he submits his declarations of compliance, Dr. Prommersberger shall also submit declarations under penalty of Board disciplinary action and/or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the West Virginia Board in the July 2017 Consent Order. Moreover, Dr. Prommersberger shall cause to be submitted to the Board copies of any reports that he submits to the West Virginia Board whenever and at the same time the West Virginia Board requires such submission.
5. **Notification of Change in Terms of Probation by West Virginia Board:** Dr. Prommersberger shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the West Virginia Board, including termination of the Consent Order with that Board.
6. **Personal Appearances:** Dr. Prommersberger shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Dr. Prommersberger shall also appear in person upon his request for termination of the probationary period, and/or as otherwise



directed by the Board.

7. **Controlled Substances Log**: Dr. Prommersberger shall keep a log of all controlled substances he prescribes, orders, administers, or personally furnishes to his Ohio patients during the period of probation. Such log shall be submitted in a format of Dr. Prommersberger's choosing and approved in advance by the Board. All such logs required under this paragraph must be received in the Board's offices no later than the due date for Dr. Prommersberger's declarations of compliance, or as otherwise directed by the Board. Further, Dr. Prommersberger shall make his patient records with regard to such controlled substances available for review by an agent of the Board upon request.
8. **Monitoring Physician**: Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Prommersberger shall submit in writing the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Prommersberger and who is engaged in the same or similar practice specialty.

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

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

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

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

9. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Prommersberger is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
10. **Required Reporting of Change of Address**: Dr. Prommersberger shall notify the Board in writing



of any change of residence address and/or principal practice address within 30 days of the change.

- C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Prommersberger's certificate will be fully restored.
- D. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**
1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Prommersberger shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Prommersberger shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.  
  
In the event that Dr. Prommersberger provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.  
  
These requirements shall continue until Dr. Prommersberger receives from the Board written notification of the successful completion of his probation.
  2. **Required Reporting to Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Prommersberger shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Administration, through which he currently holds any professional license or certificate. Also, Dr. Prommersberger shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/ restoration of any professional license. This requirement shall continue until Dr. Prommersberger receives from the Board written notification of the successful completion of his probation.
  3. **Required Documentation of the Reporting Required by Paragraph D:** Dr. Prommersberger shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.
- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Prommersberger violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.



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

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

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

The motion to amend carried.

**Dr. Schottenstein moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of James Prommersberger, D.P.M. Dr. Soin seconded the motion.**

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

The motion to approve carried.

#### EXECUTIVE SESSION

**Dr. Saferin moved to go into Executive Session to confer with the Medical Board's attorneys on matters of pending or imminent court action, and for the purpose of deliberating on proposed consent agreements in the exercise of the Medical Board's quasi-judicial capacity. Dr. 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
- Mr. Gonidakis - aye
- Dr. Edgin - aye
- Dr. Factora - aye
- Ms. Montgomery - aye
- Dr. Johnson - aye

The motion carried.

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

Mr. Gonidakis exited the meeting during the Executive Session.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

NORMA M. ALLEX, R.C.P. – VOLUNTARY PERMANENT RETIREMENT FROM PRACTICE AS A RESPIRATORY CARE PROFESSIONAL

**Dr. Schottenstein moved to ratify the proposed Voluntary Permanent Retirement with Ms. Allex. 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 - aye

The motion to ratify carried.

LINDA JEAN DENNIS, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

**Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Dr. Dennis. 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	- aye

The motion to ratify carried.

**KENNETH HANOVER, M.D. – STEP II CONSENT AGREEMENT**

**Dr. Schottenstein moved to ratify the proposed Step II Consent Agreement with Dr. Hanover. 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	- aye

The motion carried.

**SHAWN M. SWICK, M.D. – STEP I CONSENT AGREEMENT**

**Dr. Schottenstein moved to ratify the proposed Step I Consent Agreement with Dr. Swick. 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	- aye

The motion carried.



JOHN H. NICKELS, M.D. – PERMANENT SURRENDER/RETIREMENT OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

**Dr. Schottenstein moved to ratify the proposed Permanent Surrender/Retirement with Dr. Nickels. 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	- aye

The motion carried.

PANKAJ GUPTA, M.D. – CONSENT AGREEMENT

**Dr. Schottenstein moved to ratify the proposed Consent Agreement with Dr. Gupta. 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	- aye

The motion carried.

CATHERINE ANN MARTZ

**Dr. Schottenstein moved to ratify the proposed Consent Agreement with Ms. Martz. 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 - aye

The motion carried.

RONALD HEWITT, L.M.T. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MASSAGE THERAPY

**Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Mr. Hewitt. 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 - aye

The motion carried.

ANGELA DAWN BOVIA, R.C.P. – STEP I CONSENT AGREEMENT

**Dr. Schottenstein moved to ratify the proposed Step I Consent Agreement with Ms. Bovia. 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 - aye

The motion carried.

MUHAMMAD WASEEM ANJUM, M.D. – PROBATIONARY CONSENT AGREEMENT

**Dr. Schottenstein moved to ratify the proposed Probationary Consent Agreement with Dr. Anjum. 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	- aye

The motion carried.

HOWARD M. WAXMAN, D.P.M. –CONSENT AGREEMENT

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

ROLL CALL:

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

The motion carried.

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

FRANKLIN DONALD DEMINT, D.O. – NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity for Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**Dr. Schottenstein moved to enter an Order of Summary Suspension in the matter of Franklin Donald Demint, D.O., 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
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Dr. Saferin	- abstain
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye

The motion carried.

THOMAS PAUL SPLAN, M.D. – NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity for Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**Dr. Schottenstein moved to enter an Order of Summary Suspension in the matter of Thomas Paul Splan, 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
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye

The motion carried.

MICHAEL W. STORER, P.A. – OPPORTUNITY FOR HEARING ON FAILURE TO SUBMIT TO AN EXAMINATION AND NOTICE OF SUMMARY SUSPENSION BASED UPON PRESUMPTION OF AN ADMISSION OF IMPAIRMENT AND AN INABILITY TO PRACTICE

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



**Dr. Schottenstein moved to enter an Order of Summary Suspension in the matter of Michael W. Storer, P.A., in accordance with Section 4730.25(G), Ohio Revised Code, and to issue the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based upon Presumption of an Admission to Impairment and an Inability to Practice. 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
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye

The motion carried.

**Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to John Zaino, M.D.; Laurel Zollars, M.D.; and Borko Djordevic, M.D. 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
	Mr. Gonidakis	- aye
	Dr. Edgin	- abstain
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye

The motion carried.

#### ELECTION OF OFFICERS, 2019

**Dr. Sojn moved to elect Dr. Schachat as President, Dr. Schottenstein as Vice President, Dr. Rothermel as secretary, and Dr. Saferin as Supervising Member for terms beginning on January 1, 2019, and ending December 31, 2019. Dr. Johnson seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Rothermel	- aye (abstain in the vote for Secretary)
	Dr. Saferin	- aye (abstain in the vote for Supervising Member)
	Dr. Schottenstein	- aye (abstain in the vote for Vice President)
	Dr. Sojn	- aye
	Dr. Schachat	- aye (abstain in the vote for President)



Mr. Giacalone - aye  
Mr. Gonidakis - aye  
Dr. Edgin - aye  
Dr. Factora - aye  
Ms. Montgomery - aye  
Dr. Johnson - aye

The motion carried.

## OPERATIONS REPORT

**Human Resources:** Mr. Groeber stated that the Board currently has about 12 vacant positions and work proceeds to fill a number of those.

**Budget Update:** Mr. Groeber stated that the Board's budget continues to look good. Mr. Groeber stated that more detail on the budget will be provided in the Finance Committee report.

**Agency Operations:** Mr. Groeber stated that total number of open cases has dropped somewhat since last month. Mr. Groeber stated that the Board's licensure statistics looks good and the inclusion of dietetics and respiratory care have driven up the allied professionals group. The number of MD/DO licenses issue is down by a total of 56 year-to-date, and the licenses are being issued in an average of 25 days, 34% faster compared to last year. The total number of licenses issued is up 21% and are being issued 23% faster. For all license types, licenses are being issues in an average of 29 days.

**Board Meeting Materials Project:** Mr. Groeber stated that Mr. Giacalone and Ms. Montgomery continue to work through a very large volume of materials and will provide an update in January.

**PAPC Physician Member Assignment:** Mr. Groeber stated that the Physician Assistant Policy Committee (PAPC) will soon be changed fundamentally due to recently passed legislation. Specifically, there will no longer be a physician assistant formulary for the Committee to review. However, the PAPC is still required to meet at least four times per year. To prevent a backlog of drugs to review in the interim before the legislation becomes effective, Mr. Giacalone has suggested that a physician Board member be appointed to the PAPC for a meeting in January and in February. Dr. Edgin stated that he could attend the January PAPC meeting. Dr. Schottenstein stated that he could attend the February PAPC meeting.

**Annual Ethics Training:** Mr. Groeber stated that all Board members have now completed the ethics training for this year.

**Follow-up on Questions About Procedures for Out-of-State Actions:** Mr. Groeber stated that there were questions from Board members regarding the procedures for bootstrap actions, specifically regarding the case of Dr. Prommersberger. Ms. Marshall has provided the requested information.

Mr. Groeber stated that from the time the Board was notified of the action in West Virginia in March 2018, it took slightly under three months to obtain all the necessary documents such as official court documents. Mr. Groeber stated that Dr. Prommersberger had 30 days in which to request a hearing before an Ohio Hearing Examiner, and he did make such a request. Dr. Prommersberger's requested hearing then had to be scheduled some time out, and there may have been a continuance. Mr. Groeber stated that the Board has since streamlined the hearing process so that parties get a standardized hearing schedule and



are allowed one continuance of up to 60 days with the agreement of the parties, barring extreme situations.

Ms. Marshall added that the Board also must obtain certified documents from the originating state. Ms. Marshall stated that, speaking generally and not specifically about Dr. Prommersberger's case, her process is that the day she assigns an out-of-state action she initiates a task in the Board's tracking system for the Secretary and Supervising Member to obtain certified documents. Ms. Marshall stated that the timing is largely dependent on how long it takes other state boards to respond to the Board's request for documents. Mr. Groeber stated that as soon as the necessary certified documents are obtained, it is put on the next Board agenda for citation.

Ms. Montgomery thanked Mr. Groeber and Ms. Marshall for the information.

Mr. Giacalone asked how the Ohio Board is notified of the other state's action. Ms. Marshall stated that the Board can be notified in a number of different ways. Ms. Marshall stated that most states report actions to the Federation of State Medical Boards (FSMB), which then reports it to other states in which the physician is licensed. However, not all states report to the FSMB consistently, in which case the Board may learn of an action through the National Practitioner Databank or the licensee may disclose it on their license renewal application.

**Investigator Firearms:** Mr. Groeber stated that in February 2017, Donald Kenney, a consumer member of the Board at that time, raised concerns about the Board's investigators continuing to carry firearms and whether the Board's position had changed on the matter since firearms were first issued. Over the past 20 months, the Board's staff has worked to compile information to assist the Board in its analysis of this issue. As an output of these efforts, the Board adopted a new investigator manual that emphasized safety in all situations. Additionally, the Board provided additional safety equipment and training to mitigate the situational risk of the job. However, Mr. Groeber stated that there is still an inherent danger associated with the presence of firearms in any situation. Mr. Groeber asked the Board to consider whether it wishes to continue to assume that inherent risk. If the Board does not wish to continue to assume that risk, Mr. Groeber asked for a formal vote on this matter.

Dr. Soin stated that after a careful review of the Board's firearms program, he would like the Board to vote on whether to discontinue that program.

**Dr. Soin moved that the authority for the Board's investigators to carry firearms be rescinded, effective upon the Department of Administrative Services' filing of the updated classification specifications with the Secretary of State's office, which is anticipated to occur on December 23, 2018. Mr. Gonidakis seconded the motion. A vote was taken:**

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



Ms. Montgomery - nay  
Dr. Johnson - aye

The motion carried.

#### PHYSICIAN ASSISTANT POLICY COMMITTEE REPORT

**Dr. Saferin moved to approve the recommendations of the Physician Assistant Policy Committee concerning the physician assistant formulary. Dr. Schottenstein seconded the motion. A vote was taken:**

ROLL CALL:

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

The motion carried.

#### REPORTS BY ASSIGNED COMMITTEES

##### FINANCE COMMITTEE

##### FISCAL UPDATE

Dr. Schottenstein stated that the Board's revenue in October 2018 was \$545,869, which is a substantial drop from the previous month's revenue of \$1,296,800. Dr. Schottenstein noted that the month of October is typically a low-revenue month in odd-numbered fiscal years. Dr. Schottenstein speculated that revenue will pick up in December due to the number of licensees who must renew by January 1. Dr. Schottenstein stated that net revenue for Fiscal Year 2019 so far is -\$237,769, which is still a 19% increase year-to-date with regard to overall revenue. Dr. Schottenstein reported that the Board's cash balance is still substantial at \$5,443,615.

Dr. Schottenstein stated that expenditures have increased by 4.1% year-to-date, which is fairly standard and substantially reflects wage increases. Dr. Schottenstein stated that the Board is on course to underspend its allocated spending by about \$1,000,000.

##### COMMUNICATIONS UPDATE

Dr. Schottenstein stated that the Communications team has narrowed down the possible magazine publishers to two vendors. Option one is to use State Printing, which would have no advertisements and would cost the board \$1.30 per magazine. Option two is to utilize Publishing Concepts, with the Board



paying for the first year of print and then allowing them to sell advertising to offset costs starting with the fourth edition. The Publishing Concepts option would cost the Board \$0.16 per magazine for the first year and \$0.00 per magazine subsequently. Dr. Schottenstein stated that the Finance Committee recommends the Publishing Concepts option.

Dr. Schachat asked if the editorial process with Publishing Concepts be the same or substantially similar to what the Board had with CityScene. Dr. Schottenstein replied that the editorial process would be very substantially similar and the Board would have editorial control over the advertisements as well. Dr. Schottenstein commented that the advertisements would be more directed towards the Board's licensees rather than the general public and the magazine content would be a mix articles for the general public and articles for licensees.

**Dr. Saferin moved to approve a contract with Publishing Concepts to publish and distribute a quarterly magazine for the State Medical Board of Ohio, with the cost to the Board would be \$6,000 from January 1, 2019, through June 30, 2019; and then \$11,000 in the Fiscal Year 2020. Dr. Schachat seconded the motion.**

In response to questions from Ms. Montgomery, Dr. Schottenstein stated that the Board has had a magazine called HealthScene, produced by the company CityScene. Dr. Schottenstein briefly described the process for producing content for that magazine and the editorial process. Dr. Schottenstein stated that CityScene ended the partnership because it was not making sufficient profit from the advertisements, and this is why the Board is exploring new options. Dr. Edgin commented that the advertisements in HealthScene were not always pertinent to the Board's licensees, but the advertisements with Publishing Concepts will be directed to licensees and will include such things as educational opportunities and financial aid to licensees. Dr. Schottenstein stated that in an ideal world there would be no advertisements, but then the cost becomes prohibitive. Dr. Schottenstein felt that including advertisements as described by D. Edgin seems to be a happy medium.

**A vote was taken on Dr. Saferin's motion.** All members voted aye. The motion carried.

Dr. Schottenstein stated that numerous municipalities across Ohio are passing ordinances requiring massage businesses to only employ licensed massage therapists. The communications team created a massage therapist licensure fact sheet for distribution, which is available on the Board's website and has been shared with the Ohio Municipal League.

#### OIT DESKTOP SUPPORT SERVICES

Dr. Schottenstein stated that with the recent retirement of one of the Board's in-house IT staff members with a fully-burdened annual cost of approximately \$120,000, there is an opportunity to consider shared IT services offered by the Office of Information Technology (OIT). Dr. Schottenstein stated that OIT offers a per-computer desktop support package that standardizes computers and streamlines routine maintenance and support. Dr. Schottenstein briefly described how the OIT services would be utilized by Board staff.

Dr. Schottenstein stated that the purchase of these services will deliver uniformity to all devices, allow for continuous support, and could free up a staff position for other uses. At \$35.37 per month per device and approximately 100 devices agency-wide, the total purchase amount request is roughly \$42,500 annually; the Board would pay around \$25,000 for the remaining 7 months of Fiscal Year 2019. Dr. Schottenstein



suggested that it may be prudent to allow for an extra \$5,000 of startup costs for the program.

**Dr. Saferin moved to approve the purchase of DAS OIT desktop support services for fiscal year 2019, for a total annual amount not to exceed \$30,000. Dr. Soin seconded the motion.**

Dr. Schachat asked if the IT staff member who left performed tasks other than maintain the desktop computers. Mr. Groeber replied that that staff member did perform some other duties, but those duties can be handled by the Board's remaining IT staff member. Mr. Groeber stated that the Board's website is maintained and operated by the Board's Communications section, not IT.

**A vote was taken on Dr. Saferin's motion.** All members voted aye. The motion carried.

#### POLICY COMMITTEE

Dr. Soin stated that the Policy Committee entertained a legislative update and an update on the rule review process. The Policy Committee also approved, with some changes, frequently asked questions (FAQ) documents related to the weight-loss rules, subacute and chronic pain prescribing rules, prescribing to patients not seen rules, and massage therapy rules.

#### ANESTHESIOLOGIST ASSISTANT RULES

Ms. Anderson stated that the anesthesiologist assistant rules were circulated to interested parties for comment, but no comments were received.

**Dr. Saferin moved to file the draft anesthesiologist assistant rules with the Common Sense Initiative. Dr. Schottenstein seconded the motion.** All members vote aye. The motion carried.

#### UPDATES ON FREQUENTLY ASKED QUESTIONS

**Dr. Saferin moved to approve the proposed frequently asked questions (FAQ) documents, with amendments as discussed by the Policy Committee. Dr. Schottenstein seconded the motion.** All members voted aye. The motion carried.

#### LICENSURE COMMITTEE

#### LICENSURE APPLICATION REVIEWS

#### JUSTIN RODEBAUGH, M.D.

Dr. Schottenstein stated that Dr. Rodebaugh is applying for a license and has requested a waiver of the United States Medical Licensing Examination (USMLE) ten-year rule. Dr. Schottenstein noted that Dr. Rodebaugh passed Step 1 of the USMLE in 2006, Step 2 (CK) in 2007, Step 2 (CS) in 2007 and Step 3 in 2018. All steps were passed on the first attempt. Dr. Schottenstein stated that Dr. Rodebaugh has an extensive disciplinary history with the Board. Dr. Schottenstein recalled that Dr. Rodebaugh had one of the most substantial substance use disorders that had been seen at the Board, but he has turned around in a very substantial way and he has practiced sobriety very consistently for some time now.

Dr. Schottenstein opined that taking time out to battle a substance use disorder qualifies as a good-cause



exemption, just as it would for anyone battling any other chronic medical condition. Dr. Schottenstein stated that Dr. Rodebaugh has worked hard to manage the condition and Dr. Schottenstein felt that Dr. Rodebaugh deserves a chance for licensure. Dr. Schottenstein commented that to derail Dr. Rodebaugh's application after the hard work he has put into his education, training, and recovery, because he took 12 years instead of 10 years to pass the USMLE examinations seems unjust to him.

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

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

The motion carried.

OLIVIA KALU, M.D.

Dr. Saferin stated that Dr. Kalu is applying for a full medical license in Ohio. Dr. Kalu has indicated on her application that she has not been engaged in the clinical practice of medicine since January 2012. Dr. Kalu was a 2005 graduate of The Ohio State University College of Medicine. Dr. Kalu completed a total of three years of post-graduate training, all Accreditation Council for Graduate Medical Education (ACGME) accredited programs in Internal Medicine at Sidney Kimmel Medical College at Thomas Jefferson University/Christiana Care Health System in Newark, Delaware, 2005 to 2008. Dr. Kalu served as a hospitalist at various facilities from 2008 until 2011. Dr. Kalu's most recent experience was as Physician Advisor, an administrative position, for Executive Health Resources/Optum in Columbus, Ohio (2012 to the present). Dr. Kalu obtained certification by the American Board of Internal Medicine (ABIM) in 2008.

Dr. Saferin continued that Dr. Kalu has shared that she is pursuing employment with Red Lake Hospital (Indian Health Service) in Minnesota, a federal facility that accepts any state license. Dr. Kalu has applied as a private contractor. To have a Drug Enforcement Administration (DEA) registration, Dr. Kalu needs her place of employment and license to match. Dr. Kalu also mentioned that while at Red Lake, she would be under a three-month supervision by the chief physician while conducting her clinical duties.

**Dr. Saferin moved to approve Dr. Kalu's request for Ohio licensure, pending successful completion of the Special Purpose Examination (SPEX) within six months from the date of mailing of the Notice of Opportunity for a Hearing, or successful recertification of American Board of Internal Medicine (ABIM) at the first available certification date. Dr. Schottenstein seconded the**



**motion.** A vote was taken:

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

The motion carried.

#### SCOTT EDWARD MALACHIN

Dr. Saferin stated that Mr. Malachin is applying for restoration of his Ohio massage therapy license, which was originally issued in January 2000. Mr. Malachin has not held an active license in Massage Therapy since the Ohio license expired on July 2, 2012, but he has held an active Physical Therapist Assistant license in Ohio since June 2010.

**Dr. Saferin moved to approve Mr. Malachin'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. Schottenstein seconded the motion.** A vote was taken:

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

The motion carried.

#### CME AUDITING OF AMERICAN ACADEMY OF FAMILY PHYSICIANS MEMBERS

Dr. Saferin stated that the Ohio Academy of Family Physicians (OAFP) is proposing that the Board consider an arrangement under which the members of the American Academy of Family Physician (AAFP) would not be subject to the Board's random continuing medical education (CME) auditing. Dr. Saferin noted that the staff has recommended that the Board not pursue the OAFP's proposal.



**Dr. Saferin moved that the Board decline to pursue an arrangement under which AAFP and OAFP member physicians would not be subject to random CME audits. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

RESPIRATORY CARE CONTINUING EDUCATION COURSE APPROVAL

Dr. Saferin stated that Yvonne Grenert, Clinical Educator for Respiratory Care at Premier Health, has created a course titled “Ethics at End of Life” and is requesting that it be approved for one contact hour respiratory care continuing education (RCCE) on Ohio respiratory care law or professional ethics.

**Dr. Saferin moved that the presentation be approved for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics, pursuant to the provisions of Chapter 4761-9, Ohio Administrative Code. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

PODIATRIC SCOPE OF PRACTICE



Dr. Schachat stated that this topic had previously been tabled by the Committee, and no action is needed from the Board at this time. Dr. Schachat stated that the Ohio Foot and Ankle Medical Association (OFAMA) had asked for permission for podiatrists to provide immunizations. In correspondence with OFAMA, it was discovered that they were referring to flu vaccines and not all immunizations. The topic was tabled so that staff could ask the Ohio Department of Health (ODH) if there was an excess need for other providers to perform vaccinations. Dr. Schachat stated that the ODH did not reply to the Board's correspondence, but it did reply to a similar inquiry from OFAMA and stated that they felt there was adequate access to vaccinations.

#### COMPLIANCE COMMITTEE REPORT

Dr. Schottenstein stated that on November 14, 2018, the Compliance Committee met with Marvin M. Baula, M.D.; Saul I. Blecher, M.D.; and Michael J. Howkins, D.O., and moved to continue them under the terms of their respective Board actions. The Compliance Committee accepted Compliance staff's report of conferences on October 9, 11 and 25, 2018.

#### ICD-10 CODE DATA REVIEW COMMITTEE

Mr. Groeber stated that the ICD-10 Data Review Committee met after the Board meeting last month and discussed ways to further refine the data. Mr. Groeber stated that there are improved ways that the Pharmacy Board and Medicaid can work to refine the data into true acute incidents that is more meaningful than simply grouping them under general conditions. Mr. Groeber stated that those two groups will coordinate and there should be more information early next year.

#### 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 Joseph C. Carver, M.D.'s request for approval of the submitted practice plan modification;**
- **To grant Cari R. Corfman, M.T.'s request for approval of the online courses *Ethics, Compliance and Consequences*; *Ethics in Therapeutic Presence*; and *Communication plus Connection equals Collaboration*, offered by Massage Magazine University;**
- **To grant Courtney D. Bonner, D.O.'s request approval of David L. Klein, M.D., to serve as the new monitoring physician;**
- **To grant Kevin A. Horvath, M.D.'s request for approval of the course *Intensive Course in Controlled Substance Prescribing; Pain, Anxiety, Insomnia*, offered by Case Western Reserve University, to complete the controlled substance prescribing course requirement; and approval of the course *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, offered by Case Western Reserve University, to complete the medical**



records course requirement;

- To grant Craig M. Jarrett, M.D.’s request for approval of *The Probe Program; Professional/Problem-Based Ethics*, offered by the Center for Personalize Education for Professionals (CPEP) to fulfill the professional ethics course requirement and the personal ethics course requirement;
- To grant Michael C. Macatol, M.D.’s request for approval of Landon S. Edwards, M.D. to serve as the new monitoring physician;
- To grant Cassandra R. Parrott, D.O.’s request for approval for reduction in drug and alcohol rehabilitation meetings attendance to two per week with a minimum of ten per month; and approval for reduction in personal appearances to every six months;
- To grant John A. Ross, M.D.’s request for release from the terms of his December 9, 2015 Consent Agreement;
- To grant Michael Todd Tatro, M.D.’s request to discontinue the drug log requirement; and request to discontinue the chart review requirement; and
- To grant Christopher R. White, M.D.’s request for reduction in personal appearances via web to every six months.

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

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

The motion carried.

**FINAL PROBATIONARY APPEARANCES**

**GRETCHEN L. WEBER, M.D.**

Dr. Weber was appearing before the Board pursuant to her request for release from the terms of her December 9, 2015 Consent Agreement. Mr. Giacalone reviewed Dr. Weber’s history with the Board.

Responding to question from Mr. Giacalone, Dr. Weber stated that he is a general surgeon in a small town practicing in a group of six. Dr. Weber stated that her recovery is going very well and she is very



engaged in the recovery community, attending three to four meetings per week and chairing a meeting every Tuesday night. Dr. Weber stated that she is not actively sponsoring anyone, commenting that she had tried sponsoring and it did not go very well. Dr. Weber stated that she has a great support system with her friends. Dr. Weber stated that her family lives about two hours away and she sees them on holidays and whenever she can. Dr. Weber stated that when she is released from probation she will continue to do the same things she has been doing for the past five years and eight months.

Dr. Schottenstein asked if Dr. Weber planned to move after her probation. Dr. Weber replied that she is not moving and will stay where she is. Dr. Schottenstein asked if Dr. Weber has any stress in her life right now. Dr. Weber replied that she has no stress.

**Dr. Schottenstein moved to release Dr. Weber from the terms of her December 9, 2015 Consent Agreement, effective December 15, 2018. Dr. Edgin seconded the motion.** All members voted aye. The motion carried.

#### APPRECIATION FOR MR. GIACALONE

Mr. Groeber thanked Mr. Giacalone for his service as President of the Board. Mr. Groeber stated that Mr. Giacalone did an excellent job as the Board dealt with many issues this year, including medical Marijuana, the pain prescribing rules, and a number of lawsuits. Mr. Giacalone commented that the Board's staff made his job easy.

Mr. Groeber presented Mr. Giacalone with an engraved gavel in appreciation for his service as President in 2018. The Board and staff applauded Mr. Giacalone.

Mr. Groeber also thanked Dr. Rothermel and Dr. Saferin for their continued service as Secretary and Supervising Member, respectively. Mr. Groeber presented gifts of appreciation to Dr. Rothermel and Dr. Saferin.

#### ADJOURN

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

Thereupon, at 2:53 p.m., the December 12, 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 December 12, 2018, as approved on January 9, 2019.



State Medical Board of  
**Ohio**

Approved Minutes from December 12, 2018

(SEAL)