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**Minutes from the May 23, 2019  
Special Meeting of the State Medical Board of Ohio**

Pursuant to Ohio Revised Code 121.22(F), the State Medical Board came to order for a special meeting on Thursday, May 23. Acting president, Dr. Michael Schottenstein called the meeting to order at 11:30 a.m. with the following members present: Dr. Rothermel, Mr. Giacalone, Dr. Schottenstein, Mr. Gonidakis, Dr. Feibel, and Dr. Bechtel.

Dr. Bechtel made a motion to go into executive session to consult with the board's attorneys concerning disputes involving the medical board that are the subject of pending or imminent court action. Dr. Rothermel seconded the motion. All board members voted aye, and the motion passed.

Executive session began at 11:31 a.m. and ended at 12:15 p.m.

**DISCUSSION ON WAIVER OF CONFIDENTIALITY: (F)(5)**

Dr. Schottenstein stated: under the case law interpreting Section 4731.22(F)(5), several parties have confidentiality rights in the Board's investigative files, including patients, complainants, the licensee, and the Board itself. This confidentiality protects sensitive patient information from being inappropriately released to the public. Investigative information protected under section 4731.22(F)(5) may be released to another governmental agency only if that agency is conducting an investigation of a violation of laws and rules. In December 2018, the State Medical Board of Ohio provided a copy of its investigative file regarding Richard Strauss, M.D. to Ohio State University as a governmental agency conducting an investigation of a violation of laws and rules. The investigative file provided to Ohio State University was unredacted, with the exception of any social security numbers included in the file. The statute requires that the governmental agency in receipt of the board's investigative materials must keep the information confidential in the same manner as the Medical Board is required to do. Ohio State University has indicated that some individuals with a confidentiality interest have waived that interest and has asked if the Medical Board would consider waiving its confidentiality interest in the investigative materials.

Dr. Bechtel made a motion to waive the Medical Board's confidentiality interest in the investigative materials involving Richard Strauss, M.D. Mr. Gonidakis provided a second on the motion.

Mr. Giacalone stated that along with the board's motion to waive confidentiality, we urge OSU to complete the information needed for their report, to provide some closure needed by the individuals and their families who have been affected by this event.

Dr. Schottenstein stated that the Medical Board released the entire unredacted file to Ohio State. This conversation is about releasing it to the public; and the irony is that nobody wants to release the Strauss

file to the public more than the Medical Board. Not just because it is undeniably in the board's self-interest to release this file, because it clearly is, but to give the victims of this perpetrator some peace. As a rule, we value transparency, which is why all our proceedings occur in the public setting. Dr. Schottenstein thought it was frustrating for the board members and staff; that we felt an obligation to do our best to uphold the law, the F5 statute which makes medical board investigations confidential. Regrettably, if the board were to simply release the Strauss file to the public, it would likely have a chilling effect on the public's confidence in coming forward with complaints. Right now, people know they can bring a complaint, and they will have absolute confidentiality. Dr. Schottenstein stated that it is important for patients and whistleblowers to know that this is the case. If doubt about confidentiality creeps in then the public will stop coming forward with their concerns, and that will negatively impact the board's ability to protect the public.

Dr. Schottenstein continued: If he had been in the audience when the governor gave his press conference, he would have applauded him because he appreciates the governor's leadership, and because he is grateful for the work group review. As the governor said, even though it was 23 years ago, it is important to know if something went wrong with the medical board's processes. It's important to make sure that the board has rectified any failures in those processes. Our common goal is to protect the citizens of Ohio; anything that can further that goal is very much appreciated. Dr. Schottenstein is cautiously optimistic that the public would appreciate the current board's approach to sexual misconduct complaints. Every sexual misconduct complaint is automatically assigned our highest priority and is thoroughly investigated. The board has strong rules pertaining to sexual misconduct that it did not have 23 years ago. And staff receives specific training in this area as well, but he would welcome the sunlight that a work group investigation will bring and would welcome any additional suggestions and recommendations for how the board can do its job better. Dr. Schottenstein's heart breaks for the victims of this perpetrator. Words really cannot describe how horrified he has been about this. He is also grateful to Ohio State, for doing their best to be open and thorough and transparent. At the end of the day, everybody's on the same team. The board wants this information out there. It wants to make sure that this never happens again. The only question has been how to get there. So, when Ohio State came forward recently with their idea about individual complainants waiving their confidentiality, so that those aspects of the file could be released, he was grateful for that. Dr. Schottenstein's strong recommendation was that the board vote to approve the waiver of its confidentiality as allowed under the law.

Dr. Bechtel made a motion to waive the Medical Board's confidentiality interest in the investigative materials involving Richard Strauss, M.D. with protections for individuals who have not waived their confidentiality. Mr. Gonidakis provided a second on the motion.

Roll call vote:

- Dr. Rothermel- yes
- Dr. Feibel- yes
- Mr. Giacalone- yes
- Dr. Schottenstein- yes
- Mr. Gonidakis- yes
- Dr. Bechtel- yes

The motion passed with six yes votes and zero no votes.

Dr. Bechtel made a motion to adjourn. Mr. Gonidakis provided a second. A vote was taken, and all board members voted aye. The motion carried. The meeting was adjourned at 12:21 p.m.

We hereby attest that these are the true and accurate approved minutes of the State medical Board of Ohio special meeting on May 23, 2019 as approved on July 10, 2019.



Michael Schottenstein, M.D., President



Kim G. Rothermel, M.D., Secretary

