



**State Medical Board of Ohio Meeting Minutes
August 14, 2019**

Michael Schottenstein, M.D., President, called the meeting to order at 10:00 am in the Administrative Hearing Room, 3rd floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio 43215 with the following members present: Richard Edgin, M.D., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael Gonidakis, Esq.; Robert P. Giacalone, R.Ph., J.D.; Mark A. Bechtel, M.D.; Betty Montgomery; Sherry Johnson, D.O.; Harish Kakarala, M.D.; and Jonathan Feibel, M.D.

MINUTES REVIEW

Motion to approve the minutes of the July 10, 2019 Board meeting, as drafted.

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

APPLICANTS FOR LICENSURE

Dr. Schottenstein asked the board to consider the Licensure items on the agenda. No board member asked to consider any applications separately.

Motion to approve, contingent upon all requested documents being received and approved in accordance with licensure protocols, the physician and allied professional applicants contained in the handouts provided to Board members:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Johnson	Y (Abstain in the application of Regina Lovette, D.O.)
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to approve, contingent upon all requested documents being received and approved in accordance with licensure protocols, the applicants for a Certificate to Recommend Medical Marijuana contained in the handouts provided to the Board members:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Abstain
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to approve, contingent upon all requested documents being received and approved in accordance with licensure protocols, the physician and allied professional applicants; and to approve the results of the July 9, 2019 Cosmetic Therapy Examination and to certify as passing and license those receiving a score of 75 or greater on their examination, and to certify as failing and deny licensure to those who received a score of less than 75 on the examination, as listed in the Handouts provided to the Board members:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

REPORTS AND RECOMMENDATIONS

Dr. Schottenstein asked the Board to consider the Reports and Recommendations appearing on the agenda. He asked if each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Robert Hosbrook; Jacob Osterhues, L.M.T.; Summer Peplow; Dana P. Richard, D.O.; Christopher Neil Vashi, M.D.; and Tonya Latrise Williams, L.M.T. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

Dr. Schottenstein further asked if each member of the Board understands that the Board's 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 or Permanent Denial. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

Dr. Schottenstein stated 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 disciplinary matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising Member in the matter of Dr. Richard. The matter of Ms. Williams is non-disciplinary, and therefore all Board members may vote.

During these proceedings, no oral motions were allowed by either party. Respondents and their attorneys addressing the Board were allotted five minutes to do so. The assistant attorneys general are subject to the same limitations.

Robert Hosbrook

Dr. Schottenstein directed the Board's attention to the matter of Robert Hosbrook. Objections have been filed and were previously made available to Board members. Ms. Lee was the Hearing Examiner.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

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

Mr. Hosbrook was represented by his attorney, Heidi Dorn.

Ms. Dorn stated that the Hearing Examiner, the Assistant Attorney General, and Mr. Hosbrook all agree that Mr. Hosbrook should be granted an Ohio respiratory care professional license and the only issue is whether there should be discipline on that license. Ms. Dorn asked that the Board, based on its recent case law and on significant mitigating factors, to issue Mr. Hosbrook's license and take no further action on that license.

Ms. Dorn noted the following mitigating factors in Mr. Hosbrook's case:

- Mr. Hosbrook fully and freely disclosed his conviction and fully cooperated with the Board investigation.
- Mr. Hosbrook's conviction involved a financial crime that occurred nearly ten years ago and has nothing to do with respiratory care therapy.
- It was a one-time, out-of-character incident.
- Mr. Hosbrook is very remorseful for and understands the gravity of his actions.
- Mr. Hosbrook has accepted full responsibility for his actions and was released from his criminal probation more than two-and-a-half years early.
- Mr. Hosbrook has not been in trouble with the law before or since this incident.

Ms. Dorn added that perhaps most impressive is the number of character letters submitted on Mr. Hosbrook's behalf. The letters are personal accounts from friends, neighbors, colleagues, mentors, and educators who relay detailed information about Mr. Hosbrook's impeccable character, how he truly cares for individuals, and how he has helped make amends for his conviction. Mr. Hosbrook decided to become a respiratory care professional because of his desire to help people.

Mr. Hosbrook thanked the Board for allowing him to make this address this morning, and he also thanked the Medical Board staff for its in-depth and thorough process during his case. Mr. Hosbrook especially extended gratitude to the Hearing Examiner and the Assistant Attorney General for recommending approval of Mr. Hosbrook's licensure. Mr. Hosbrook requested that the Board approve his licensure without further reprimand.

Mr. Hosbrook continued that nearly ten years ago, he and his wife made a mistake that he regrets to this day. Mr. Hosbrook and his wife made a decision that was not theirs to make regardless of their intentions, and they accepted full responsibility without hesitation. Mr. Hosbrook and his wife made amends, completed restitution, and fulfilled their commitments without issue or delay. Mr. Hosbrook stated that he and his wife went above and beyond their requirements in an effort to correct their mistake and create a positive outcome. As a result of their actions, Mr. Hosbrook and his wife were released from their obligations early and fully reinstated into all federal programs.

Mr. Hosbrook stated that he still wakes up every morning with regret, knowing that his record will forever reflect that poor decision. Mr. Hosbrook noted the numerous and extensive letters of reference written by friends and colleagues who have known him for many years and attest to his true character. Several of the letters were written to the federal judge in his court case, others were written when he applied to school, and others were written directly to the Medical Board. Most of the letters were written by people who not only know Mr. Hosbrook personally, but are also fully aware of his situation and still had no problem putting their names and reputations on the line, in writing, for him personally. Mr. Hosbrook stated that he is moved and grateful for their support.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Mr. Hosbrook stated that his father always told him that the true measure of a man's character is not seen in his mistakes, but in his response to those mistakes. Mr. Hosbrook stated that this is why he has worked diligently to continue making amends, and this is one of the reasons he went back to school to pursue a position in medicine where he can help people make a difference in their lives. Mr. Hosbrook wanted to be a positive example of how to be accountable for one's actions, how to make necessary corrections, and to be an uplifting, positive role model.

Mr. Hosbrook stated that he has worked extremely hard and dedicated himself while in school, and that effort allowed him to graduate at the top of his class with a 4.0 grade point average. As a result, Mr. Hosbrook has the opportunity to begin his medical career at the Cleveland Clinic, one of the most renowned medical facilities in the world, and a chance to learn from some of the greatest minds in his field. Mr. Hosbrook stated that he has an opportunity to complete this mission and come full-circle to correct the past and be the difference he knows he can be. Mr. Hosbrook asked the Board to approve his licensure without further reprimand so he may begin his career in his home state of Ohio without hinderance or issue.

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Ms. Snyder stated that she wished to respond.

Ms. Snyder stated that Mr. Hosbrook has a felony conviction that involves dishonesty, and therefore the Board must consider certain questions. First, the Board has to recognize that there was a felony conviction, which is a violation in and of itself. Second, the Board has to determine whether Mr. Hosbrook as good moral character which makes him eligible for a license. Ms. Snyder stated that following the hearing, she believes that Mr. Hosbrook is eligible for a license and that he would probably be a good respiratory care therapist. Ms. Snyder stated that the case boils down to whether Mr. Hosbrook should receive a reprimand.

Ms. Snyder felt strongly that Mr. Hosbrook should be reprimanded because he had a felony conviction involving dishonesty. Mr. Hosbrook was convicted in 2014 for bank fraud involving a fraudulent transaction in which he sold his personal residence and two rental properties to his mother-in-law. In doing this, Mr. Hosbrook affirmed to the bank that he was selling these properties to someone who was not a relative and that he was selling because he had a hardship. Ms. Snyder pointed out that not only was the buyer a relative, he also continued to live in the home and have the rental properties in the family.

Since this was an act of dishonesty, Ms. Snyder opined that a reprimand is a very appropriate sanction for this type of felony conviction. Ms. Snyder stated that the Board's minimum disciplinary guidelines for a felony conviction is a 30-day suspension, so the recommended reprimand is far below that. Ms. Snyder felt that the reprimand is appropriate because Mr. Hosbrook, having been a mortgage broker, had been very familiar with the real estate system. Ms. Snyder opined that Mr. Hosbrook exploited that housing collapse at that time for his own personal benefit and he was forgiven debt, so he received benefit for his dishonesty. Ms. Snyder thought that a reprimand is reasonable, noting that there were mitigating circumstances.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Mr. Hosbrook:

Motion	Dr. Bechtel
2 nd	Dr. Feibel

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Dr. Schottenstein stated that Mr. Hosbrook's attorney maintains that there is no added value in adding a reprimand to the Order to grant licensure because Mr. Hosbrook has paid his debt to society and poses no danger to the public. However, as the Assistant Attorney General noted, Mr. Hosbrook clearly engaged in fraud by representing the transaction as an arms-length transaction when it was not. Mr. Hosbrook

State Medical Board of Ohio Meeting Minutes – August 14, 2019

represented that the buyers and sellers in the transaction were not family members, when, in fact, they were. Mr. Hosbrook represented that the properties would not stay in the family after the sale, which was not true. Dr. Schottenstein stated that Mr. Hosbrook was clearly sophisticated in the area of real estate and had known what he was doing.

Dr. Schottenstein perceived a substantial amount of rationalization in Mr. Hosbrook's testimony. Dr. Schottenstein stated that rationalization is a psychological defense mechanism in which inappropriate behavior is justified in a rational way in order to avoid the true explanation. A rationalization typically makes the behavior seem acceptable or even superior as an outcome. Mr. Hosbrook rationalized that he did not benefit from the transaction, did not falsify documents, did not cheat, did not steal, was not greedy, and that other people were doing things that were even worse. Dr. Schottenstein was glad and in Mr. Hosbrook's address to the Board, as well as his testimony at hearing, showed a degree of self-awareness.

Dr. Schottenstein stated that Mr. Hosbrook should not have made the choices he did. However, Dr. Schottenstein agreed that granting Mr. Hosbrook's license is appropriate. Dr. Schottenstein stated that this incident should not define Mr. Hosbrook in totality and it does not mean that Mr. Hosbrook does not have the necessary moral character for a license. Dr. Schottenstein further noted that Mr. Hosbrook did not try to hide his behavior from the Board, he completed his sentence and paid restitution, and he has multiple compelling character references. Dr. Schottenstein felt that the reprimand is appropriate because Mr. Hosbrook did engage in substantially fraudulent behavior. In response to defense counsel's point that Mr. Hosbrook as paid his debt to society and poses no danger to the public, Dr. Schottenstein stated that those are reasons that the Proposed Order is not more punitive than it is.

Vote on Dr. Bechtel's motion to approve and confirm:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Jacob Osterhues, L.M.T.

Dr. Schottenstein directed the Board's attention to the matter of Jacob Osterhues, L.M.T. No objections have been filed. Ms. Lee was the Hearing Examiner.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Mr. Osterhues:

Motion	Dr. Kakarala
2 nd	Dr. Edgin

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Ms. Montgomery expressed concern that it took about a year and a half for this case to reach the Board today. Ms. Montgomery further opined, based on her experience as a city prosecutor and prosecuting drug and alcohol related offenses, that the proposed fine of \$8,000 is too high. Ms. Montgomery stated that Mr. Osterhues should not have been drinking and should not have over-indulged, but he recognized that he needed to “sober up” next door and he was self-aware enough to know that he should not drive. Ms. Montgomery also noted that Mr. Osterhues has limited financial means and she questioned why the Board should levy such a large fine.

Dr. Bechtel agreed with Ms. Montgomery. Dr. Bechtel stated that Mr. Osterhues was guilty of having a bottle of Vicodin in his car that belonged to his ex-wife. While subsequent drug testing was positive for tetrahydrocannabinol (THC), it was negative for opioids. Dr. Bechtel further stated that Mr. Osterhues did not harm anyone and did not drive his car, he was merely found in his car. Dr. Bechtel stated that an average massage therapist in Ohio might make about \$25,000 annually. Dr. Bechtel, noting that the proposed \$8,000 fine is the highest proposed fine for any of the violations in the cases the Board is considering today, opined that the proposed fine is excessive.

Mr. Gonidakis stated that he does not have a strong opinion on what the fine should be in this case. However, Mr. Gonidakis felt that that the Board should not take an individual’s net worth or financial circumstances into consideration when determining the appropriate amount of a fine. Mr. Gonidakis stated that if the amount of Mr. Osterhues’ fine should be changed for other reasons, he would be agreeable to that.

Mr. Giacalone agreed with Mr. Gonidakis’ comments, but he also felt that Dr. Bechtel made a good point. Mr. Giacalone stated that the income stream of a massage therapist is not the same as it is for a surgeon, and consequently an \$8,000 fine would have a much larger impact on a massage therapist than on a surgeon. Mr. Giacalone agreed with Ms. Montgomery that the fine should be drastically reduced. Mr. Gonidakis asked if, in Mr. Giacalone’s opinion, an \$8,000 fine would be appropriate in a case with the same fact pattern for a Cleveland Clinic physician. Mr. Giacalone responded that an \$8,000 fine may be appropriate in such a case. Mr. Giacalone commented that the Board has been treating the professions that it disciplines as being the same when they are not in terms of income. Mr. Giacalone stated that the Board, given the facts of this case, should not take away half of someone’s income. Mr. Gonidakis stated that he is not advocating for any particular fine amount in this case, but he is concerned about how the Board arrives at an appropriate fine amount.

Dr. Schottenstein stated that he had had similar thoughts about reducing the amount of the fine, but not for reasons based on Mr. Osterhues’ income. Dr. Schottenstein noted the following mitigating circumstances in Mr. Osterhues’ case:

- Mr. Osterhues has no prior disciplinary record.
- This appears to be an isolated incident that is unlikely to recur.
- Mr. Osterhues has made a full and free disclosure to the Board.
- Mr. Osterhues has expressed remorse.
- Mr. Osterhues’ actions did not negatively impact others.
- Mr. Osterhues underwent treatment, though not at a Board-approved treatment program.

For these reasons, Dr. Schottenstein felt that it would be legitimate to substantially reduce or forgo the fine.

Dr. Schottenstein continued that Mr. Osterhues should go into a Board-approved treatment program. Dr. Schottenstein noted that Mr. Osterhues was found inebriated in his car, passed out in the middle of the night with a bottle of Vicodin that did not belong to him, and he subsequently tested positive for marijuana. Dr. Schottenstein stated that notwithstanding the explanation provided, this paints a disturbing picture. Dr.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Schottenstein commented that the Board must protect the public and he does not have assurance that the public is protected unless Mr. Osterhues goes through a Board-approved program prior to having his license reinstated.

Motion to amend the Proposed Order to reduce the fine to \$1,000:

Motion	Ms. Montgomery
2 nd	Dr. Bechtel

Ms. Montgomery agreed with Mr. Gonidakis that the fines should be based on the violations and not on the violator. Ms. Montgomery felt that the fine should be lowered based on the violation. Ms. Montgomery stated that the violations are misdemeanor cases and that Mr. Osterhues probably would not have been arrested had it not been for the presence of Vicodin in the car, which was later determined not to be his.

Dr. Bechtel also agreed with Mr. Gonidakis that the financial situation of the respondent should not determine the fine. In this case, Dr. Bechtel felt that the fine did not fit the crime.

Mr. Giacalone stated that he struggles with the inequity in terms of the professions, observing that an \$8,000 fine is much more significant for a massage therapist or other allied medical profession than it would be for, for example, a retinal surgeon.

Vote on Ms. Montgomery’s motion to amend:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion to amend carried.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order, as amended, in the matter of Mr. Osterhues:

Motion	Dr. Kakarala
2 nd	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Bechtel

Y

The motion carried.

Summer Peplow

Dr. Schottenstein directed the Board's attention to the matter of Summer Peplow. No objections have been filed. Ms. Shamansky was the Hearing Examiner.

Dr. Schottenstein stated that a request to address the Board has been filed on behalf of Ms. Peplow. Five minutes will be allowed for that address.

Ms. Peplow was represented by her attorney, Todd Newkirk.

Mr. Newkirk stated that in August 2012, the Ohio Respiratory Care Board revoked Ms. Peplow's respiratory care professional license, which was justified at that time given Ms. Peplow's significant abuse problems. Mr. Newkirk stated that since that time Ms. Peplow has done everything in her power to address her addiction, entering into a program of long-term and sustainable recovery. Ms. Peplow's progress in her recovery led the Hearing Examiner to recommend granting her application for re-licensure, subject to certain terms and monitoring conditions.

Mr. Newkirk had no objections to the recommended terms and monitoring conditions, but he requested that the Proposed Order be amended to allow Ms. Peplow to delay the interim monitoring. Mr. Newkirk stated that he is making this request because Ms. Peplow has had a number of health and financial issues that have arisen that do not allow her to immediately begin the monitoring program. Mr. Newkirk asked the Board to amend the Proposed Order into something like an indefinite suspension until such time that Ms. Peplow can complete the interim monitoring and other requirements.

Ms. Peplow stated that it has been a long road for her and has entailed a lot of hard work. Ms. Peplow thanked the Board for considering granting her a new license to practice respiratory care. Ms. Peplow stated that, unfortunately, she cannot pursue the terms of the Proposed Order at this time, and she therefore asked the Board to consider pausing the interim monitoring conditions until she is able to fulfill them.

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Ms. Snyder stated that she did not wish to respond.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Ms. Peplow:

Motion	Mr. Giacalone
2 nd	Dr. Johnson

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Ms. Montgomery, referring to Ms. Peplow's request to delay the requirement that she comply with the interim monitoring conditions of the Proposed Order, observed that the Board does not have an explanation as to why Ms. Peplow cannot begin the monitoring terms at this time. However, Ms. Montgomery found Ms. Peplow's story to be compelling and she would be inclined to grant Ms. Peplow's request. Ms. Montgomery suggested that the Board table this topic so that the legal staff can draft an amended Order for the Board's consideration that would grant Ms. Peplow's request.

Motion to table:

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Motion	Dr. Bechtel
2 nd	Dr. Edgin

The motion to table carried.

Ms. Montgomery exited the meeting at this time.

Dana P. Richard, D.O.

Dr. Schottenstein directed the Board's attention to the matter of Dana P. Richard, D.O. No objections have been filed. Ms. Lee was the Hearing Examiner.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Richard:

Motion	Mr. Giacalone
2 nd	Dr. Kakarala

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Mr. Giacalone agreed with the Proposed Order to permanently revoke Dr. Richard's medical license, stating that his actions were egregious. Dr. Schottenstein also agreed with the Proposed Order.

Vote on the motion to approve and confirm:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Christopher Neil Vashi, M.D.

Dr. Schottenstein directed the Board's attention to the matter of Christopher Neil Vashi, M.D. Objections have been filed and were previously made available to Board members. Mr. Porter was the Hearing Examiner.

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

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

Mr. Plinke stated that the objections he filed on behalf of Dr. Vashi identify some legal issues that he will not reiterate those at this time. Mr. Plinke stated that while there is a variety of allegations, this case is fundamentally about Dr. Vashi's impairment.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Vashi stated that he is not here today to defend, explain, rationalize, or justify his actions, nor is he here to claim that he is a victim of circumstance. Dr. Vashi acknowledged that he is here because of his own decisions, actions, and choices. Dr. Vashi learned from his recovery that the promises of the program will come true if the program is worked correctly, and one of the most important promises is that he will not regret the past or want to shut the door on it. Dr. Vashi stated that he cannot keep hoping for a better future by hoping for a better past, and therefore he must own his decisions, actions, and choices of the past. Instead of forgetting them, he remembers them on a day-to-day and hour-to-hour basis, using them to build a stronger future for change. Dr. Vashi recognized that his world extends beyond himself.

Dr. Vashi recognized the path of destruction he created with reckless abandon. Dr. Vashi stated that he disgraced and embarrassed his wife and family, yet his wife was the first one by his side in recovery. Dr. Vashi embarrassed his colleagues, medical partners, and medical staff, yet they did the right thing for him in his desperate days. Dr. Vashi abandoned his patients when he had to leave his practice, yet today he is blessed with the ability to restore human health and to practice medicine and recovery at the same time. Dr. Vashi acted against the principles and ethics of his medical society, yet he was granted permission to sit for his recertification examination. Dr. Vashi stated that he had let his self-will run riot, much like a swimmer who swims too far out into the ocean filled with ego, disregard, and bravado only to be ultimately pulled in by a simple life preserver. Dr. Vashi stated that he has been reeled back onto dry land by so many people that he had wronged, and he now stands on the shore in gratitude, throwing life-lines to those who are drowning like he once was.

Dr. Vashi continued that today he practices the principles of the 12 steps in everything he does. Dr. Vashi added that he is guided by the serenity prayer, he tries to live by the golden rule, and he puts one foot in front of the other and tries to do the next right thing. Dr. Vashi realized that the next right thing is not always the right thing for himself, but what is best for others. Dr. Vashi stated that he does this for his own survival and to preserve all the things that are valuable to him that he almost destroyed.

Dr. Vashi stated that today he will leave in gratitude, regardless of the outcome of his case, and he will take his recovery with him. Dr. Vashi will attend his 104th and final weekly aftercare meeting later today and he will continue to share his experience, strength, and hope with others. Dr. Vashi stated that he stands before the Board a humiliated man, a penitent man, and a humbled man.

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Ms. Pelphrey stated that she wished to respond.

Ms. Pelphrey stated that she had prepared remarks for the Board today, but she noted that in his address to the Board today, Dr. Vashi made no mention of the fact that there was a victim in this case, namely Patient 1. Ms. Pelphrey stated that Patient 1 lost her job and was exploited as both a patient and as an employee of Dr. Vashi's practice. Ms. Pelphrey observed that Dr. Vashi's address was all about him and nothing about the impact it had on another individual other than talking about his family and his children.

Ms. Pelphrey attested that there were no legal issues that came up in the Report and Recommendation, despite defense counsel's statements, and that the facts are undisputed. Dr. Vashi had a sexual relationship with Patient 1 after he had already performed procedures on her and prescribed her medications. When the practice confronted Dr. Vashi and Patient 1 about the affair, they both denied it but continued the affair. Ms. Pelphrey questioned what Patient 1 was supposed to do at that point, having been basically instructed to lie to her employer about the affair, and she had to continue on in that relationship. Ms. Pelphrey stated that that is exploitation.

Ms. Pelphrey continued that Dr. Vashi completed a 90-day residential treatment program for alcohol use disorder. Ms. Pelphrey added that Dr. Vashi had prescribed medication to a family member in a non-emergency situation and did not maintain a medical record for it. Ms. Pelphrey stated that there seems to be

State Medical Board of Ohio Meeting Minutes – August 14, 2019

an excuse for everything and that Dr. Vashi has no self-awareness, noting his address to the Board which sounded narcissistic. Ms. Pelphrey further noted that Dr. Vashi's drinking only increased during his affair and stopped once his wife gave him an ultimatum. Ms. Pelphrey stated that despite Dr. Vashi's statements about Alcoholics Anonymous and the Big Book in his hearing, he did not make amends to Patient 1, who lost her job and her family.

Ms. Pelphrey observed that according to the Report and Recommendation, Dr. Vashi committed serious violations of the Medical Practices Act, including prescribing a controlled substance to a family member, substance use disorder, and a sexual relationship with a patient. Ms. Pelphrey stated that in his objections, Dr. Vashi indicated that he has made amends, fixed his life, and that he should not have this kind of suspension because the actions took place two years ago. Ms. Pelphrey stated that this is like saying that someone who committed a crime years ago should not have to pay for it because they've pulled themselves up by their own bootstraps. Ms. Pelphrey stated that this shows that Dr. Vashi has not completely understood what he did, and that leads her to believe that he could do it again.

Ms. Pelphrey stated that Dr. Vashi took advantage of a patient, violated the Medical Practices Act that was put in place to protect the public, prescribed to his family member, and had a substance use disorder. Ms. Pelphrey opined that the Proposed Order of a minimum 90-day suspension and a \$6,000 fine is insufficient for these serious violations. Ms. Pelphrey asked the Board to increase the suspension to one year and levy a fine that is much in excess of \$6,000.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Vashi:

Motion	Dr. Feibel
2 nd	Dr. Bechtel

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Dr. Feibel stated that Dr. Vashi did more than just abuse alcohol. Dr. Feibel stated that Dr. Vashi also prescribed a controlled substance to a family member in a non-emergency situation without a medical chart; had sexual relations with a patient and co-worker; and there was some question about where Dr. Vashi prescribed Patient 1's medication and where the procedures occurred. Dr. Feibel opined that Dr. Feibel's alcohol abuse is the least of his issues, though he was happy that Dr. Vashi has gotten treatment for his alcohol abuse. Dr. Feibel opined that the Proposed Order, which would suspend Dr. Vashi's medical license for a minimum of 90 days and fine him \$6,000, was insufficient for these violations.

Motion to amend the Proposed Order so that the suspension of Dr. Vashi's medical license would be for a minimum of one year and the fine would be increased to \$12,000:

Motion	Dr. Feibel
2 nd	Mr. Giacalone

Mr. Giacalone noted Ms. Pelphrey's observation that Dr. Vashi's address to the Board today made no mention of Patient 1, which Mr. Giacalone found disconcerting. Mr. Giacalone felt that the defense counsel wants the Board to think of the relationship with Patient 1 as an employer/employee relationship and that she was not a patient. However, Mr. Giacalone stated that once Dr. Vashi gave treatment to Patient 1, she became a patient. Mr. Giacalone stated that either situation is terrible since Dr. Vashi was in a position of power both as an employer and as a physician. Mr. Giacalone agreed with Dr. Feibel's proposed amendment.

Dr. Schottenstein observed that Dr. Vashi has stipulated to having been diagnosed with and treated for alcohol use disorder, and he has also stipulated to prescribing a controlled substance to a family member. The main

State Medical Board of Ohio Meeting Minutes – August 14, 2019

issue that the defense counsel focused on in the hearing was whether Dr. Vashi violated the Board's rule against sexual misconduct. Defense counsel maintains that Dr. Vashi did not violate the rule.

Dr. Schottenstein stated that this case boils down to a few questions. First, did Dr. Vashi and Patient 1 have a bonafide physician/patient relationship with Patient 1? Dr. Schottenstein stated that the answer to this question is "yes." Dr. Schottenstein agreed with previous comments that when a physician engages in a medical examination of a person for purposes of diagnosis and/or treatment, performs procedures on a person, and prescribes medication to a person, that person becomes the physician's patient.

Dr. Schottenstein's second question was, did Dr. Vashi and Patient 1 have sexual relations in the course of the physician/patient relationship? Dr. Schottenstein stated that the answer to this question is clearly "yes." Dr. Schottenstein noted Dr. Vashi's testimony that he had told Patient 1, and rightly so, that he would no longer perform procedures on her and she would have to find another physician to treat her. Dr. Schottenstein stated that a statement of that nature would have been unnecessary if there had been no physician/patient relationship at the time that the sexual relations began. Dr. Schottenstein further noted that this is contrary to the defense counsel's position that Dr. Vashi's procedural work was episodic and not expected to be ongoing.

Dr. Schottenstein continued to his third question: Was there exploitation of Patient 1 by Dr. Vashi? Dr. Schottenstein stated that for defense counsel, this was the crux of the matter. Dr. Schottenstein also commented that this is reminiscent of the argument made by defense counsel in the matter of Christopher Seman, D.O., in September 2018. Dr. Schottenstein observed that the Board's sexual misconduct rule indicates that exploitation of the patient by the physician is a factor of consideration, but not the only factor, in determining whether conduct constitutes sexual misconduct. Dr. Schottenstein asked if Dr. Vashi took advantage of Patient 1 in an unethical and selfish way for his own ends. While defense counsel maintains that the State did not present evidence of exploitation, Dr. Schottenstein stated that that evidence can be easily inferred.

Dr. Schottenstein stated that the reason that relationships between physicians and patients are strictly prohibited is because there is an inherent imbalance of power in the physician's favor. Dr. Schottenstein stated that for all intents and purposes, it is not possible to have purely consensual sexual relations in that context. In that respect, a physician/patient sexual relationship is inherently exploitative and it is impossible to have sexual relations between a physician and an ongoing patient that does not exploit the relationship. Dr. Schottenstein found the argument that there was an employment relationship which led to the physician/patient relationship to be irrelevant because once one enters into a physician/patient relationship, it supersedes all prior relationships. Dr. Schottenstein was fairly certain that defense counsel would not support the logical conclusion of his argument, which is that as long as a physician and patient had a social or employment relationship prior to the physician/patient relationship, then sexual relations between them do not constitute sexual misconduct on the physician's part. Dr. Schottenstein stated that if this was truly the case, then a physician could immunize himself from sexual misconduct allegations by preying on patients with whom he had had a prior relationship.

Dr. Schottenstein agreed with Dr. Feibel's proposed amendment.

Vote on Dr. Feibel's motion to amend:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion to amend carried.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order, as amended, in the matter of Dr. Vashi:

Motion	Dr. Feibel
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Tonya Latrise Williams, L.M.T.

Dr. Schottenstein directed the Board’s attention to the matter of Tonya Latrise Williams, L.M.T. Objections have been filed and were previously made available to Board members. Ms. Shamansky was the Hearing Examiner.

Dr. Schottenstein stated that a request to address the Board has been filed on behalf of Ms. Williams. Five minutes will be allowed for that address.

Ms. Williams stated that she is here today to try to obtain a massage therapist license in Ohio. Ms. Williams stated that in 2003 she completed massage therapy school in Illinois and the school was accredited at that time. In 2017, Ms. Williams went back to school because she had not practiced massage therapy and things had changed. Ms. Williams again attended an accredited school in Illinois and she took and passed the Massage and Bodywork Licensing Examination (MBLEx). In 2017, Ms. Williams had no idea that her future would be in Ohio. In 2018, Ms. Williams applied for a massage therapist license in Indiana where she was then living, and that application was granted.

Ms. Williams stated that she decided to go back to massage therapy school in 2017 because she knew she was going to retire from her career as a pharmacy technician and she wanted an encore career. Ms. Williams excelled in massage therapy school because of her experience as a pharmacy technician. Ms. Williams stated that had she known that Ohio was on her horizon, she would have waited and completed massage therapy school in Ohio. Ms. Williams stated that she has held a professional license since 1990 and is currently licensed as a pharmacy technician in three states. Consequently, she knows what it means to have a professional license and she understands the criteria and standards needed to hold a professional license.

Ms. Williams asked the Board to consider that facts that she has completed two massage therapy programs, passed the MBLEx, and is currently licensed in massage therapy in Indiana.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Ms. Pelphrey stated that she wished to respond.

Ms. Pelphrey stated that this had been Mr. Wilcox's case, but she is presenting on his behalf in his absence. Ms. Pelphrey read from a statement prepared by Mr. Wilcox.

Ms. Pelphrey stated that Ms. Williams has unfortunately not met the statutory requirements for a massage therapy license under Section 4731.10, Ohio Revised Code (ORC) when she sent in her application on September 9, 2018. Ms. Pelphrey stated that the statutes are not suggestions or guidelines, but must be followed precisely. The statute allows licensure of an applicant who meets one of the following criteria:

- A diploma or certificate from a school, college, or institution in good standing as determined by the Board showing the completion of the required courses of instruction. Neither of the massage schools Ms. Williams attended are in good standing with the Board.
- A diploma or certificate from a school, college, or institution that offers the curriculum required by the Board rules under Section 4731-1-16, Ohio Administrative Code (OAC). The massage therapy schools attended by Ms. Williams each had around 600 hours, whereas the Board's requirement is a minimum of 750 hours. There is no provision in the law to combine programs.
- Holding an active massage therapist license in another state for not less than five years. Ms. Williams has only held an active license in Indiana since January 25, 2018.

Ms. Pelphrey stated that while Ms. Williams has a body of experience in the field of massage and has made an excellent presentation today, there is no language in the Board's statute that would allow her to receive a license by arguing her experience and training is equivalent to the Board's requirements or that the cumulative curriculum at two schools can be considered. Ms. Pelphrey added that there is no proof that education from 2001-2002 would meet today's requirements in terms of hours required in a certain subject. Ms. Pelphrey stated that Ms. Williams' argument that her two different programs made up for this in cumulative study is not valid.

Ms. Pelphrey continued that the Board has established guidelines for massage therapist applicants for reasons of standards of competence and public safety. While it is unfortunate that Ms. Williams has not met the qualifications, the Board must apply the rules consistently and firmly as they have established the standard. Ms. Pelphrey stated that the Board denies massage therapist applicants every month for not meeting the requirements for licensure, including the case of applicant Jessica Carpenter, who the Board denied in October 2018.

Ms. Pelphrey thanked the Board on behalf of Mr. Wilcox.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Ms. Williams:

Motion	Dr. Kakarala
2 nd	Dr. Bechtel

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Dr. Feibel stated that he is very sympathetic to Ms. Williams. However, Dr. Feibel felt it was incumbent upon the Board to follow the statutes given it by the legislature. Dr. Feibel stated that in this situation, it is clear that the statute does not allow Ms. Williams to be licensed. Therefore, Dr. Feibel will vote to deny Ms. William's application.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Mr. Giacalone agreed with Dr. Feibel's comments, but stated that this is based on an interpretation of the statute and the rule by the Board staff and the Hearing Officer. Mr. Giacalone read from 4731.19, Ohio Revised Code (ORC):

(A) A person seeking a certificate to practice a limited branch of medicine shall file with the state medical board an application ... The application shall include or be accompanied by all of the following:

...

(3)(b) A diploma or certificate from a school, college, or institution in another state or jurisdiction showing completion of a course of instruction that meets course requirements determined by the board through rules adopted under section 4731.05 of the Revised Code;

Mr. Giacalone then read from 4731-1-16, Ohio Administrative Code (OAC):

(A) To qualify to receive a certificate of good standing for a course of instruction in massage therapy, a school's course of instruction shall:

(1) Consist of both practical and theoretical instruction meeting one of the following requirements:

(a) For classes enrolling no later than December 30, 2005, a period of not less than one year and a minimum of six hundred clock hours; or ...

Mr. Giacalone stated that the remainder of the section applies to classes taken after December 30, 2005. Regarding the prior case of Jessica Carpenter, referenced by Ms. Pelphrey in her address to the Board, Mr. Giacalone stated that Ms. Carpenter graduated from massage therapy school in 2014 and therefore did not trigger subsection (A)(1)(a) of 4731-1-16, OAC. Mr. Giacalone stated that Ms. William qualifies under 4731-1-16(A)(1)(a) because she attended massage therapy school for more than one year and had more than 600 clock hours.

Mr. Giacalone stated that the Board staff has given an interpretation of the statute and rule, but there is no evidence that there has been any notification to the public about this interpretation. Mr. Giacalone questioned why the provision in 4731-1-16(A)(1)(a) would exist if, as the staff has interpreted, it only applies at the time the applicant submits their application. Mr. Giacalone noted that the Board could have removed this provision during prior rule reviews, but it never did.

Mr. Giacalone opined that Ms. Williams is an extraordinary person and deserves a massage therapist license. Mr. Giacalone noted that Ms. Williams was a pharmacy technician for 25 years, then returned to massage therapy school and passed the Massage and Bodywork Licensing Examination (MBLEx).

Motion to amend the Proposed Order to grant Ms. Williams' application for licensure:

Motion	Mr. Giacalone
2 nd	Dr. Bechtel

Responding to a question from Ms. Montgomery, Mr. Groeber stated that the Board's staff continue to work on having equivalency language included in a legislative bill which would give the Board discretion to grant licensure when it feels it is appropriate based on an applicant's education and other qualifications.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Ms. Montgomery stated that Ms. Williams has worked hard and done well academically, demonstrating her desire to be prepared to do something that has been a lifelong dream. Mr. Giacalone agreed, reiterating that Ms. Williams recently passed the MBLEx and is already licensed as a massage therapist in Indiana. Mr. Giacalone stated that regardless of whether Ms. Williams' course of instruction exactly meets the Board's current requirements, she attended massage therapy school twice and probably more than meets the Board's standards. Mr. Giacalone stated that he would agree with the Board if it decided to change the rule in the future, but under the current rule Ms. Williams should be granted licensure.

Dr. Feibel commented that if a rule change is needed, then that begs the question of whether the Board is violating the rule by granting licensure. Mr. Giacalone replied that the Board can license Ms. Williams under the current rule, but it can remove the provision allowing for this type of licensure in the future if it so wishes.

Vote on Mr. Giacalone's motion to amend:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	N
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	N
Dr. Bechtel	Y

Motion to amend carried.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order, as amended, in the matter of Ms. Williams:

Motion	Mr. Giacalone
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	N
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	N
Dr. Bechtel	Y

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Schottenstein stated that in the following matters, the Board issued Notices of Opportunity for Hearing. No timely requests for hearing were received. The matters were reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and they are now before the Board for final disposition. In

State Medical Board of Ohio Meeting Minutes – August 14, 2019

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 these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising Member in the matters of Dr. Rabi and Dr. Zollars.

Firas A. Rabi, M.D.

Motion to find that the allegations as set forth in the June 14, 2017 Notice of Opportunity for Hearing in the matter of Dr. Rabi have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order:

Motion	Dr. Edgin
2 nd	Dr. Kakarala

Dr. Schottenstein stated that he will now entertain discussion in the matter of Dr. Rabi. No Board member offered discussion in this matter.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Zeljko Stjepanovic, M.D.

Motion to find that the allegations as set forth in the November 14, 2018 Notice of Opportunity for Hearing in the matter of Dr. Stjepanovic have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order:

Motion	Dr. Kakarala
2 nd	Dr. Johnson

Dr. Schottenstein stated that he will now entertain discussion in the matter of Dr. Stjepanovic.

Ms. Montgomery asked if the Board has the authority to interpret irregular behavior while taking Step 3 of the United States Medical Licensing Examination (USMLE) as a failure of that step. Ms. Montgomery asked if the irregularity, specifically cheating, on Step 3 was equivalent to a failure. Ms. Anderson noted that Dr. Stjepanovic had failed Step 3 of the USMLE seven times, which is more failures than the Board allows, and then passed on his eighth attempt when the irregularity occurred. Ms. Montgomery noted that since Dr. Stjepanovic failed Step 3 more times than is allowed, the question of whether he cheated is irrelevant.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Schottenstein stated that cheating on an examination of this nature is an absolute deal-breaker as far as he is concerned. Mr. Giacalone observed that Dr. Stjepanovic seems to have attempted to cheat on Step 3 by using note cards and flash cards.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Laurel Zollars, M.D.

Motion to find that the allegations as set forth in the December 12, 2018 Notice of Opportunity for Hearing in the matter of Dr. Zollars have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order:

Motion	Mr. Giacalone
2 nd	Mr. Gonidakis

Dr. Schottenstein stated that he will now entertain discussion in the matter of Dr. Zollars. No Board member offered discussion in this matter.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Schottenstein 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.

Taun T. Greynolds, M.T.

Dr. Schottenstein stated that Ms. Greynolds has applied for a license to practice massage therapy. The Board has proposed to deny Ms. Greynolds' application because she does not hold a diploma or certificate from a school, college or institution in another state or jurisdiction that meets the Board's required course of instruction, and hasn't held a current license, registration or certificate of good standing for massage therapy in another state for at least the preceding five years.

Motion to find that the allegations set forth in the May 10, 2019 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, denying Ms. Greynolds' application for a license to practice massage therapy:

Motion	Mr. Giacalone
2 nd	Dr. Edgin

Dr. Schottenstein stated that he will now entertain discussion in the matter of Ms. Greynolds. No Board member offered discussion in this matter.

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

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

EXECUTIVE SESSION I

Motion 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:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

The Board went into Executive Session at 11:13 a.m. and returned to public session at 11:26 a.m.

SETTLEMENT AGREEMENTS

Meir Benit, M.D.

Motion to ratify the proposed Permanent Surrender with Meir Benit, M.D.:

Motion	Ms. Montgomery
2 nd	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Rezik Abdul Aziz Saqer, M.D.

Motion to ratify the proposed Permanent Surrender with Rezik Abdul Aziz Saqer, M.D.:

Motion	Dr. Kakarala
2 nd	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Monica Terhar, L.D.

Motion to ratify the proposed Voluntary Permanent Retirement with Monica Terhar, L.D.:

Motion	Dr. Edgin
2 nd	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Hollie Michelle Aneshansley, L.M.T.

Motion to ratify the proposed Step II Consent Agreement with Hollie Michelle Aneshansley, L.M.T.:

Motion	Dr. Kakarala
2 nd	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Robert James Rosenstein, D.P.M.

Motion to ratify the proposed Permanent Surrender with Robert James Rosenstein, D.P.M.:

Motion	Dr. Johnson
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Krishna Kumar Aggarwal, M.D.

Motion to ratify the proposed Consent Agreement with Krishna Kumar Aggarwal, M.D.:

Motion	Mr. Giacalone
2 nd	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Brenden P. Jenks, M.D.

Motion to ratify the proposed Consent Agreement with Brenden P. Jenks, M.D.:

Motion	Dr. Johnson
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Paul J. Schwartz, M.D.

Motion to ratify the proposed Consent Agreement with Paul J. Schwartz, M.D.:

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Motion	Dr. Kakarala
2 nd	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

NOTICES OF OPPORTUNITY FOR HEARING, ORDERS OF SUMMARY SUSPENSION, ORDERS OF IMMEDIATE SUSPENSION, AND ORDERS OF AUTOMATIC SUSPENSION

Ms. Marshall presented the following Citations to the Board for consideration:

1. Robert D. Rasmussen, D.O.: Based on prescribing rule violations involving two patients.
2. Denise Woodrum: A cosmetic therapist license restoration applicant, based on allegations of unlicensed practice for almost 25 years.

Motion to approve and issue proposed Citation #1:

Motion	Dr. Johnson
2 nd	Dr. Feibal
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Motion to approve and issue proposed Citation # 2:

Motion	Dr. Kakarala
2 nd	Dr. Feibel
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

EXECUTIVE SESSION II

Motion 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:

Motion	Dr. Saferin
2 nd	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

The Board went into Executive Session at 11:31 a.m. and returned to public session at 11:45 a.m. Ms. Montgomery exited the meeting during the Executive Session.

RULES & POLICIES

Rule 4731-1-05

Motion to approve Ms. Debolt's suggested language for the scope of massage therapy with regard to the three modalities of therapeutic ultrasound, diathermy, and electrical neuromuscular stimulation:

Motion	Dr. Saferin
2 nd	Mr. Giacalone

Regarding the requirement for onsite supervision of a massage therapist performing these modalities, Dr. Schottenstein suggested that the word "onsite" be removed. Mr. Giacalone noted that some of the devices for performing these modalities is available over the counter, so laypersons can perform the procedures at home in those cases. Mr. Giacalone felt that the Board should not require supervision for use of a device that laypersons can use at home. Ms. Debolt stated that some devices, presumably those of a higher power, are

State Medical Board of Ohio Meeting Minutes – August 14, 2019

available to medical professionals only. Ms. Debolt noted that in any case, massage therapists are required to practice within the minimum standards of care.

The Board discussed this matter thoroughly. The Board agreed that supervision of the use of devices available over the counter should not be required, but supervision of the use of devices available through prescription only should require onsite supervision. Dr. Feibel opined that the term “prescription device” should be clarified to mean devices available to medical professionals only. Mr. Giacalone stated that the Food and Drug Administration (FDA) lists approved devices on its website and specifies if they are over the counter or prescription only.

Dr. Bechtel suggested tabling this topic so that the language can be clarified. Ms. Debolt stated that she can work on the language and bring it back to the Board this afternoon.

Dr. Saferin wished to withdraw his previous motion. No Board member objected. The motion was withdrawn.

Motion to table this topic:

Motion	Dr. Bechtel
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Rule 4731-1-24

Motion to withdraw Rule 4731-1-24 from the rule-making process:

Motion	Dr. Johnson
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Sallie Debolt

Dr. Schottenstein stated that it is fitting to recognize Sallie Debolt's service with the Medical Board after discussion of the rules. Ms. Debolt has successfully spearheaded the Board's rule making process during her 16 years with the agency, always striving to make the rules easier for licensees to understand. Dr. Schottenstein felt that Ms. Debolt has been a pillar among the staff.

Dr. Schottenstein continued that the Board appreciates Ms. Debolt's thorough and thoughtful analysis of scope of practice issues and other legal topics as it has helped the Board make appropriate decisions. Ms. Debolt has long served as Chief Ethics Officer for the agency, assuring that Board members and staff comply with Ohio ethics law. On behalf of the entire Board, Dr. Schottenstein congratulated Ms. Debolt on her upcoming retirement and he wished her the best.

Ms. Debolt stated that she appreciates having worked for the Medical Board. Ms. Debolt stated that it has been a positive experience overall and she has grown as an attorney while at the Board.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that there has been some delays in hiring which will hopefully only last another week or two.

Agency Operations: Mr. Groeber stated that there has been a minor 2% increase in the number of open cases with the Board. Licensure has increased by 3% year-to-date. Mr. Groeber noted a recent minor slow-down in the licensure of applicants, which is mostly due to the new training certificate process. Mr. Groeber stated that Compliance now has a new way to pull statistics and is beginning to get clean data from that process.

Trauma-Informed Training

Mr. Groeber stated that as the Board knows, it has been involved with and answering for some circumstances that occurred in the middle 1990's with one of its licensees. As part of that, the Board is looking for ways to comprehensively mitigate that issue and make sure it never happens again. One of the areas of focus is training and the Board has invested a great deal in training front-line staff, Investigative staff, and Enforcement staff that will continue through November.

At the December 11 Board meeting, there will be an opportunity to train Board members as well. There is a two-hour training and a four-hour training available. Dr. Schottenstein suggested that the Board have the two-hour training session at its December 11 Board meeting, and that the four-hour training may be appropriate for the next Board retreat. The Board agreed.

EEO Matters

Motion to adopt the findings of the investigator of no probable violation of the Board's EEO policies with regard to sexual harassment and retaliation; concur with the recommendations of the investigator; and direct Human Resources staff to work with DAS to arrange for additional EEO training and policy review:

Motion	Dr. Bechtel
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to adopt the findings of the investigator in the Matter of Case Number E19-027 of no probable violation of the Board's EEO policies:

Motion	Dr. Bechtel
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.,

The Board recessed at 12:09 p.m. The meeting resumed at 1:16 p.m.

REPORTS AND RECOMMENDATIONS

Summer Peplow

Motion to remove the matter of Summer Peplow from the table.

Motion	Dr. Bechtel
2 nd	Mr. Gonidakis
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Ms. Anderson provided the Board members with a draft of an amended Order, based on the Board's previous discussion. Ms. Anderson stated that the draft amended Order is just like the Proposed Order, with the following changes:

State Medical Board of Ohio Meeting Minutes – August 14, 2019

- The interim monitoring conditions during the suspension of Ms. Peplow’s license has been removed. Also, under “Conditions for Reinstatement or Restoration,” the clause entitled “Compliance with Interim Conditions” has been removed.
- Under “Conditions for Reinstatement or Restoration,” a clause has been added to allow the Board, at its discretion, to require additional evidence of fitness to practice if Ms. Peplow has not been engaged in the active practice of respiratory care for a period in excess of two years.

Dr. Schottenstein stated that the significant part of this proposed language is that Ms. Peplow will not be monitored until her license is reinstated. Dr. Schottenstein stated that he is not completely comfortable with the proposal, but under the circumstances he is not sure of a way around it short of denying Ms. Peplow’s application for licensure, which he would rather not do. Dr. Schottenstein noted that if the Board were to deny Ms. Peplow’s application, the Board would still not be monitoring her. Dr. Schottenstein opined that the draft language seems reasonable, though it is certainly giving Ms. Peplow the benefit of the doubt.

Motion to amend the Proposed Order to match the language provided by Ms. Anderson:

Motion	Dr. Johnson
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion to amend carried.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order, as amended, in the matter of Ms. Peplow:

Motion	Dr. Johnson
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

RULES

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Motion to remove the topic of Rule 4731-1-05 from the table:

Motion	Dr. Saferin
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Ms. Debolt provided the Board members with a written revision of Rule 4731-1-05, based on the Board's previous discussion.

Dr. Feibel suggested that a phrase like "or a device for medical use only" or "or a device that is labeled for use only by a medical professional" be added to the term "prescription devices" in order to prevent confusion. Mr. Giacalone had no issue with adding such a phrase. Ms. Debolt commented that a massage therapist may argue that they are a medical professional because they are licensed by the Medical Board as a limited branch of medicine.

After further discussion, the Board decided to table this topic for further changes to the language.

Motion to table this topic:

Motion	Dr. Saferin
2 nd	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion to table carried.

REPORTS BY ASSIGNED COMMITTEES

Compliance Committee Report

Dr. Schottenstein stated that the Compliance Committee last met on July 10, 2019. There was one initial appearance, Muhammad W. Anjum, M.D., who appeared before the Committee via Skype. After discussion

State Medical Board of Ohio Meeting Minutes – August 14, 2019

with Dr. Anjum, the Committee voted to continue him under the terms of the December 12, 2018 Consent Agreement, with future appearances before the Board Secretary or designee.

The Committee also received a report on participants in the (B)(19) Confidential Monitoring Program. The program went into effect in December 2018 and there are currently two M.D.'s participating in the program. For the benefit of new board members, the confidential monitoring program is a way to monitor licensees who have a B19 concern without having to invoke the disciplinary process, which we felt was excessive for some licensees.

The Compliance Committee approved the compliance staff's reports of office conferences held June 10 and 13, 2019, and also approved of the minutes from the June 12, 2019 Compliance Committee meeting.

There were no treatment provider applications to review during the July meeting. Dr. Schottenstein stated that going forward, treatment provider applications will be reviewed independently by the Committee members and, if there are no concerns or objection, the applications will go directly to the full Board for approval.

Respiratory Care Advisory Council Report

Mr. Smith stated that the Respiratory Care Advisory Council met yesterday and approved the draft minutes of its May meeting. The Council reviewed and discussed changes to laws affecting the practice of respiratory care contained in the recently passed budget bill.

The Council also discussed recently-submitted 2018 reports from the Commission on Accreditation for Respiratory Care related to Ohio respiratory care educational programs. While most of the schools in Ohio have met or exceeded those standards, four schools were required to submit progress reports by the end of September 2019 to show progress towards correcting a deficiency. The Board staff expects to receive those reports, as well as the 2019 reports, by the end of 2019. At that time, the Council will review the additional information related to those four schools and make any recommendations to the Board if necessary regarding any respiratory care educational programs that are in difficult circumstances.

Licensure Committee Report

Licensure Application Reviews

Hala Abdul-AI, M.D.

Dr. Saferin stated that Dr. Abdul-AI has applied for a medical license and has requested a waiver of the Board's ten-year rule for the United States Medical Licensing Examination (USMLE); Dr. Abdul-AI took longer than three years to complete the USMLE sequence. The Committee has recommended approval of Dr. Abdul-AI's request.

Motion to approve the good cause exception of the ten-year rule as outlined in OAC 4731-6-05 (C)(1) (OAC 4731-6-14(C)(3)(b)(i) as in effect prior to July 31, 2019), and accepting the examination sequence so that Dr. Abdul-AI may be granted a license:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Shazia Durrani, M.D.

Dr. Saferin stated that Dr. Durrani has applied for a medical license and has requested a waiver of the Board's ten-year rule for the United States Medical Licensing Examination (USMLE); Dr. Durrani took longer than three years to complete the USMLE sequence. The Committee has recommended approval of Dr. Durrani's request.

Motion to approve the good cause exception of the ten-year rule as outlined in OAC 4731-6-05 (C)(1) (OAC 4731-6-14(C)(3)(b)(ii) as in effect prior to July 31, 2019), and accepting the examination sequence so that Dr. Abdul-AI may be granted a license:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Ms. Montgomery returned to the meeting at this time.

Paul Friedman, M.D.

Dr. Saferin stated that Dr. Friedman has applied for a medical license but has not practiced clinical medicine in the last two years. The Committee has recommended approval of Dr. Friedman's application

Motion to approve Dr. Friedman's request for Ohio licensure as presented:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Sheila Gullette

Dr. Saferin stated that Ms. Gullette has applied for restoration of her Ohio massage therapist license. Ms. Gullette's license was originally issued on July 15, 1998 and expired on August 31, 2001. Ms. Gullette has not practiced massage therapy within the last two years and has not taken the Massage and Bodywork Licensing Examination (MBLEx) within the last two years. The Committee has recommended approving Ms. Gullette's request, provided she takes and passes the MBLEx.

Motion to approve Ms. Gullette's application, contingent on her passing of the MBLEx within six months of the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Lisa Herman

Dr. Saferin stated that the matter of Ms. Herman's application for restoration of her respiratory care professional license has been removed from today's agenda.

Catrina Kovalak

Dr. Saferin stated that Ms. Kovalak has applied for restoration of her Ohio massage therapist license. Ms. Kovalak has not practiced massage therapy within the last two years. The Committee has recommended approving Ms. Kovalak's request, pending her taking and passing the Massage and Bodywork Licensing Examination (MBLEx).

Motion to approve Ms. Kovalak's application, contingent on her passing of the MBLEx within six months of the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Kimberly Rusnak

Dr. Saferin stated that Ms. Rusnak has applied for a massage therapist license. Ms. Rusnak has not actively practiced massage therapy within the last two years. The Committee has recommended approving Ms. Rusnak's request, pending her taking and passing the Massage and Bodywork Licensing Examination (MBLEx).

Motion to approve Ms. Rusnak's application, contingent on her passing of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Approval of Respiratory Care Continuing Education Courses

Dr. Saferin stated that the Board has received a request to approve the course "the Ethics of Resuscitation" for one contact hour of respiratory care continuing education on Ohio respiratory care law or professional ethics. The Committee has recommended approval of the request.

Motion to approve the course as requested:

Motion	Dr. Saferin
2 nd	Dr. Rothermel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Finance Committee Report

Fiscal Report

Dr. Schottenstein stated that approximately every ten years, there is a 27th pay period in the fiscal year. This has just happened, and the Governor's administration has decided that this 27th pay period will be included in the numbers for Fiscal Year 2019. The Medical Board had the surplus necessary to absorb that expense. Dr. Schottenstein stated that he will focus on the numbers for the 27th pay period since those are the official numbers that the Board is using.

Dr. Schottenstein stated that the Board's revenue was \$708,466, which is down about 10% from May 2019. However, there is a 4% increase in revenue year-to-date, which is very good for an odd-numbered fiscal year. The Board's cash balance is very substantial at \$4,947,746, which is close to a record. As of June 2019, fiscal year-to-date revenue was \$10,113,051, which exceeded the projected revenue of \$9,500,000.

The Board's expenditures are up by 11.6% year-to-date, which is substantially a function of large invoices the Board paid in January for e-License work, as well as the aforementioned 27th pay period. Dr. Schottenstein stated that payroll is essentially unchanged this fiscal year compared to Fiscal Year 2018, which is substantially a function of the Board's vacancies. Including the 27th pay period, year-to-date expenditures were \$10,088,977.

For Fiscal Year 2019, the Board collected a total of \$167,300. In the past month, the Board has received \$17,000 in disciplinary fine payments and \$4,500 from collections.

Communications Update

Dr. Schottenstein stated that New Vision Media has been awarded the bid for the cultural competency video project. Ohio Translation Services was awarded the bid for the human trafficking video translation project. One Bite communications was shared in the August eNews and a website announcement. The communications team created Frequently Asked Questions (FAQs) document for the confidential monitoring program, which is being reviewed by Compliance and Legal. Patient and licensee sexual boundaries videos and handouts are ready for Board member review. Private links to these resources will be shared with the Board in the coming week.

Ratification of Joseph Turek attendance at NBRC-LINC meeting

Dr. Schottenstein stated that the National Board of Respiratory Care (NBRC) has invited a representative of the Board to attend the 2019 Licensure Insight, Networking and Collaboration (LINC) Meeting to be held August 23-24 in Overland Park, Kansas. The NBRC has offered to pay the travel expenses for the representative. LINC promotes communication between the NBRC, the American Association of Respiratory Care, and state agencies regulating the practice of respiratory care through agency updates, round table discussions, and networking opportunities. NBRC also serves as a platform for state regulators to discuss issues of mutual interest. The Board has been invited to send an individual to the National Board of

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Respiratory Care. In the interest of time for booking travel, the Board President conditionally approved the travel for Joseph Turek, with approval to be sought from the Finance Committee and full Board in August. The Finance Committee approved the request earlier today.

Motion to approve Joe Turek to attend the NBRC-LINC meeting. Travel expenses are anticipated to be paid by the NBRC. Any unexpected, non-covered travel expenses will be paid by the Medical Board in accordance with state travel policy. Mr. Turek’s attendance at the meeting is in connection with his duties as, and is related to his position as, the Deputy Director of Licensure for the State Medical Board of Ohio:

Motion	Dr. Edgin
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Approval to Pay for Event Space for FETI Training

Dr. Schottenstein stated that the Ohio Attorney General’s office is arranging a five-day Forensic Experiential Trauma Interview (FETI) training in November. FETI is a science and practice-based interviewing methodology informed by the latest research on the neurobiology of trauma and memory. FETI provides interviewers with a science-informed interviewing framework that maximizes opportunities for information collection and accurately documents the participant’s experience in a neutral, equitable, and fair manner.

In July, the full Board approved up to \$49,300 to send 29 staff members to the training. The Attorney General’s office is also requesting some Board assistance in paying for the conference rooms for the 5 days of training. Due to the nature of the training, a large space is necessary. Dr. Schottenstein stated that the Board has tentatively been approved to use space at the State Fire Marshall’s office in Reynoldsburg, Ohio. However, it is felt that the Board should pass a motion just in case as a fall-back.

Motion to conditionally approve up to \$20,000 for the rental of facilities to assist the Attorney General in securing FETI training for state agencies, including 29 board employees. Board staff shall make all efforts to secure a free location, and to get at least three competitive bids for any for-fee locations. The final purchase decision shall be made in collaboration with – and with the approval of – the Chair of the Finance Committee / Board President:

Motion	Dr. Kakarala
2 nd	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Approval for Mr. Groeber to Attend the FSMTB Annual Meeting

Dr. Saferin moved to approve Mr. Groeber or his designee to attend the Federation of State Massage Therapy Boards (FSMTB) annual meeting on October 3-5 in Atlanta, Georgia, and to send to the full board for consideration and approval. Travel expenses are expected to be fully paid for by the FSMTB. Any travel expenses not covered by the FSMTB will be paid by the Medical Board in accordance with state travel policy. The attendance at the conference is in connection with Mr. Groeber or his designee's duties as, and is related to, his position as Executive Director for the State Medical Board of Ohio or his designee's official capacity at the State Medical Board:

Motion	Dr. Bechtel
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

Policy Committee Report

Amendments to Rules 4731-11-01 and 4731-11-14

Motion to approve the recommendations as listed in Ms. Debolt's memo, as well as the definition of board certification in pain medicine that was approved by the Policy Committee:

Motion	Mr. Giacalone
2 nd	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Bechtel	Y
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The motion carried.

Internal Management Rule for Licensure Approval

Ms. Anderson stated that two comments were received regarding the proposed internal management rule for licensure approval. One substantive recommendation was with regard to Paragraph (E) of the rule. As written, the rule states “notwithstanding the provisions of this rule, the Secretary, Supervising Member, and Deputy Director for Licensure may refer any application or class of applications to the Board for approval.” The comment from the Ohio Academy of Nutrition and Dietetics indicated concern that the Secretary, Supervising Member, or Deputy Director designating a class of applications to the Board could result in a delay for a class with the input of the full Board.

Ms. Anderson suggested dividing the sentence in two and recommended the following language: “notwithstanding the provisions of this rule, the Board may designate the referral of any class of applications to the Board for approval. ... The Secretary, Supervising Member, or Deputy Director for Licensure may refer an individual application to the Board for approval.” Ms. Anderson stated that this language would allow the Board to designate a class of applications it would like to see before approval, while also allowing flexibility for an individual application to be brought to the Board’s attention if necessary.

Motion to approve the changes as discussed to be filed with the Joint Commission on Agency Rule Review (JCARR), the Legislative Services Commission (LSC), and the Secretary of State for an effective date of October 16, 2019:

Motion	Mr. Giacalone
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

PROBATIONARY REQUESTS

Motion to approve the Secretary and Supervising Member’s recommendations for the following probationary requests:

- a) Kevin G. Baldie, M.D.: Approval of request for release from the terms of the August 9, 2017 Step II Consent Agreement, effective immediately.
- b) Thomas B. Benz, M.D.: Approval for request for release from the terms of the September 9, 2015 Consent Agreement.
- c) Christina Biedermann, M.T.: Approval for request for release from the terms of the February 8, 2017

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Consent Agreement.

- d) Marek A. Buczek, M.D.: Request for approval of *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, offered by Case Western Reserve University, to fulfill the medical records course requirement; and approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, offered by Case Western Reserve University, to fulfill the professional ethics course requirement.
- e) Regis P. Burlas, D.O.: Approval of request to reduce appearances to every six months.
- f) Roman M. Dale, M.D.: Approval of the previously completed course *Intensive Course in Medical Ethics, Boundaries and Professionalism*, offered by Case Western Reserve University, to fulfill the personal/professional ethics course requirement.
- g) Emily K. Hellesen, M.T.: Approval of request for release from the terms of the May 11, 2016 Consent Agreement.
- h) Andrew J. Kuntzman, M.T.: Approval of request for release from the terms of the February 8, 2017 Consent Agreement.
- i) Robert Lindner, M.T.: Approval of request for release from the terms of the May 10, 2017 Consent Agreement.
- j) Maneesh L. Mehra, M.D.: Approval of Huy Ngoc Dang, M.D. to serve as the new monitoring physician.
- k) Tammy M. Reed, D.O.: Approval of *PBI Prescribing Course: Opioids, Pain Management and Addiction*, administered by the University of California, Irvine School of Medicine.
- l) Justin M. Rodebaugh, M.D.: Approval of Michigan Health Professional Recovery Program to conduct monitoring while the doctor resides in Michigan.
- m) Frank G. Stoddard, D.P.M.: Approval of request to discontinue the chart review requirement.

Motion	Mr. Giacalone
2 nd	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

TREATMENT PROVIDER APPLICATIONS

Motion to approve the Application for Board approval as a One-Bite Treatment Provider for Impaired Practitioners for Cornerstone for Recovery:

Motion	Dr. Johnson
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

RULES

Motion to remove the topic of Rule 4731-1-05 from the table:

Motion	Dr. Saferin
2 nd	Mr. Giacalone
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Ms. Debolt provided copies of the proposed rule language, based on the Board’s previous discussion. Paragraph (b) of the proposed rule included the following language: “if the FDA classifies the device as a prescription device, as that term is defined in 21 CFR 801.109, or a restricted device that can only be sold, distributed, or used upon the order of an authorized health care provider, the massage therapist application of the device must be done under the onsite supervision of the referring practitioner.”

Motion to approve the language as discussed:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Bechtel	Y
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The motion carried.

FINAL PROBATIONARY APPEARANCES

Bethany J. Notestine, M.T.

Dr. Schottenstein commented that he remembers Ms. Notestine and everyone had been moved by her story and how she extricated herself from her situation and turned things around for herself. Dr. Schottenstein asked how Ms. Notestine to planning to avoid getting back into a similar situation. Ms. Notestine replied that she has worked to find people who are supportive and doing positive things. Ms. Notestine is working on gathering a group of women to help support each other and to have more camaraderie and less competition. Ms. Notestine commented that she is also an aesthetician and is in the process of opening her own salon. Ms. Notestine appreciated the opportunity for another chance.

Dr. Schottenstein asked if Ms. Notestine has had opportunity to share her story with others. Ms. Notestine answered that she has had such opportunity, having helped a friend's niece and another friend's son from making some of the same mistakes that she had made. Ms. Notestine stated that she has kept in touch with some of the women she was incarcerated with and many are doing well. Ms. Notestine hoped to someday to put together a group to give back and to especially help women who have been through similar circumstances and to provide financial backing if needed. Ms. Notestine also hoped to speak in facilities to encourage women. Ms. Notestine commented that to whom much has been given, much is expected, and she had had a great deal of support in her situation. Dr. Schottenstein asked if Ms. Notestine still had that support. Ms. Notestine responded that she still had support. Dr. Schottenstein remarked that such support to helpful because everyone has blind spots and supportive people can help one recognize dangers in front of them. Ms. Notestine stated that it helps her decision-making to remember where she has been and what she has been through.

Ms. Montgomery congratulated Ms. Notestine, commenting that she has been on a long road.

Motion to release Ms. Notestine from the terms of the Board's Order of May 11, 2016, effective immediately:

Motion	Dr. Johnson
2 nd	Mr. Gonidakis
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Randall G. Whitlock, P.A.

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Responding to questions from Dr. Schottenstein, Mr. Whitlock stated that his sobriety is going well. Noting the Mr. Whitlock has a history of relapses, Dr. Schottenstein asked if he feels he is now on better path to avoid that outcome. Mr. Whitlock replied that he is now on a better path. Mr. Whitlock stated that he has followed his treatment program, has a sponsor and a sponsee, and attends two to three meetings per week. Mr. Whitlock stated that he is involved in recovery-based activities by volunteering at the hospital and the counseling centers in his community. Mr. Whitlock stated that he actively works the 12-step program and is currently working on step 8.

Dr. Schottenstein commented that if Mr. Whitlock ever feels like he needs extra accountability to keep moving in the right direction, the Ohio Physicians Health Program (OPHP) will monitor practitioners on a voluntary basis.

Mr. Giacalone congratulated Mr. Whitlock on his rehabilitation and getting to where he is now. Mr. Giacalone cautioned Mr. Whitlock to understand that the purpose of the Board is to protect the public and the Board is not in the habit of giving third chances. Mr. Giacalone hoped that that will provide incentive for Mr. Whitlock to continue to be successful in his recovery program.

Motion to release Mr. Whitlock from the terms of the Mary 13, 2015 Addendum to Consent Agreement, effective immediately:

Motion	Mr. Giacalone
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

ADJOURN

Motion to adjourn:

Motion	Dr. Saferin
2 nd	Mr. Giacalone
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y

State Medical Board of Ohio Meeting Minutes – August 14, 2019

Dr. Bechtel

Y

The motion carried.

The meeting adjourned at 2:05 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on August 14, 2019, as approved on September 11, 2019.


Michael Schottenstein, M.D., President


Kim G. Rothermel, M.D., Secretary



(SEAL)



Medical Marijuana Expert Review Committee

Minutes for August 14, 2019

Committee / Board members present: Michael Schottenstein, MD; Mark Bechtel, MD; Robert Giacalone, Esq.; Betty Montgomery, Esq.; Harish Kakarala, MD; Jonathan Feibel, MD

Staff members present: A.J. Groeber, Kim Anderson, Tessie Pollock, Donald Davis, Jerica Stewart, Alexandra Murray and Rebecca Marshall

Guests: Dr. Anup Patel, Dr. Rebecca Baum, Dr. Pankhuree Vandana, Dr. Christina Weston, Interested Parties and Media

The meeting was called to order at 3:04 p.m. on Wednesday, August 14, 2019 in room 336 of the Rhodes State Office Tower.

I. Approval of May 8, 2019 Meeting Minutes:

Dr. Mark Bechtel moved to approve the minutes from the May 8, 2019 State Medical Board of Ohio Medical Marijuana Expert Review committee. Mr. Giacalone provided the second. All members voted aye; the minutes were approved unanimously.

II. Review of Expert Reports for Petitions requesting treatment with Medical Marijuana:

Dr. Schottenstein opened the discussion providing a brief statement: He acknowledged the personal struggles families may have with conditions being considered, the minimal success they may have had with current treatments as well as side effects. Dr. Schottenstein stated that he would never lightly reject a medical marijuana petition. However, he would not approve a petition with little scientific evidence of benefit.

Autism Petition & Anxiety Petition:

Dr. Weston feels that in the long run, medical marijuana does not improve anxiety. She believes there are better long-term treatments available. Dr. Baum is concerned with the use of medical marijuana because the pediatric brain is still developing up until the age of 25 and she also believes there are good medications and therapies for the treatment of anxiety. Dr. Patel feels there is no compelling evidence that supports the use of medical marijuana in the treatment of anxiety in any age group.

Dr. Vandana reports some families with children that have severe autism are seeking medical marijuana for treatments. She has concerns with its use because of the lack of research on the developing brain and that medical marijuana may cause further decline in their cognitive function.

Dr. Patel, who has studied various compounds in medical marijuana, feels it is important to look at this issue through two lenses. First, is there potential benefit from these compounds in medical marijuana and second, have there been adequate studies done to assure its effectiveness and safety. He believes that perhaps there is some potential benefit but there has not been adequate studies to determine its safety.

Via teleconference, the committee spoke to Dr. Gary Wenk and Dr. Solomon Zaraa to ask additional questions regarding their expert reports.

Dr. Schottenstein provided a brief summary of the discussion and appointed Ms. Montgomery and Dr. Feibel to the committee.

III. Recommendations:

Autism: Mr. Giacalone made a motion, seconded by Dr. Feibel, to approve sending the petition to add autism spectrum disorder as a qualifying medical marijuana condition to the full board for consideration. The committee unanimously approved the motion with a **recommendation for rejection** of the condition.

Anxiety: Mr. Giacalone made a motion, seconded by Dr. Feibel, to approve sending the petition to add anxiety as a qualifying medical marijuana condition to the full board for consideration. The committee unanimously approved the motion with a **recommendation for rejection** of the condition.

Committee recommendations, petitions and expert reports for autism and anxiety will go to the full board on September 12, 2019 for their review and consideration.

Motion to adjourn was made by Dr. Schottenstein and Mr. Giacalone provided a second. Committee members all voted aye and the meeting was adjourned at 4:28 p.m. on Wednesday August 14, 2019.

dd



COMPLIANCE COMMITTEE MEETING
August 14, 2019

<p>Members: Michael Schottenstein, MD, Chair Robert Giacalone Harish Kakarala, MD</p> <p>Also attending: Kim G. Rothermel, MD</p>	<p>Staff: Alexandra Murray, Managing Attorney Annette Jones, Compliance Officer Rebecca Marshall, Chief Enforcement Attorney Joan Wehrle, Education and Outreach Program Manager Kim Anderson, chief Legal Counsel Benton Taylor, Board Parliamentarian</p>
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Dr. Schottenstein called the meeting to order at 2:06 p.m.

INITIAL PROBATIONARY APPEARANCES

No initial appearances were scheduled this month.

Approval of Reports of Conferences

Dr. Kakarala moved to approve the Compliance staff's reports of office conferences held July 8 and 9, 2019. Mr. Giacalone seconded the motion. Motion carried.

Minutes Review

Dr. Kakarala moved to approve the draft minutes from July 10, 2019 Compliance Committee meeting. Mr. Giacalone seconded the motion. Motion carried.

Adjourn

Mr. Giacalone moved to adjourn. Dr. Kakarala seconded the motion. Motion carried.

The meeting adjourned at 2:08 p.m.

jkw



LICENSURE COMMITTEE MEETING
August 14, 2019 - Room 336

<p>Committee Members Present: Bruce R. Saferin, D.P.M, Chair Kim G. Rothermel, M.D. Richard Edgin, M.D. Jonathan B. Feibel, M.D.</p> <p>Other Board Members Present: Michael Schottenstein, M.D. Mark A. Bechtel, M.D.</p>	<p>Staff Present: Joseph Turek, Director of Licensure & Licensee Services Mitchell Alderson, Chief of Licensure Colin Depew, Assistant Attorney Nathan Smith, Senior Legal & Policy Counsel Jerica Stewart, Communication & Outreach Administrator</p>
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Dr. Saferin called the meeting to order at **8:00 a.m.**

MINUTES REVIEW

Dr. Edgin moved to approve the draft minutes of July 10, 2019. Dr. Rothermel seconded the motion. All members voted aye. The motion carried.

LICENSURE APPLICATION REVIEWS

Hala Abdul-AI, MD

Dr. Hala Abdul-AI has applied for a medical license. She took longer than ten years to complete her USMLE sequence.

Dr. Edgin moved to approve the good cause exception of the 10-year rule as outlined in OAC 4731-6-05 (C)(1) (OAC 4731-6-14(C)(3)(b)(i) as in effect prior to 7/31/2019), and accepting the examination sequence to be granted a license. Dr. Rothermel seconded. All in favor, motion carried.

Shazia Durrani, MD

Dr. Shazia Durrani has applied for a medical license. She took longer than ten years to complete her USMLE sequence.

Dr. Rothermel moved to approve the good cause exception to the 10-year rule as outlined in OAC 4731-6-05 (C)(2) (OAC 4731-6-14 (C)(3)(b)(ii) as in effect prior to 7/31/2019), and accept the examination sequence to be granted a license. Dr. Edgin seconded. All in favor, motion carried.

Paul Friedman, MD

Dr. Paul Friedman has applied for a medical license. He has not practiced within the last two years.

Dr. Edgin commented that Dr. Friedman is an administrator applying for licensure without the intention of practice.

Dr. Feibel asked how the board ensures Dr. Friedman or someone in a similar situation is not practicing medicine.

Dr. Saferin explained the board wanted to get a license exclusively for administrative medicine.

Dr. Rothermel added the board worked to get a license of that nature, but the cost of creating a new license is significant. In the past, Bill Schmidt researched the numbers of physicians that have active licenses but state on their renewal applications they are not clinically active. She stated that creating an administrative license will not entirely eliminate the number of physicians applying for licensure who are not actively practicing. She does not think the board will have a guarantee other than trusting the applicants.

Dr. Betchel stated in the university setting, he has seen many physicians who are licensed but don't see patients. They may be chairmans of departments and very busy but not clinical. They still use their clinical judgement every day; they review cases, look for quality of care, and they're at the top of their game.

Dr. Feibel asked what the requirements are for someone who has not practiced for 2 years and wants to practice medicine again.

Dr. Saferin responded they may have to take an exam or do a preceptorship, it depends and is on a case-by-case basis.

Dr. Rothermel stated that the board also looks at whether their CMEs are current and whether they are participating in maintenance of their certification.

Dr. Schottenstein stated that unless there is a concern about the licensee, he feels comfortable taking the doctors at their word.

Dr. Feibel asked if the board could make their licensure conditional.

Dr. Saferin stated that would be putting a restriction on them, which is reportable and something they would not like to do.

Dr. Rothermel stated she believed Dr. Friedman was board-certified, so asking him to take the SPEX is redundant.

Dr. Feibel moved to approve Dr. Friedman's request for Ohio licensure as presented. Dr. Rothermel seconded. All in favor, motion carried.

Sheila Gulette

Sheila Gulette has applied to restore her Ohio massage therapy license. She has not practiced within the last two years.

Dr. Edgin moved to approve Ms. Gullette’s application for restoration of her Ohio license contingent on her passing of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Feibel seconded. All in favor, motion carried.

Lisa Herman

Dr. Saferin noted that Lisa Herman’s respiratory care professional license restoration item has been removed from the agenda.

Catrina Kovalak

Catrina Kovalak has applied to restore her Ohio massage therapy license. She has not practiced within the last two years.

Dr. Feibel moved to approve Ms. Kovalak’s application for restoration of her Ohio license contingent on her passing of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Rothermel seconded. All in favor, motion carried.

Kimberly Rusnak

Kimberly Rusnak has applied for a massage therapy license. She has not practiced within the last two years.

Dr. Rothermel moved to approve Ms. Rusnak’s application for an Ohio license contingent on her passing of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Edgin seconded. All in favor, motion carried.

OTHER ITEMS

Respiratory Care Continuing Education Course Approval

The board received a request to approve the course “The Ethics of Resuscitation” for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics

Dr. Feibel moved that the course be approved. Dr. Edgin seconded. All in favor, motion carried.

Proposed Changes to Dietetics Rules

Licensure Committee is being asked to review and discuss proposed changes to the dietetics rules regarding continuing education and limited permits.

Mr. Smith pointed out the memo in the committee materials that highlighted the high points of the rules. Six months to a year ago, the committee was asked to approve learning plans for licensed dietitians who are not registered. This rule changes that and instead requires licensed dietitians who are not registered to report a total of 30 hours per two-year renewal period. These courses would have to offered by the Commission on Dietetic Registration, the Academy of Nutrition and Dietetics, or the Ohio Academy of Nutrition and Dietetics. The committee and the board would no longer approve these learning plans. In addition, both registered and

licensed/registered dietitians were required to take a jurisprudence course that the board staff was in charge of developing content for, posting on the website, and administering a quiz. The committee was a part of approving the script. With the rule change, all licensed dietitians, including registered, will be required to take one hour related to ethics or laws, rules and regulations governing the practice of dietetics per two-year renewal period. These courses would be acceptable if offered by one of the three bodies above. The rule also references the new audit and disciplinary provisions.

The second rule is concerning limited permits. A limited permit holder can practice to the full scope of a dietician's license if they have not failed the exam. If they have failed the CDR exam, they are, per statute and rule, they must be placed under the supervision of a licensed dietitian. Previously, the rule only required supervision every 14 days. The board has tried to strengthen the supervision for limited permit holders and make it clear that the licensed dietitian has responsibility for the supervision and a failure to properly supervise and document may result in a minimal standard of care violation.

Dr. Edgin asked what the difference is between a licensed and registered dietitian.

Mr. Smith stated there is an organization called the Commission on Dietetic Registration (CDR) operating as the overarching private, regulating body setting the standards for the practice of dietitians. Both the board's licensing and regulation rules are tied into registration with the CDR. They set a high standard for the practice. CDR is private, while licensing is public - with the state.

Dr. Edgin asked why dietitians wouldn't be both licensed and registered.

Mr. Turek explained dietitians are required to register to be licensed in Ohio. There are some grandfathered individuals who are licensed dietitians and not registered, but not many. In general, new applicants would be registered and licensed.

Mr. Smith stated the statute offers a small window for someone who met rigorous requirements to be a licensed dietitian and not registered. It doesn't happen often and the overwhelming majority of licensed dietitians in Ohio are also registered.

Dr. Feibel pointed out the difference in using the word "could" and "shall" in whether improper supervision could constitute a minimal standard of care violation.

Mr. Smith stated if the licensed dietitian does not give proper supervision, it is a violation and it's up to the board through the investigation process to decide whether it would result in discipline. Dr. Schottenstein asked if the emphasis on minimal standards would act as a deterrent for dietitians wanting to supervise.

Mr. Smith explained he took the rules to the Dietetic Advisory Council and received input. The council wanted the rule to be clear that the licensed dietitian needed to take responsibility for the supervision. They did not discuss a minimal standards violation. There are not many limited permit holders and many less that fail the test (5 to 10 per year). He does not think it will be a significant deterrent.

Dr. Edgin moved to approve the proposed rules for initial circulation including review by the Dietetics Advisory Council. Dr. Rothermel seconded. All in favor, motion carried.

ADJOURN

Dr. Feibel moved to adjourn meeting. Dr. Rothermel seconded the motion. All members voted aye. The motion carried.

The meeting adjourned at 8:20 a.m.

Bruce R. Saferin, D.P.M.
Chair

js



FINANCE COMMITTEE MEETING MINUTES
August 14, 2019 - Room 335

Members in attendance:

Michael Schottenstein, MD, Chair
Bruce R. Saferin, DPM
Richard A. Edgin, MD
Michael Gonidakis, Esq.

Other Board Members Present:

Jonathan B. Feibel, MD

Staff in attendance:

A.J. Groeber, Executive Director
Susan Loe, Director of Fiscal & Human Resources
Tessie Pollock, Director of Communications
Jerica Stewart, Communication & Outreach Administrator

Dr. Schottenstein called the meeting to order at 8:30 a.m.

MINUTES REVIEW

Dr. Edgin moved to approve the draft minutes of July 10, 2019. Dr. Saferin seconded the motion. All members voted aye. The motion carried.

FISCAL UPDATE

Dr. Schottenstein provided the following update:

Looking at the fiscal update for June 2019, we have an unusual situation. Approximately every 10 years, there's a 27th pay period in the fiscal year, that has just happened. The governor's administration decided that this 27th pay period would be included in the fiscal 2019 numbers. And we were able to absorb that because we had enough surplus to do that. We actually have two sets of numbers, those with the 27th pay period and those that are without. So as not to confuse things, I am going to focus on the numbers for the 27th pay period, since those are our official numbers. But it would also be understood that although revenue is unchanged, the 27th pay period reflects a greater financial expenditure because of it. Revenue was \$708,466, that's down about 10 percent from May 2019, but we have a 4 percent increase YTD with regard to revenue. That's a good number, especially in an odd numbered fiscal year. We had negative revenue for June 2019, in the amount of \$388,670. Again, that is substantially a reflection of that additional pay period. Our fiscal YTD revenue for 2019 is positive a \$24,074 and our cash balance is very substantial at \$4,947,746 - that is close to our record. We had projected revenue of about \$9.5 million for the fiscal year. As of June 2019, we had fiscal YTD revenue of \$10,113,051, so we have exceeded our projected revenue. This is a good fiscal year all things considered. Our expenditures are up 11.6 percent YTD, which again is substantially a function of the aforementioned 27th pay period as well as those large invoices that the board paid for e-License work back in January. Payroll is actually essentially unchanged this fiscal year, compared to fiscal year 2018 and that is substantially a function of vacancies.

Speaking of vacancies, you may have noticed the Medical Board cash balance history in the Finance Committee packet. You can see that from fiscal year 2011 to fiscal year 2013, expenditures were up, and revenue was down, so we had to dip into our cash at that time. Subsequently, there was a reduction in staff and a decrease in some expenses such as rent. There was a time when there were 88 staff members at the Medical Board, that number has dropped down to a ceiling of 82/83 or so. And with vacancies currently, our number of staff is somewhere in the 70s. Each staff member represents an expenditure of roughly 90,000 per year, so the reduction in staff has contributed to the subsequently improved cash balance, including the 27th pay period, we had a YTD expenditure of \$10,088,977.

Dr. Schottenstein continued: As to our fines, for fiscal year 2019, we collected, \$167,399 total. In the past month we received \$17,000 in disciplinary fine payments and \$4,500 from collections. You will notice, this month we have two accounts receivable reports. The yellow and green one indicates the active accounts that are currently being processed or have been received. The red and blue page indicates cases that have been sent to collections. You will notice that James Andrew Williams has had his wages garnished and you see the multiple payments. Sean Patrick Hammond is in a payment plan with the board. The two cases in red, have been deemed uncollectable by the Attorney General's office.

Mr. Groeber asked how much was being garnished from the wages of James Andrew Williams.

Ms. Loe responded approximately \$250 per month and explained out of the \$475 garnished each month, \$250 is the Medical Board's cut.

COMMUNICATIONS UPDATE

Ms. Pollock informed the committee: Copies of the board magazine were placed in the back room of the main board meeting room. Copies were also mailed to the board members. The communication team is working on a late summer edition and sticking with the planned number of editions for this year with the new publishing company. Jerica, Julie and Joan are writing articles and hope to have drafts out in the next couple of weeks.

The cultural competency video and human trafficking translation video contracts have been issued, and the vendors have started the work.

How to file a complaint and the public records request documents were translated into Spanish to make available as consumer facing items.

The communication team will be sending the sexual boundaries campaign materials including the videos and handouts over the next week or so to board members for review. The team would like the board members' input to make sure they are as effective as they can be for licensees and the general public.

CTR searches continue to be one of the top searches on the website. This time, there were some search term areas used such as "Ohio" and "Cincinnati" which may be related to people trying to locate CTR doctors.

Engagement continues to be great on social media. The board did have some negative interactions, including an anti-vaccination discussion, but it was handled appropriately.

Presentations were listed on the second page of the notes.

Dr. Schottenstein asked how the team plans to disseminate the sexual boundaries material to the public.

Ms. Pollock explained since the public is not the board's usual audience, the team will need to explore different mechanisms. Currently, the magazine gets mailed to waiting rooms. This campaign gives an opportunity to work with other state agencies and boards, including the Ohio Department of Health. Ms. Pollock has many ways of reaching different populations in the public, but she is also open to suggestions. Communications will share information through social media. Although right now, there won't be a proactive push to general media, the board can always point to the materials when it receives inquiries about this type of violations to show how seriously the board takes sexual misconduct.

Mr. Groeber mentioned as the board continues to engage with the Ohio Prosecutor's Attorney Association, it has another opportunity to share the materials.

NEW BUSINESS

Ratification of Joseph Turek attendance at NBRC-LINC meeting

The National Board of Respiratory Care (NBRC) has invited a representative of the Board to attend the 2019 Licensure Insight, Networking and Collaboration (LINC) Meeting to be held August 23-24 in Overland Park, KS. NBRC has offered to pay the travel expenses for the representative.

LINC promotes communication between the NBRC, the American Association of Respiratory Care, and state agencies regulating the practice of respiratory care through agency updates, round table discussions, and networking opportunities. It also serves as a platform for state regulators to discuss issues of mutual interest. The board has been invited to send an individual to the National Board of Respiratory Care. In the interest of time for booking travel, the board president conditionally approved the travel for Joe Turek, with approval to be sought from the Finance Committee and full board in August.

Dr. Saferin moved to approve Joe Turek to attend the NBRC-LINC meeting. Travel expenses are anticipated to be paid by the NBRC. Any unexpected, non-covered travel expenses will be paid by the Medical Board in accordance with state travel policy. Mr. Turek's attendance at the meeting is in connection with his duties as, and is related to his position as, the Deputy Director of Licensure for the State Medical Board of Ohio. Dr. Edgin seconded. All in favor, motion carried.

Approval to Pay for Event Space for FETI Training

As was discussed at the July 2019 Finance Committee and full board meetings, the Ohio Attorney General's office is arranging a 5-day FETI training in November. Certified FETI® is the founding and governing body of the official Forensic Experiential Trauma Interview, a science and practice-based interviewing methodology informed by the latest research on the neurobiology of trauma and memory. The Forensic Experiential Trauma Interview (FETI®) provides interviewers with a science-informed interviewing framework that maximizes opportunities for information collection and accurately documents the participant's experience in a neutral, equitable, and fair manner.

The full board approved up to \$49,300 to send 29 staff members to the training. The attorney general's office is also requesting some board assistance in paying for the conference rooms for the 5 days of training. Due to the nature of the training, a large space is necessary. Board staff is exploring all viable state conference facilities, but we may still need to pay for facility space at Ohio State or another location. In order to secure an adequate space for the training, staff is conditionally requesting approval from the Finance Committee the approval to pay up to \$20,000 for training room space. We are required to get 3 competitive bids for the space and would follow up with the chair of the Finance Committee / Board President prior to finalizing a purchase above the Executive Director's authorization of \$10,000. The FETI instructions / specifications on room requirements is attached.

Ms. Loe stated since the time the request for funding was originally drafted, they were able to find free space at the State Fire Marshall Training Academy for the first two days and then the Rhodes Office Tower for the other three days. Unless something unforeseen occurs with the reserved free space, there should not be a cost associated with the rooms for training.

Mr. Groeber stated it may not be a bad idea to conditionally make the motion in case it is needed. He is anticipating the board will not need to pay for the room.

Dr. Schottenstein agreed.

Mr. Gonidakis asked to keep the Finance committee informed if the option falls through.

Mr. Groeber confirmed he will inform the president.

Dr. Schottenstein asked where the training will take place.

Ms. Loe responded there's a 2-part training. For the first two days, it will be at the State Fire Marshall Academy on East Main in Reynoldsburg. For the other three days, it will be upstairs in the Rhodes tower.

Dr. Saferin moved to conditionally approve up to \$20,000 for the rental of facilities to assist the Attorney General in securing FETI training for state agencies, including 29 board employees.

Board staff shall make all efforts to secure a free location, and to get at least three competitive bids for any for-fee locations. The final purchase decision shall be made in collaboration with – and with the approval of – the Chair of the Finance Committee / Board President. Mr. Gonidakis seconded. All in favor, motion carried.

Approval for Mr. Groeber to Attend the FSMTB Annual Meeting

The 2019 Annual Meeting will be held October 3-5 in Atlanta, GA. The agenda is attached. FSMTB membership includes the right of each member board/agency to send a voting delegate to the annual meeting. Delegate travel, accommodations, meals and program expenses will be covered by the FSMTB.

Mr. Groeber stated he has a potential conflict and asked if the motion could be amended to say, "Mr. Groeber or his designee."

Dr. Saferin moved to approve Mr. Groeber or his designee to attend the Federation of State Massage Therapy Boards (FSMTB) annual meeting on October 3-5 in Atlanta, Georgia, and to send to the full board for consideration and approval. Travel expenses are expected to be fully paid for by the FSMTB. Any travel expenses not covered by the FSMTB will be paid by the Medical Board in accordance with state travel policy. The attendance at the conference is in connection with Mr. Groeber or his designee's duties as, and is related to, his position as Executive Director for the State Medical Board of Ohio or his designee's official capacity at the State Medical Board. Mr. Gonidakis seconded. All in favor, motion carried.

Dr. Saferin asked if any of the board's funds would be affected by outside withdrawals or transfers.

Ms. Loe and Mr. Groeber confirmed they did not expect anything at this time.

Mr. Groeber stated the new fiscal year has begun and instructed the committee members to bring any specific projects forward for consideration.

Dr. Schottenstein stated if the committee has the budget for special projects, he would also be inclined toward additional fee reductions. He inquired about the status of the proposal for the initial PA license. Mr. Groeber and Ms. Loe confirmed the PA license fee reduction will go into effect on October 16.

ADJOURN

Dr. Saferin moved to adjourn the meeting. Dr. Edgin seconded the motion. Voice vote- all aye. The motion carried.

The meeting adjourned at 8:48 a.m.

Michael Schottenstein, M.D.
Chair

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POLICY COMMITTEE MEETING
August 14, 2019, Room 336

Members:

Robert Giacalone
Mark Bechtel, MD
Richard Edgin, MD

Other Board Members present:

Michael Schottenstein, MD
Bruce Saferin, DPM
Kim Rothermel, MD
Jonathan Feibel, MD
Sherry Johnson, DO

Staff:

A.J. Groeber, Executive Director
Kimberly Anderson, Chief Legal Counsel
Sallie J. Debolt, Senior Counsel
Nathan Smith, Senior Legal and Policy Counsel
Joan Wehrle, Education & Outreach Program
Manager
Rebecca Marshall, Chief Enforcement Attorney
Joe Turek, Deputy Director
David Fais, Deputy Director

Mr. Giacalone called the meeting to order at 9:15 a.m.

Meeting Minutes Review

Mr. Giacalone reported that the draft minutes of the July 10, 2019 meeting had been distributed to the committee and were included in the agenda materials.

Dr. Bechtel moved to approve the draft minutes of the July 10, 2019 Policy Committee meeting. Dr. Edgin seconded the motion. Motion carried.

Legislative Update

Mr. Groeber provided the legislative update. He reported that we are working on the action items that were included in the budget bill which goes into effect October 16, 2019.

Rules Review Update

Ms. Anderson referred to the report included in the agenda materials. She noted that the dietetic rules went to Licensure Committee instead of Policy Committee as the rules dealt more with licensure issues. Ms. Anderson said that we continue to be on schedule and continue to make progress with the rules.

Proposed Amendments to Rules 4731-11-01 and 4731-11-14 (prescribing for acute and chronic pain)

Ms. Debolt said the rules as proposed to be amended were filed with CSI. CSI has asked the board to respond to the comments received. She explained that her memorandum has 13 recommendations. She believes that recommendations 8 through 12 are questions for clarification and are suitable for FAQs. The committee needed to address the other recommendations and possibly amend the currently proposed rules.

Additional amendments to be adopted:

- 1) **Recommendation:** That the definitions of “Board certification in oncology” and “Board certification in hematology” proposed by Mr. McGlone from the Ohio Hospital Association be approved. The

proposed definition of Board certification in oncology will include “board certified radiation oncologist.”

- 2) Regarding the suggested definition that “pain management specialist” be defined as: *A board certified or board eligible pain physician or board certified or board eligible hospice and palliative medicine physician.*

Ms. Debolt explained that “pain management specialist” is not defined in the rule. The term is used in 4731-11-14(C)(4)(b), as an option for consultation prior to increasing dosage to greater than 50 MED, and in 4731-11-14(D)(3), as an option for consultation prior to increasing dosage to greater than 80 MED. However, for prescribing a dosage that exceeds an average of 120 MED rule 4731-11-14(E) requires “board certification in pain medicine.”

Recommendation: That the suggested definition for “pain management specialist” not be adopted as it would require that a pain management specialist be board certified in pain medicine for consultation at the 50 MED and 80 MED decision points as well.

- 3) Regarding the request to add board-eligible status to the qualifications of physicians able to prescribe above 120 MED or recommend prescribing at such dosage.

Ms. Debolt reported that board eligibility is not a verifiable status. Adding this status as a qualification could result in a board-eligible physician prescribing at the 120 MED dosage, fail to complete the certification process within the allotted timeframe, and lose board-eligible status thus being no longer able to prescribe the 120 MED dosage.

Recommendation: Board-eligible status should not be added as a qualification for prescribing above 120 MED or recommending that a patient be prescribed at such a dosage.

- 4) Regarding the suggested addition of primary care physicians, APRN-CNPs and APRN CNS who are board-certified in hematology or oncology, and board-certified anesthesiologists to the list of those who can prescribe at 120 MED or above.

Ms. Debolt reported that primary care physicians may prescribe a high dosage for non-terminal cancer if the dosage is recommended by a board-certified pain medicine physician or board-certified hospice and palliative care physician who based the recommendation on a face-to-face visit and examination of the patient. There is no prohibition against a primary care physician prescribing a high dose to a patient with terminal cancer.

It was noted that the Medical Board has historically chosen to determine qualifications for prescribers based on an accredited residency or fellowship and passage of a certification examination. A review of the requirements for the suggested APRN – CNP and APRN-CNS board certifications finds that they do not meet the standard applied by the Medical Board.

Ms. Debolt said the Medical Board may want to consider whether to add board-certified anesthesiologists. Dr. Schottenstein said that anesthesiologists can pursue a recognized subspecialty in pain management. He did not support adding anesthesiologists to the list. Through discussion, it was noted that the comment received regarding adding anesthesiologists did not provide a rationale for the suggestion.

Recommendation: The listing of prescribers who may recommend an average daily dosage of 120 MED or more should not be expanded to include primary care physicians, APRN – CNPs and APRN-CNS who are board-certified in oncology and/or rheumatology, and board-certified anesthesiologists.

5 & 6) Ms. Debolt noted that Dr. Stroom from the Cleveland Clinic suggested an amendment to rule 4731-11-14 (C)(4) to reflect that a physician who is either a specialist in the area of the body affected by the pain or a pain management specialist should not be required to “consider” or “obtain” a referral from a specialist in the area of the body affected by the pain or a pain management specialist because such a referral would be redundant.

Recommendation: Amend 4731-11-14(C)(4) to read:

(4) Except when the patient was prescribed an average daily dosage that exceeded fifty MED before the effective date of this rule, the physician who is neither a specialist in the area of the body affected by the pain nor a pain management specialist shall document consideration of the following:

- (a) Consultation with a specialist in the area of the body affected by the pain;**
- (b) Consultation with a pain management specialist;**
- (c) ...;**
- (d) ...**

7) **Definition of “terminal condition.** Ms. Debolt explained that the proposal to amend the definition of “terminal condition” by no longer referring to the definition in Section 2133.01 was made at the behest of practitioners who state that the requirement for a second physician’s opinion of the patient’s condition hampers appropriate, timely pain relief due to a shortage of doctors and lack of transportation, particularly in more rural and economically depressed areas of the state. Requiring a second physician to examine the patient also leads to additional medical costs.

Recommendation: It is recommended that the proposed amended definition of “terminal condition” be retained without further amendment.

8) **Specialist in area of the body affected by the pain.**

Ms. Debolt noted that question had been raised as to whether oncology specialists (radiation oncology, medical oncology, surgical oncology) are considered “specialists in the area of the body affected by the pain.”

She recommended that the response be provided as a FAQ

Recommendation: It is not unusual for an oncologist to specialize in specific types of cancer. An oncologist should be considered to be a specialist in the area of the affected by pain that is related to the oncologist’s specialty. For example, an oncologist who specializes in gynecological cancers would not be considered a specialist in pain stemming from lung cancer.

Dr. Rothermel asked about when a tumor metastases to another area of body. She cautioned that we must be careful not to restrict patient care.

9) Does a telehealth visit meet the requirement for a face-to-face visit and examination for prescribing to a patient at 120MED or higher?

Recommendation: The requirement of a face-to-face visit and examination is not met via a telehealth visit.

The committee agreed with the recommendation.

Dr. Bechtel said he realized that there must be a formal doctor/patient relationship when prescribing. He asked if Ohio statutes allow for real-time telehealth interactions between a patient and physician.

Ms. Debolt said that for purposes of prescribing an opiate analgesic which is a controlled substance by telehealth, the federal controlled substances law and the federal regulations apply. Ms. Debolt said that there are ways that it can be done if the patient is in the presence of a physician who has a special DEA registration and they are conferring with a remote physician. Additionally, the equipment must meet the standards set in the federal requirements for telehealth. Ms. Debolt noted that rule 4731-11-14 (E)(2) requires a face-to-face visit and examination of the patient.

- 10) Expand exception provided in 4731-11-14(H) and (I) to specifically except the physician prescribing for a patient with “another condition associated with the individual’s cancer or history of cancer.”

Ms. Debolt explained that this statement had been included in the old version of the chronic pain rules. She said it was a deliberate decision not to include that language in this rule to facilitate the state policy that prescribing opiate analgesics should be limited to the lowest dosage consistent with the patient’s medical condition. A patient may have a remote history of cancer but have another health issue for which opiate analgesics are prescribed.

Recommendation: No change in recommended.

- 11) Regarding use of the term “incurable cancer” rather than “terminal cancer” in 4731-11-14(H)(2).

Recommendation: No change is recommended. Ms. Debolt report that because of significant medical advances a cancer may be incurable, but not terminal. The incurable cancer may cause the patient great pain. However, the exceptions provided in paragraphs (H) and (I) were limited to reflect the state policy that prescribing opioid analgesics should be limited to the lowest dosage consistent with the patient’s medical condition.

- 12) Regarding whether a hospital-based physician must follow the rule when writing an opioid prescription at the time of hospital discharge.

Ms. Debolt said that the rule does not apply while the patient is in the hospital. However, the rule applies when writing a prescription for use out of the hospital. The memorandum in the agenda materials contains an explanation of this topic.

Recommendation: No recommendation is made.

- 13) Technical amendment to correct citation error:

Recommendation: Approve amending paragraph 4731-11-14 (I) to refer to “Rule 4729-17-01 of the Administrative Code.”

Ms. Debolt said that one of the recommendations had been to include a definition of “board- certified pain management physician” in rule 4731-11-01. A handout with a proposed definition was distributed to the committee. Ms. Debolt said the proposed definition is consistent with what we had in the pain management rules. The proposed definition:

Board certification in pain medicine means:

Policy Committee Minutes

- (a) Current subspecialty certification in pain medicine by a member board of the American board of medical specialties, or hold a current certificate of added qualification in pain medicine by the American osteopathic association bureau of osteopathic specialists;
- (b) Current board certification by the American board of pain medicine; or
- (c) Current board certification by the American board of interventional pain physicians.

Although this information would not be included in the definition, Ms. Debolt explained to the committee that (a) would include subspecialty certification in pain medicine by any of the following ABMS boards:

- American Board of Anesthesiology
- American Board of Emergency Medicine
- American Board of Family Medicine
- American Board of Physical Medicine and Rehabilitation
- American Board of Psychiatry and Neurology
- American Board of Radiology

Dr. Feibel questioned the American Board of Radiology. Ms. Debolt responded that the ABMS boards listed offer a pain management subspecialty.

General discussion was held regarding training requirements for board certification and subspecialty certification.

Mr. Giacalone asked about the American Board of Pain Medicine (ABPM) It was noted that the American Board of Pain Medicine is not an ABMS recognized board as non-fellowship trained physicians and those who have completed unaccredited fellowships may sit for the ABPM examination.

Dr. Bechtel moved to accept the recommendations as proposed, including the definition of board certification in pain management. Dr. Edgin seconded the motion. Motion carried.

Proposed Internal Management Rule 4731-30-02 Approval of Licensure Applications

Ms. Anderson said the committee discussed the proposed internal management rule 4731-30-02, Approval of Licensure Applications, at its July meeting. The rule allows for the delegation of the routine authorization of most license types and reflects the Board's commitment to reducing processing times for licensure issuance. Ms. Anderson said that this rule is one that we want to get in place before the budget bill goes into effect on October 16, 2019.

The proposed rule was sent to interested parties and we received two comments.

The Ohio Academy of Nutrition and Dietetics indicated general approval of the rule, but expressed concern that Rule 4731-30-02(E) which would permit the Board Secretary and Supervising Member or the Deputy Director of licensure to refer an application or class of applications to the Board for review, which could result in delay for those license applicants.

We also received comments from the Ohio Society for Respiratory Care expressing approval for the rule and that it will be beneficial for employers, applicants for licensure, and the board.

Ms. Anderson addressed the comments from the Ohio Academy of Nutrition and Dietetics. She suggested that wording in paragraph E be changed to:

- (E) Notwithstanding the provisions of this rule, ~~the secretary, supervising member and deputy director for licensure may refer~~ the **board could require** any application or class of applications to go to the board for approval.

Policy Committee Minutes

Ms. Anderson said she did not believe such situation would happen very often. However, when new license types have been added, such as certificates to recommend medical marijuana, or the conceded eminence certificates, the board initially wanted to review the applications. As the board became more familiar with the applications for these certificates, the board delegated review and approval to the Secretary and Supervising Member. She said putting the power with the board would address concerns raised about paragraph E.

Discussion followed. Concerns were raised about the potential delay in review of applications by the board. Ms. Anderson suggested that such applications could go to the licensure committee for review and recommendation to the full board.

Ms. Anderson said that she would prepare language for the board to consider this afternoon.

Motion was made by Dr. Edgin to conditionally approve the rule and to recommend to the full Board to authorize filing with JCARR, LSC and the Secretary of State's office to be effective October 16, 2019. Dr. Bechtel seconded the motion. Motion carried.

Mr. Groeber announced a change in meeting times to begin in September. The Policy Committee will meet at 9 a.m. and the board meeting will begin at 9:45 a.m.

Ms. Giacalone announced that Sallie Debolt, Senior Counsel, will be retiring the end of August. He expressed appreciation for her invaluable help, and all agreed she will be greatly missed.

Adjourn

Dr. Bechtel moved to adjourn the meeting. Motion seconded by Dr. Edgin. Motion carried.

The meeting adjourned at 9:49 a.m.

jkw