



**State Medical Board of Ohio Meeting Minutes
January 8, 2020**

Michael Schottenstein, M.D., President, called the meeting to order at 10:16 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; Robert 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.

BOARD UPDATES

Dr. Schottenstein reported the recent death of Ronald J. Kaplansky, D.P.M. Dr. Kaplansky was a former Supervising Member of the Medical Board and served on the Board for many years. The Board was appreciative of Dr. Kaplansky's service.

Dr. Schottenstein also reported the recent birth of Board member Dr. Soin's son, Bodie Soin. Dr. Schottenstein wished Dr. Soin and his family all the best.

MINUTES REVIEW

Motion to approve the minutes of the December 11, 2019 Board meeting, as drafted:

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

The motion carried.

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 matter of: Muhammad K. Ahsan, M.D.; Atta Asef, D.P.M.; and Cherilynn Marie Waldron, R.C.P. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y

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Dr. Johnson	Y
Dr. Edgin	Y
Dr. Schottenstein	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. Johnson	Y
Dr. Edgin	Y
Dr. Schottenstein	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 in each matter eligible for a fine, the Board’s fining guidelines allow for imposition of the range of civil penalties, from no fine to the statutory maximum amount of \$20,000. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Johnson	Y
Dr. Edgin	Y
Dr. Schottenstein	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 matter 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 matters of Dr. Ahsan and Dr. Asef.

Muhammad K. Ahsan, M.D.

Dr. Schottenstein directed the Board’s attention to the matter of Muhammad D. Ahsan, M.D. Objections have been filed and were previously distributed to Board members. Ms. Shamansky was the Hearing Examiner.

Dr. Schottenstein stated that Dr. Ahsan’s counsel, Mr. Tapocsi, has submitted an affidavit requesting the submission of newly-discovered evidence. A copy of Mr. Tapocsi’s letter was provided to Board members for their review.

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Motion to accept the submission of the newly-discovered evidence:

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

The motion carried.

The newly-discovered evidence, a Proposal for Decision from an administrative law judge recommending that the Michigan Board of Medicine reinstate Dr. Ahsan's Michigan medical license, was provided to the Board members for their review.

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

Dr. Ahsan was represented by his attorney, Gregory Tapocsi.

Mr. Tapocsi thanked the Board for granting Dr. Ahsan's request to continue his case from last month based on the death of his father. Mr. Tapocsi also thanked the Board for accepting the recent action in Michigan into the record.

Mr. Tapocsi stated that Dr. Ahsan, after having practiced medicine for 20 years without any formal discipline, did not receive a copy of an administrative agency's action. Mr. Tapocsi acknowledged that it is Dr. Ahsan's responsibility to make sure all boards he is license by has his credential address. However, Mr. Tapocsi noted that Dr. Ahsan, after providing a Michigan Board investigator with the part of medical records that was typically requested by the investigator, did not hear anything further due to an error in that board's offices.

Mr. Tapocsi continued that the compliant in Michigan concerned allegations of wrongful misconduct based on the Michigan Prescription Monitoring Program. Mr. Tapocsi noted that in Ohio, evidence from the Ohio Automated Rx Reporting System (OARRS) by itself is not allowable. Mr. Tapocsi further noted the generalized statements about the nature of Dr. Ahsan's practice and the percentage of prescriptions, as well as a decision in Michigan based on a record that did not contain the entire patient chart. Consequently, the Ohio Board is now considering a Proposed Order that is based on a Michigan Order which itself is not based on all the facts and did not take into account Dr. Ahsan's side of the story.

Mr. Tapocsi observed that the defense's expert witness reviewed the underlying facts of this case and agreed that Dr. Ahsan is of good moral character, has met all reinstatement requirements in Michigan, and is generally credible regarding the events of this case. Mr. Tapocsi opined that it would make sense for the Board to either defer action in this case or remand the case to the Hearing Examiner until there is a final decision from the Michigan Board. Mr. Tapocsi also expressed concern that the Proposed Order, as written, could potentially become a permanent suspension since one of the conditions for reinstatement is evidence of an unrestricted license in Michigan and the Michigan Board could choose to place a permanent restriction on Dr. Ahsan's Michigan license.

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Dr. Ahsan briefly reviewed his medical career, including his work as a spine interventionist in Michigan for less than two years, which is the period in which these events occurred. Dr. Ahsan stated that his practice focus had been on procedures and was not about pain management. Dr. Ahsan noted that data collected by the Michigan Board shows that in one year Dr. Ahsan's patients had a 90% reduction in pain prescriptions. Dr. Ahsan stated that he referred patients to other providers for heavy-dose chronic pain medication.

Dr. Ahsan continued that the Michigan complaint examined eight patients. For four of the patients the Michigan Board was concerned about documentation, but Dr. Ahsan stated that the Michigan Board did not even have his dictated notes. Dr. Ahsan also stated that he had actually reduced the medications for the patients on 300 morphine-equivalent doses (MED) by 50% on the first visit, and they had already been on the higher dose for three to four years prior to seeing Dr. Ahsan. Dr. Ahsan stated that it was impossible to stop the medications completely at that time due to the risk of withdraw. Similarly, though the Michigan Board contended that four of Dr. Ahsan's patients did not have MRI's, Dr. Ahsan stated that he had noted in the patients' charts that MRI's were done but probably could not detect much.

Dr. Ahsan stated that he could not present his case in Michigan and he was required to pay a \$20,000 fine. Dr. Ahsan also attended 220 hours of continuing medical education (CME), including courses in chronic pain management, medical documentation, and boundaries. Dr. Ahsan was evaluated by the Center for Personalized Education for Physicians (CPEP), which recommended only self-study at home and no formal training. Dr. Ahsan stated that he has done the self-study and he also volunteered to take another course in medical documentation.

Dr. Ahsan stated that he would like to continue his practice in Ohio.

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that this case had been managed by Emily Pelphrey, who is not present today. Mr. Wilcox stated that Ms. Pelphrey had no comment other than that the Board should exercise its judgment.

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

Motion	Dr. Kakarala
2 nd	Dr. Johnson

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

Dr. Schottenstein noted the respondent's objections, which maintains that the Order of the Michigan Board of Medicine was instituted by default without procedural due process, and therefore it is a fundamentally flawed basis on which to cite Dr. Ahsan in Ohio due to Ohio's tradition of deciding cases based on their merits. In response, Dr. Schottenstein stated that the Michigan action was not determinative, but was simply the trigger by which the Ohio Board opened the case and the Board proceeded to decide the case on its merits. Dr. Schottenstein stated that Section 4731.22(B)(22), Ohio Revised Code, does not require the Board to assess the validity of another state board's order; it only requires that a disciplinary action was taken by another agency. Dr. Schottenstein further stated that the Hearing Examiner's Findings in the Report and Recommendation is only an opinion and it is up to the Board whether to ratify that opinion. Therefore, contrary to defense counsel's opinion, the Findings does not violate Ohio law because it is not binding.

Dr. Schottenstein continued that defense counsel argued that the Medical Board is only within its rights to fine Dr. Ahsan if the conduct occurred completely after September 29, 2015. However, Dr. Schottenstein stated that the prescribing behavior in question clearly occurred after September 29, 2015, and it is that activity that the Board is basing its fine on. Dr. Schottenstein stated that just because the activity started before September 29, 2015, does not mean the Board cannot impose a fine. Dr. Schottenstein noted that large numbers of questionable prescriptions were written through July 2016 and the Medical Board's administrative complaint referenced concerning prescribing through November 2016.

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Dr. Schottenstein stated that the third objection is with regard to the terms of the Proposed Order whereby Dr. Ahsan has to have a full, unrestricted license in Michigan before his suspension in Ohio can be lifted. Dr. Schottenstein felt that this is a legitimate concern. Dr. Schottenstein stated that if the Michigan Board chooses to permanently limit Dr. Ahsan's Michigan license in some way, the Proposed Order would leave him in a form of limbo where he is never able to have his Ohio suspension lifted.

Dr. Schottenstein appreciated the additional information about the recent Michigan action, which the Board voted to accept into the record earlier in the meeting. However, Dr. Schottenstein not feel that the new information required the Board to remand the case back to the Hearing Unit. Dr. Schottenstein opined that the Board can modify the current Proposed Order and dispose of the case in that fashion.

At Dr. Schottenstein's request, a proposed amendment was provided to Board members for their review. Dr. Schottenstein briefly reviewed the features of the proposed amendment:

- Removal of the requirement for full and unrestricted licensure in Michigan, replacing it with a requirement for active licensure in Michigan.
- Required courses in controlled substance prescribing and medical record-keeping.
- Requirement for successful completion of the recommendations of the Center for Personalized Education for Physicians (CPEP).
- A probationary period of at least three years
- Required evidence of compliance with the final order of the Michigan board
- Requirement that reports to the Michigan board also be sent to the Ohio Board
- If Dr. Ahsan practices in Ohio, he must submit a practice plan that includes a monitoring physician.
- The fine and the indefinite suspension with conditions for reinstatement in the Proposed Order are unchanged.
- Modification of Conclusion of Law #3 to clarify that the Board is authorized to impose a fine with respect to the conduct that occurred after September 29, 2015.

Dr. Schottenstein opined that this proposed amendment addresses both Dr. Ahsan's and the Board's concerns.

Motion to accept Dr. Schottenstein's proposed amendment:

Motion	Mr. Giacalone
2 nd	Dr. Feibel

Dr. Feibel agreed with Dr. Schottenstein's comments. Dr. Feibel asked if an order could be crafted that would mirror whatever action the Michigan Board chooses to take with regard to restrictions on Dr. Ahsan's license. Dr. Schottenstein replied that there is not a way to do that, but the Ohio Board should craft an order that it feels comfortable with. Dr. Schottenstein stated that if the Ohio Board feels that its Order should mirror Michigan's Order, then it should remand the case back to the Hearing Unit and wait for the matter to come back to the Board. Dr. Feibel asked if Dr. Ahsan would still be able to practice in Ohio while his case is remanded. Dr. Schottenstein replied that Dr. Ahsan's Ohio license would remain active and he could continue to practice during that time.

Ms. Montgomery asked the physicians on the Board to comment on Dr. Ahsan's failure to remove conflicting medications for new patients whose medication regimens included counter-indicated medicines. Dr.

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Schottenstein stated that if a new patient has a risky combination of medications, a physician may not be able to simply remove one of the medications without potentially causing a problem. Dr. Schottenstein commented that the level of Dr. Ahsan's prescribing is concerning, though Dr. Ahsan testified that he had inherited patients who were on these kinds of regimens and he had made efforts to reduce the medications.

Mr. Giacalone stated that the combination of opioids, benzodiazepines, and muscle relaxants that Dr. Ahsan had been prescribing was problematic and was indicative of what the U.S. Drug Enforcement Administration (DEA) would call the "holy trinity" cocktail associated with drug abuse. Mr. Giacalone also noted the fact of 360 morphine-equivalent doses (MED) is dangerous by itself, and it is therefore a dangerous scenario either singularly or in combination with something else. Mr. Giacalone stated that such prescribing indicates either incompetency or someone who prescribes for nefarious purposes. Mr. Giacalone further commented that examinations by CPEP have not established that Dr. Ahsan has the capability of prescribing these medications correctly. Mr. Giacalone was inclined to support a restriction on Dr. Ahsan's ability to prescribe controlled substances. Mr. Giacalone commented that Dr. Ahsan's prescribing of non-controlled substances does not appear to have been problematic.

Ms. Montgomery noted that Dr. Ahsan's Michigan medical license was suspended in January 2018, the Ohio Board cited him in May 2018, and Ohio took no further action until a year later in May 2019. Ms. Montgomery stated that such delays are not fair to the physician, not fair to the patients, not fair to the process, and she opined that it makes the Board look foolish. Ms. Montgomery stated that there may be a rationale for such a delay, but it is not apparent what that rationale is. Ms. Montgomery stated that there is truth in the old saying that "justice delayed is justice denied." Ms. Montgomery commented that the reasons for such delays should be articulated in the presentations to the Board. Ms. Montgomery stated that she trusts the Secretary and Supervising Member who are involved in the investigation and enforcement processes, but the other Board members also have a responsibility to act independently. Dr. Schottenstein stated that there have been discussions of including case timelines as part of the Report and Recommendation and he was hopeful that Board members would start getting satisfying explanation for the delays.

Dr. Feibel opined that the suggested minimum of three years of probation should be increased to a minimum of five years. Mr. Giacalone agreed.

Mr. Giacalone wished to change his motion to amend to add a permanent restriction on Dr. Ahsan's ability to prescribe controlled substances, as well as to increase the minimum period of probation to five years. No Board member objected to the change in the motion. The change to the motion was accepted.

If the motion to amend passes, Conclusion of Law #3 will read as follows:

3. With respect to the conduct underlying the actions against Dr. Ahsan's license in Michigan and Virginia that occurred after September 28, 2015, the Board is authorized to impose a fine for these violations pursuant to R.C. 4731.225. The Board's fining guidelines for these violations are as follows: Minimum Fine \$2,500; Maximum Fine \$18,000.

If the motion to amend passes, the Proposed Order will read as follows:

It is hereby ORDERED that:

- A. **SUSPENSION OF LICENSE:** The license of Muhammad Kamran Ahsan, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.
- B. **FINE:** Within thirty days of the effective date of this Order, Dr. Ahsan shall remit payment in full of a fine of \$2,500 (two thousand, five hundred) dollars (\$2,500). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.

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- C. **PERMANENT LIMITATION/RESTRICTION:** The license of Dr. Ahsan to practice medicine and surgery in the State of Ohio shall be permanently LIMITED and RESTRICTED as follows: Dr. Ahsan shall not prescribe controlled substances while practicing in the State of Ohio.
- D. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Ahsan's license to practice medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Ahsan shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Evidence of Active Licensure in Michigan:** At the time he submits his application for reinstatement or restoration, Dr. Ahsan shall provide the Board with acceptable documentation evidencing that his license to practice medicine in the State of Michigan has been reinstated.
 3. **Controlled Substances Prescribing Course(s):** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Ahsan shall provide acceptable documentation of successful completion of a course or courses dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Ahsan submits the documentation of successful completion of the course(s) dealing with the prescribing of controlled substances, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

4. **Medical Records Course(s):** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Ahsan shall provide acceptable documentation of successful completion of a course or courses on maintaining adequate and appropriate medical records. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Ahsan submits the documentation of successful completion of the course(s) on maintaining adequate and appropriate medical records, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

5. **Complete CPEP Educational Intervention:** Prior to submitting his application for reinstatement or restoration, Dr. Ahsan shall have undergone an assessment and completed the recommended Education Intervention as developed for Dr. Ahsan by the

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Center for Personalized Education for Professionals (“CPEP”) as recommended by CPEP in its August 13, 2019 Assessment Report. Dr. Ahsan’s participation in CPEP and his completion of the educational recommendations shall be at his own expense. Dr. Ahsan shall successfully complete all educational activities including any final assessment or evaluation.

At the time he submits his application for reinstatement or restoration, Dr. Ahsan shall submit to the Board satisfactory documentation from the CPEP indicating that he has successfully completed the recommended educational activities.

6. **Payment of Fine**: Dr. Ahsan shall have fully paid the fine as set forth in Paragraph B of this Order.
 7. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Ahsan has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.
- E. **PROBATION**: Upon reinstatement or restoration, Dr. Ahsan’s license shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Modification of Terms; Exception**: Dr. Ahsan shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations, except that Dr. Ahsan may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member.
 2. **Obey the Law**: Dr. Ahsan shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state(s) in which he is practicing.
 3. **Declarations of Compliance**: Dr. Ahsan shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board’s offices on or before the first day of the third month following the month in which Dr. Ahsan’s license is restored or reinstated. Subsequent quarterly declarations must be received in the Board’s offices on or before the first day of every third month.
 4. **Evidence of Compliance with the Final Order of the Michigan Board**: At the time he submits his declarations of compliance, Dr. Ahsan shall also submit declarations under penalty of Board disciplinary action and/or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the State of Michigan Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Board of Medicine (“Michigan Board”) in File No. 43-16-142878. Moreover, Dr. Ahsan shall cause to be submitted to the Board copies of any reports that he submits to the Michigan Board whenever and at the same time the Michigan Board requires such submission.
 5. **Notification of Change in Terms of the Final Order by the Michigan Board**: Dr. Ahsan shall immediately notify the Board in writing of any modification or change to any term,

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condition, or limitation imposed by the Michigan Board in File No. 43-16-142878, including termination of the Michigan Board Final Order.

6. **Personal Appearances**: Dr. Ahsan shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Ahsan's license is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances shall occur as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
7. **Refrain from Commencing Practice in Ohio**: Dr. Ahsan shall refrain from commencing practice in Ohio without prior written Board approval. Moreover, should Dr. Ahsan commence practice in Ohio, the Board may place his license under additional probationary terms, conditions, or limitations, including the following:
 - a. **Practice Plan; Monitoring Physician**: Prior to Dr. Ahsan's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Ahsan shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Ahsan's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Ahsan shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Ahsan submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Ahsan and who is engaged in the same or similar practice specialty.

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

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

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

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

- F. **TERMINATION OF PROBATION; PERMANENT LIMITATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Ahsan's license will be restored, but shall thereafter be permanently LIMITED and RESTRICTED as specified in Paragraph C, above.
- G. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Ahsan violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his license.
- H. **REQUIRED REPORTING TO THIRD PARTIES; VERIFICATION:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Ahsan shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Ahsan shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

In the event that Dr. Ahsan provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

Further, within 30 days of the date of each such notification, Dr. Ahsan shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

This requirement shall continue until Dr. Ahsan receives from the Board written notification of the reinstatement or restoration of his Ohio license to practice osteopathic medicine and surgery.

2. **Required Reporting to Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Ahsan shall provide a copy of this Order by certified mail to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Administration, through which he currently holds any professional license or certificate. Also, Dr. Ahsan shall provide a copy of this Order by certified mail at the time of

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application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license.

Additionally, within 30 days of the effective date of this Order, Dr. Ahsan shall provide a copy of this Order to any specialty or subspecialty board of the American Board of Medical Specialties or the American Osteopathic Association Bureau of Osteopathic Specialists under which he currently holds or has previously held certification.

Further, within 30 days of the date of each such notification, Dr. Ahsan shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred.

This requirement shall continue until Dr. Ahsan receives from the Board written notification of the reinstatement or restoration of his Ohio license to practice osteopathic medicine and surgery.

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

Vote on Mr. Giacalone's motion to amend:

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

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. Ahsan:

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

The motion carried.

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Atta Asef, D.P.M.

In the matter of Dr. Asef, Dr. Schottenstein had served as Acting Supervising Member. Therefore, Dr. Edgin assumed the chair for this discussion.

Dr. Edgin directed the Board's attention to the matter of Atta Asef, D.P.M. Objections have been filed and were previously distributed to Board members. Ms. Shamansky was the Hearing Examiner.

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

Motion	Dr. Johnson
2 nd	Dr. Kakarala

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

Ms. Montgomery observed that this case has languished for two or three years, noting the investigator meetings regarding this case occurred in March 2016. Ms. Montgomery opined that there does not seem to be a sense of urgency in some cases. Ms. Montgomery further opined that the Board should review its investigation and enforcement processes to address these delays, and perhaps invite an outside entity to review the processes. Ms. Montgomery stated that such delays are not fair to anyone and is not professional for the Board. Dr. Feibel agreed with Ms. Montgomery's comments.

Dr. Feibel stated that he has watched the videos in the hearing record and, in spite of the respondent's expert witness, it is clear to Dr. Feibel that this behavior is below the standards of care. Dr. Feibel stated that there is no question that Dr. Asef's actions, both verbally and physically, were much more than just a physical examination. Dr. Feibel would have felt better had Dr. Asef owned up to his mistake, but he seems to be tone deaf in that regard. Dr. Feibel expressed worry about allowing Dr. Asef to ever practice in Ohio again, opining that it puts people in danger. Dr. Feibel stated that he would support permanent revocation of Dr. Asef's license, but he wished to hear from other Board members first.

Mr. Giacalone agreed with Dr. Feibel. Mr. Giacalone stated that the video seemed more like actions and a dialogue that would occur in a venue like a bar as opposed to a physician's office. As such, this was totally inappropriate. Mr. Giacalone opined that the defense counsel wants to paint Dr. Asef as the victim instead of the patient being the victim. Mr. Giacalone stated that regardless of the patient's actions or motivations, Dr. Asef should know better. Mr. Giacalone added that he was taken aback by the attempt to blame the patient, stating that it was very apparent what was happening in the videos. Mr. Giacalone also questioned the credibility of both Dr. Asef and his expert witness, who conveniently stated that he did not hear or understand the comments made in the video by Dr. Asef or the patient, when doing so was beneficial to Dr. Asef.

Mr. Giacalone was most troubled by Dr. Asef's unwillingness to take responsibility for his actions. Mr. Giacalone commented that he may have had a different view if Dr. Asef had admitted he had made a mistake and crossed a line that he should not have, but instead he denied what he did and even went on to blame the patient. Mr. Giacalone found this to be inexcusable. Mr. Giacalone stated that the allegations of pre-signing blank prescriptions is important, but not as important as what took place between him and his patient. Mr. Giacalone expressed concerns about what might happen with Dr. Asef's next female patient. Mr. Giacalone stated that he could support an amendment to permanently revoke Dr. Asef's license.

Ms. Montgomery stated that at some point one has to defer to the Hearing Examiner as to the credibility of these witnesses. Ms. Montgomery stated that it is clear that Dr. Asef did not come close to the proper standards and he violated boundaries to such an extent that an indefinite suspension of at least one year is probably too light a sanction. Ms. Montgomery felt that this case calls for a stronger suspension, if not a permanent revocation of license.

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Dr. Edgin stated that he, like everyone else, was taken aback by the videos in the hearing record, and he was taken more aback by the inappropriate and unprofessional nature of the discussions in the videos. Dr. Edgin felt that the defense of Dr. Asef's touching of the groin area was suspect, stating that one does not check for a deep vein thrombosis (DVT) by checking a thermal pulse. Dr. Edgin stated that Dr. Asef was defensive and he never took responsibility for his inappropriate behavior. Dr. Edgin agreed with Mr. Giacalone that the issue of pre-signed blank prescriptions, while important, is not as important as Dr. Asef's behavior. Dr. Edgin opined that a suspension of one or two years is not enough in this case.

Dr. Kakarala agreed with all the comments that have been made by the Board members. Dr. Kakarala stated that none of the Board members take permanent revocation lightly, but he opined that such an action would be appropriate in this case.

Motion to amend the Proposed Order to a permanent revocation of Dr. Asef's license to practice podiatric medicine and surgery in Ohio:

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

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. Asef:

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

The motion carried.

Cherilynn Marie Waldron, R.C.P.

Dr. Schottenstein directed the Board's attention to the matter of Cherilynn Marie Waldron, R.C.P. No objections were filed. Ms. Lee was the Hearing Examiner.

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

Ms. Waldron stated that she has not practiced as a respiratory care professional since 2011 and she is currently working as a phlebotomist. Ms. Waldron also noted that she had been incarcerated due to a long history of alcoholism and convictions for operating a vehicle under the influence (OVI).

Ms. Waldron continued that she has been told that insanity is doing the same thing over and over again expecting different results, and this has been her life since she could drive a vehicle. Ms. Waldron stated that when she got home in 2016 she tried for two years to get things together and start her life over. Ms. Waldron applied to have her respiratory care professional (RCP) license reinstated and in January 2019 she signed a Consent Agreement with the Board stating that she would do certain things to keep that license. Ms. Waldron stated that she still has not been employed at an RCP since that time. However, Ms. Waldron has “flirted” with alcohol in that time and there were consequences, which has led her to the Board today.

Ms. Waldron stated that she only asks the Board to refrain from suspending her license, as she would like an opportunity to work as an RCP. Ms. Waldron stated that she loves health care and she has succeeded well in that field despite herself. Ms. Waldron stated she has taken a relapse prevention program at Meridien, her employer Mercy Health has allowed her to take and complete the program A New Start, and she continues to attend Alcoholics Anonymous (AA) meetings.

Ms. Waldron stated that the disease of alcoholism has taken her life. Ms. Waldron did not wish to lose her ability to work in health care. Ms. Waldron reiterated that she loves health care, stating that she loves the field, she is proficient at it, she has a good rapport with patients, and she once taught at Youngstown State University. Ms. Waldron pointed out that no action has ever been taken on her license based on anything that occurred while practicing.

Ms. Waldron stated that in January 2019 she was overwhelmed with the entire Consent Agreement. Ms. Waldron signed the agreement, then failed to fulfill any of the Agreement’s requirements or contact the Board. Ms. Waldron speculated that she may have felt unable to talk with the Medical Board because she had previously dealt with the Ohio Respiratory Care Board. Ms. Waldron apologized for not going to the Board with any of her issues.

Ms. Waldron again asked the Board to not indefinitely suspend her license so that she may have an opportunity to practice as an RCP. Ms. Waldron stated that she loves health care and is currently enrolled in Mercy College of Ohio where she hoped to earn a master’s degree in health care administration.

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Mr. Wakley stated that he wished to respond.

Mr. Wakley stated that Ms. Waldron is an alcoholic. At the hearing, Mr. Wakley had recommended a stayed permanent revocation of Ms. Waldron’s license. Mr. Wakley stated that he understood the Hearing Examiner’s rationale for the Proposed Order of revocation and he would ordinarily agree with it. However, Mr. Wakley stated that previous non-permanent revocations have led to respondents continually reapplying for licensure. Mr. Wakley had recommended a stayed permanent revocation so that Ms. Waldron would understand that another violation would likely result in the permanent revocation of her license.

Mr. Wakley stated that it is an open question whether Ms. Waldron can follow conditions set out by the Board, noting that the first time she signed a Consent Agreement she never engaged in the process and she ignored her responsibilities. If the Board gives Ms. Waldron one more chance, she could fail and have her license permanently revoked later. Conversely, Ms. Waldron could turn herself around and become a valuable member of the respiratory care field. Mr. Wakley stated that if Ms. Waldron is able to find employment as an RCP, she will unquestionably be under significant levels of supervision by her employer.

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Mr. Wakley noted that, to the State's knowledge, Ms. Waldron's alcohol issues have never impacted her practice. Therefore, Mr. Wakley stood by his recommendation for a stayed permanent revocation, opining that it will effectively protect the public while also helping Ms. Waldron stay sober. Mr. Wakley observed that Ms. Waldron was already being supervised by the criminal system doing about the same things the Board would have required, including drug screens. Ms. Waldron's explanation was that she saw that the main office for FirstSource, the business who would perform the drug screens for the Board's process, was located in New Castle, Pennsylvania, and she could not do anything in Pennsylvania. Mr. Wakley commented that the fact that Ms. Waldron offered such a foolish explanation caused him to believe it.

Mr. Wakley reiterated that State's suggestion that Ms. Waldron be given one more chance, stating that if she failed again he would assign the case to himself and advocate for permanent revocation.

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

Motion	Dr. Kakarala
2 nd	Dr. Johnson

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

Ms. Montgomery commented that she says her prayers for Ms. Waldron. Ms. Montgomery stated that the Board wants Ms. Waldron to be successful and to realize that she has value no matter what happens here today. Ms. Montgomery firmly believed that Ms. Waldron wants to change. However, Ms. Montgomery stated that the Board has a higher responsibility than just to Ms. Waldron. While Ms. Montgomery appreciated the Assistant Attorney General's thoughtful approach, she noted Ms. Waldron's nine OVI convictions and opined that Ms. Waldron should not be practicing.

Ms. Montgomery also observed that Ms. Waldron failed to meet any of her obligations under her Consent Agreement for a year, during which time the Board did nothing despite knowing that Ms. Waldron was a high-risk licensee. Ms. Montgomery stated that if any case tells the Board that it should review its processes and perhaps have outside entities review its processes, it is this case.

Motion to amend the revocation in the Proposed Order to a permanent revocation:

Motion	Ms. Montgomery
2 nd	Mr. Giacalone

Mr. Giacalone noted that the Assistant Attorney General had stated that Ms. Waldron had been lucky to have not hurt anyone in her professional capacity as well as in her non-professional capacity. Mr. Giacalone stated that every time Ms. Waldron has been given another chance, she has lapsed into the same behavior. Mr. Giacalone observed that Ms. Waldron once faced the possibility of jail time but it was suspended; Mr. Giacalone considered that Ms. Waldron may have a different outlook had she served time in jail for her actions. Mr. Giacalone wished Ms. Waldron the best, but he stated that the Board's job is to protect the public, not Ms. Waldron. Mr. Giacalone stated that Ms. Waldron's track record does not support another chance. Mr. Giacalone supported Ms. Montgomery's proposed amendment.

Dr. Schottenstein stated that when he reviewed this case he wondered if the Board would be right to permanently revoke Ms. Waldron's license. This is not because Ms. Waldron has a severe substance use disorder history, because the Board works with licensees with such histories all the time. Dr. Schottenstein had considered permanent revocation in this case because Ms. Waldron had just been placed into a Consent Agreement one year ago and she ignored every aspect of it. Dr. Schottenstein commented that it was not as though Ms. Waldron made an attempt to comply with the agreement and relapsed; rather, there was essentially a willful disregard for the agreement she signed. Dr. Schottenstein further stated that Ms. Waldron

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has not been completely forthcoming with the Board, noting that she did not admit to a Medical Board investigator that she had used alcohol in January 2019 or that she has purchased the alcohol that police found around her vehicle in February 2019. Dr. Schottenstein stated that it is not unusual for people in the grip of substance use disorder to be deceptive, but there needs to be some baseline level of commitment to truthfulness and sobriety that the Board can work with.

Dr. Schottenstein continued that Ms. Waldron has also never completed a 28-day inpatient treatment program at a Board-approved facility. The Hearing Examiner had stated that Ms. Waldron does not currently appear to be in a good position to engage in that treatment and that an order of that nature would set her up for failure. However, Dr. Schottenstein had the sense that Ms. Waldron would need that inpatient treatment and he questioned where this leaves the matter if Ms. Waldron is not in a position to engage in that treatment.

Dr. Schottenstein stated that he agonized over this case, but he just did not feel that Ms. Waldron is a good candidate for licensure. Dr. Schottenstein supported Ms. Montgomery’s proposed amendment.

Vote on Ms. Montgomery’s motion to amend:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Johnson	Y
Dr. Edgin	Y
Dr. Schottenstein	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 Ms. Waldron:

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

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

The motion carried.

The Board went into Executive Session at 11:22 a.m. and returned to public session at 11:29 a.m.

SETTLEMENT AGREEMENTS

Howard S. Ames, M.D.

Motion to ratify the proposed Voluntary Permanent Retirement with Howard S. Ames, M.D.:

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

The motion carried.

Randy M. Smith, D.O.

Motion to ratify the proposed Step II Consent Agreement with Randy M. Smith, D.O.:

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

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Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Nicholas Charles Brautigam, M.D.

Motion to ratify the proposed Consent Agreement with Nicholas Charles Brautigam, M.D.:

Motion	Dr. Bechtel
2 nd	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Johnson	Y
Dr. Edgin	Y
Dr. Schottenstein	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. Omar Almusa, M.D.: Based on a guilty plea for Unlawful Dispensing of Controlled Substances.
2. Martin Escobar, M.D.: Based on the doctor's surrender his Drug Enforcement Administration (DEA) registration.

Motion to approve and issue proposed Citation #1:

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

The motion carried.

Motion to approve and issue proposed Citation #2:

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

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

The motion carried.

The Board went into Executive Session at 11:32 a.m. and returned to public session at 11:55 a.m.

RULES AND POLICIES

Disciplinary and Fining Guidelines

Ms. Marshall stated that the proposed Disciplinary and Fining Guidelines document combines the Board's minimum disciplinary guidelines and the Board's finding grid into one document. In the process of combining the documents, Ms. Marshall also identified some areas that needed corrections, as outlined in the memo to the Board. Ms. Montgomery approved of Ms. Marshall's work on the document.

Motion to accept the draft disciplinary and fining guidelines as presented:

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

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

The motion carried.

OPERATIONS REPORT

Human Resources: Ms. Loucka stated that one of the Board’s vacant positions will be filled by an administrative assistant who will support Ms. Loucka, Communications, and legislative affairs. The new hire will also work on a constituent inquiry tracking system, which will help in developing consistent standard replies to inquiries.

Dr. Schottenstein noted that while the Board has many FAQ documents on its website, it does not have such a document for consumers. Dr. Schottenstein suggested that an FAQ document for consumers be developed and placed on the website. Dr. Schottenstein opined that consumer FAQ’s would be a service for the public and may save staff time by answering routine questions. Ms. Loucka agreed.

Budget Update: Ms. Loucka stated that the budget will be discussed later during the Finance Committee report. Ms. Loucka noted an anomaly, namely a net revenue of -\$513,000 for November 2019. Ms. Loucka noted that three pay periods occurred in November instead of the normal two. Ms. Loucka further noted that the Board paid \$250,000 that month for the eLicense system. Ms. Loucka stated that this negative number will wash out as the year progresses.

Licensure: Ms. Loucka stated that Mr. Turek reports that in calendar year 2019 the Board exceeded 8,000 credentials, processed 11,360 license verifications, and licensure staff had 22,558 emails and over 17,000 calls.

Closed Complaints Statistics: Ms. Loucka stated that for the first time, statistics on close complaints for the quarter have been included in the Operations Report, as recommended by the Strauss Working Group. Ms. Loucka stated that staff is working on making the closed complaints statistics document more reader-friendly. Ms. Loucka stated that since the closed complaints data is de-identified, it can be shared. Once the document is in a more reader-friendly format, it will be posted on the Board’s transparency website.

Federation of State Medical Boards 2020 Annual Meeting: Ms. Loucka stated that the Federation of State Medical Boards (FSMB) 2020 Annual Meeting will be held April 30 to May 2 in San Diego, California. Ms. Loucka asked any Board member who wishes to attend to contact her, noting that the FSMB offers a number of travel scholarships for the meeting. The Board will vote next month on approval of members to attend the meeting.

REPORTS BY ASSIGNED COMMITTEES

Sexual Misconduct Committee Report

Dr. Schottenstein stated that the Sexual Misconduct Committee met this morning to discuss progress on the governor’s working group recommendations. The Committee reviewed the investigator manual. The most recent update was a cooperative effort of revisions. Executive Director Loucka and Mr. Roach, Acting Chief of Investigations, took the manual draft to investigator supervisors for input. Once that team had a working draft

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put together, the supervisors shared the manual with the investigators and solicited comments. Investigator comments were incorporated into the draft that is in today's Board meeting material.

Dr. Schottenstein stated that he and Ms. Loucka would like to have the investigator manual continue to be a living document which can be updated according to the needs of the investigators. To that end, the Committee recommended allowing edits to the manual on a rolling basis without requiring a formal Board vote.

Motion to give Medical Board staff authority to make future updates to the Investigator Manual without formalized board approval:

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

The motion carried.

Dr. Schottenstein continued that the Committee also reviewed potential legislative changes. Of note was the agreement among Board members in the Committee meeting that on issues of peer review, it will be critical to be clear regarding what information the Board is seeking and to ensure support from hospitals and associations. Staff will continue to review potential legislative changes and bring those to the Board for input and discussion.

The Committee also discussed the utilization of victim advocates. The Board currently has two victim advocates on contract. Additionally, the Board has come to learn that some of the investigators have training and experience from previous positions in victim advocacy. The Board will begin incorporating the two contracted advocates into the investigation process, as well as pilot one of the investigators in a victim advocate role.

Next month the Committee will review a staff training plan. While extensive training has already occurred, the Committee wants to ensure that opportunities to learn ways to support excellent investigation and case management continue with current staff and is available to new staff.

The Committee received a progress report on the working group recommendations:

- Approximately 40% of the hundreds of tasks needed to support the working group's recommendations have been completed.
- In the historical case review project specifically, about 60% of the paper files have been scanned by the contracted company... and now that we are more than halfway through that process, it seems like we may end ahead of time and under budget.
- Staff is also about 60% complete with compiling all the electronic records—for historical cases that occurred after the paper era.

Dr. Schottenstein stated that timely processing is critical to ensure that the Board's independent third-party reviewers have access to all the information they need. The Board currently has five external reviewers in the

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system. Staff has worked to ensure training for these reviewers and to receive consistent and meaningful feedback. As more reviewers execute their contracts and start reviewing cases, there should be considerable jumps in progress.

Licensure Committee Report

Licensure Application Reviews

Amy Glines

Dr. Saferin stated that Ms. Glines has applied for restoration of her Ohio massage therapy license. Ms. Glines has not practiced massage therapy within the last two years. The Committee has recommended approval of Ms. Glines' application, provided she takes and passes the Massage and Bodywork Licensing Examination (MBLEx).

Motion to approve Ms. Glines' 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:

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

The motion carried.

Jodie Huston

Dr. Saferin stated that Ms. Huston has applied for an Ohio Respiratory Care Professional (RCP) license. Ms. Huston has not practiced respiratory care within the last two years. Ms. Huston has passed the Clinical Simulation Examination to obtain her Registered Respiratory Therapist (RRT) credential on October 31, 2019. Ms. Huston's RRT is current with an expiration date of October 31, 2024. The Committee has recommended approval of Ms. Huston's application.

Motion to approve Ms. Huston's application for an Ohio Respiratory Care Professional license:

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

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Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Continuing Medical Education Rules

Dr. Saferin stated that the staff has requested that the Board consider whether to amend the continuing education (CME) rules in Chapter 4731-10 of the Ohio Administrative Code (OAC) and whether to approve them for filing with the Common Sense Initiative. The Committee has recommended two amendments to the rules prior to filing. The first proposed amendment would allow one credit of CME to be earned each week for participating in a training program. Under this proposal, residents will continue to receive an hour of CME for every week they work their program.

Motion to amend proposed Rule 4731-10-02(A)(6) to allow for one credit of CME to be earned per each week for participating in a training program:

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

The motion carried.

The Committee also recommended an amendment to remove the requirement for physicians to earn one hour of CME on the topic of a licensee's duty to report. To replace this requirement, the staff will create an educational video that a licensee must view as part of the initial or renewal application process.

Motion to amend proposed 4731-10-02(A) to remove the requirement for physicians to earn one hour of CME on the topic of a licensee's duty to report and for staff to create an educational video that a licensee must view as part of the initial or renewal application process:

Motion	Dr. Bechtel
2 nd	Dr. Edgin

The Board briefly discussed this proposal. Dr. Schottenstein noted feedback from interested parties that there was a disinclination to requiring CME in a certain subject. Dr. Schottenstein stated that a required video would not have to be so long and would not necessarily incorporate the CME process, but could be structured with questions interspersed in the video to ensure that people are actually watching the video and answering the questions correctly. Dr. Saferin stated that Ms. Pollock is already in the process of producing such a video.

Dr. Schottenstein stated that the Board is contemplating a five-minute to ten-minute video. Dr. Feibel agreed with a video of that length, stating that there will be more compliance with viewing the video and it will allow the Board to be more direct about what the duty to report means. Dr. Feibel, noting the Strauss Working Group's

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recommendation of requiring an hour of CME on this subject, stated that the Board must make sure the Working Group understands that in the Board's view, a five-minute to ten-minute video will increase compliance and increase what the Working Group is hoping to accomplish. Dr. Schottenstein agreed that the information the Board is seeking to impart can be better delivered in a short video because it will be more user-friendly than a one-hour video. Dr. Schottenstein further opined that a one-hour video would contain unnecessary information that would only be included for the purpose of making the video longer.

In response to a question from Ms. Montgomery, Dr. Schottenstein stated that licensees would be required to watch the video and answer the questions each time they renew their licenses, which would be every two years.

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

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

The motion carried.

Motion to file the rules, as amended, with the Common Sense Initiative:

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

The motion carried.

Finance Committee Report

Dr. Schottenstein stated that revenue for Fiscal Year 2019 was \$800,018. There was a net fiscal revenue for November 2019 of -\$513,803 which is substantially a function of two main factors. First, while most months have two pay periods, November 2019 had three pay periods. Second, the Board was also billed in November 2019 for the \$254,000 yearly eLicense maintenance cost. Dr. Schottenstein stated that those totals together essentially represent the funds the Board paid out over and above a typical month. The Board has a cash balance of \$4,720,474, which is down from last month due to the reasons listed above. Dr. Schottenstein stated that without the unusual expenses, these are good numbers considering there was no renewal deadline

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in November 2019. Expenditures are up 8% for November 2019 as compared to one year ago, which also reflects the third pay period.

Dr. Schottenstein stated that the Board is starting to see the effect of the additional expenses related to the Sexual Misconduct Committee work. Dr. Schottenstein stated that there is a cushion because the Board is spending substantially less than allocated, but there is the potential to deplete that cushion. Dr. Schottenstein stated that it is conceivable that at some point it may be necessary to go to the Controlling Board to ask for an increase in the Board's allotted spending for this project. Dr. Schottenstein noted that the Board is still underspending every month with regard to its allocation.

Dr. Schottenstein stated that in the past month, the Board has received \$417 in collections, \$6,000 in Continuing Medical Education (CME) fines, and \$8,500 in disciplinary fine payments.

Communications Update

Dr. Schottenstein stated that Communications has completed and submitted the Federation of State Medical Board's (FSMB's) Annual State Board Survey.

Dr. Schottenstein that staff is drafting a proposal to contract with a vendor for production of a video on licensees' duty to report.

Prosecutor Review of Closed Sexual Misconduct Cases

Dr. Schottenstein stated that at the November meeting, the Committee and full Board approved \$50,000 funding for contracting with former prosecutors or other law enforcement agents to review closed sexual misconduct cases. To date, the Board has contracted with five reviewers with a maximum cost of \$10,000 each. In order to continue to conduct a timely review of these cases, it has become apparent that additional resources will be necessary. Staff has already identified at least six additional contractors who are able to perform this work and anticipates finding several others. The Committee approved the proposal for additional resources.

Motion to approve up to \$150,000 in funding possible for contracting with up to 15 additional prosecutors or other law enforcement agents to review closed sexual misconduct cases:

Motion	Dr. Edgin
2 nd	Dr. Bechtel

In response to a question from Dr. Rothermel, Ms. Loucka stated that the reviewers are being paid a flat rate \$50.00 per hour and the staff is doing quality assurance check on the reviewers. Staff has already done some reviews to establish benchmarks on how long a review should take, though some cases will take longer than others.

Vote on Dr. Edgin's motion:

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

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The motion carried.

Board Member Compensation Annual Report

Ms. Loe stated that the total compensation for all Board members was approximately \$88,000 in the last fiscal year. Ms. Loe noted that the previous year's total Board member compensation was also in the \$80,000 range.

Outside Counsel for Depositions

Dr. Schottenstein stated that as part of the work on the recommendations from the Strauss Working Group, there are approximately 30 investigative depositions that need to be completed by the Chief Enforcement Attorney. The Attorney General's office has approved the hiring of special counsel to assist with these investigative depositions. Isaac, Wiles is the assigned law firm. Approval is requested for an amount up to \$60,000 for legal fees in completing these investigative depositions.

Motion to approve up to \$60,000 for Isaac, Wiles counsel as special counsel for completion of investigative depositions:

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

The motion carried.

Policy Committee Report

Motion to finalize and post the FAQ document on physician office closures:

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

The motion carried.

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Motion to work with the Ohio Board of Nursing on a possible Joint Regulatory Statement regarding CRNA-“Nurse Anesthesiologist” terminology:

Motion	Dr. Kakarala
2 nd	Dr. Bechtel

Dr. Saferin stated that the Committee’s position is to oppose use of the term “nurse anesthesiologist.”

Ms. Montgomery commented that the presentations at this morning’s Policy Committee meeting were very well done.

Vote on Dr. Kakarala’s motion:

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

The motion carried.

Compliance Committee Report

Dr. Schottenstein stated that Compliance Committee last met on Wednesday, November 13, 2019. There were no initial appearances. Compliance Committee approved the Compliance Staff’s Reports of conferences held November 12 and 14, 2019, followed by the approval of the draft minutes from the November Compliance Committee.

Because there are no initial probationary appearances for the Committee this month, Dr. Schottenstein asked the Board to consider the two agenda items for the January compliance committee at this time.

Motion to approve the minutes from the December 11, 2019 Compliance Committee as drafted:

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

The motion carried.

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Motion to approve the Compliance staff's Reports of Conferences for December 9 and 10, 2019:

Motion	Mr. Giacalone
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Johnson	Y
Dr. Edgin	Y
Dr. Schottenstein	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) William K. Basedow, D.O.: Request for release from the terms of the June 10, 2015 Board Order.
- b) Marek A. Buczek, M.D.: Request for release from the terms of the June 12, 2019 Consent Agreement.
- c) Ifeoma N. Kamalu, M.D.: Request for release from the terms of the October 16, 2019 Consent Agreement.
- d) Donna Porter, M.T.: Request for release from the terms of the July 13, 2016 Consent Agreement.
- e) Tammy M. Reed, D.O.: Request for approval of *PBI Medical Record Keeping*, Course administered by the University of California, Irvine School of Medicine.
- f) Jon B. Silk, Jr., M.D.: Request for approval of Marcia Kaplan, M.D. to complete the psychiatric return to work assessment required for reinstatement.
- g) Peter G. Striegel, M.D.: Request for release from the terms of the April 10, 2019 Consent Agreement.

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

The motion carried.

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REINSTATEMENT REQUEST

Joseph F. Yurich, M.D.

Motion to approve the request for the reinstatement of the license of Joseph F. Yurich, M.D., effective February 3, 2020:

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

The motion carried.

The meeting adjourned at 12:30 pm.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on January 8, 2020, as approved on February 12, 2020.


Michael Schottenstein, M.D., President


Kim G. Rothermel, M.D., Secretary

(SEAL)





**SEXUAL MISCONDUCT COMMITTEE MEETING
January 8, 2019 - Room 336**

<p>Committee Members Present: Michael Schottenstein, MD, Chair Robert P. Giacalone, JD Betty Montgomery, JD Mark Bechtel, MD (temporary appointment)</p> <p>Other Board Members Present: Kim Rothermel, MD Richard Edgin, MD Bruce Saferin, MD Jonathan Feibel, MD</p>	<p>Staff Present: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Stuart Nealis, Project Manager Tessie Pollock, Chief Communications Officer Alexandra Murray, Standards Review Nate Smith, Senior Legal and Policy Counsel Jill Reardon, Deputy Director of Strategic Services Jonithon LaCross, Legislative Liaison</p>
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The committee did not have a quorum so Dr. Schottenstein temporarily appointed Dr. Bechtel.

Dr. Schottenstein called the meeting to order at 7:32 a.m.

MINUTES REVIEW

Dr. Bechtel moved to approve the draft minutes of December 11, 2019. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

WORKING GROUP RECOMMENDATIONS PROGRESS REPORT

Ms. Montgomery arrived.

Ms. Loucka provided an update to the committee regarding the investigator manual, a recommendation from the Working Group. James Roach, Acting Chief of Investigations, worked with the investigator supervisors for the first draft. They had three main goals:

- 1) Incorporate victim advocates into the investigation process
- 2) Incorporate notification of local law enforcement into the investigation process
- 3) Work with the investigators and determine if the manual was practical and applicable to their jobs in the field.

After the first draft, Mr. Roach and Ms. Loucka revised it together and then sent it back to the investigator supervisors to collect feedback from their team. As a result of the feedback, the manual now includes more discretion and flexibility for the investigators. Ms. Montgomery provided additional edits as well. The manual is intended to be a working document to reflect what's happening in the field.

Dr. Bechtel offered his support of the document.

Dr. Schottenstein asked if the investigators had been able to review the current draft.

Ms. Loucka confirmed.

Ms. Montgomery expressed concern that too much of the document emphasizes the safety of the investigator over the job of the investigator. She pointed the committee to page 18, 20, 31 and 32.

Ms. Loucka reminded the committee that incorporating victim advocates and collaborating with local law enforcement is new for the board and that there will be changes made to the investigator manual. Since this is the only manual required to be brought to the board for approval, Dr. Schottenstein and Ms. Loucka proposed the manual be turned into a working document that no longer needs formal board approval. Instead it could be treated the same as other documents that can be updated as needed and presented as an educational item.

Dr. Schottenstein shared the reason the manual originally came to the board was because of the proposed safety improvements to remove the guns from the investigators. He questioned if historically the investigator manual was brought to the board or any other manuals for other job descriptions. He suggested staff could manage the manuals, make needed edits and only bring areas of concern to the board.

Ms. Montgomery added her support.

Dr. Schottenstein also addressed Ms. Montgomery's previous concern about the safety of the investigator. He stated there is a way to emphasize safety.

Dr. Bechtel moved to recommend to the full board that Medical Board staff be given the authority to make future updates to the investigator manual without formalized board approval. Mr. Giacalone seconded the motion. All in favor, the motion carried.

Legislative Changes Memo

Ms. Loucka referred the committee to the memo with potential legislative changes. The recommendations in the memo came directly from the Working Group report with respect to duty to report, transparency and enforcement.

Mr. Giacalone addressed page 32 of the pdf regarding confidentiality and the time limit for disclosure. He asked if an individual is not found to be violative, if the information will be made public.

Ms. Montgomery addressed page 32 regarding fines. She asked why an education violation would be non-disciplinary and only require a fine.

Ms. Anderson shared this item came out of one of the board's former panels; if a group of experts review the physician's practice and determines remedial education is necessary, there's no enforcement mechanism in place currently. This is an attempt to remedy that process. Because it was being set up as non-disciplinary, it would require only a fine. She suggested this legislative proposal was modeled from the current CME violation protocol.

Ms. Loucka stated this was one of the staff recommendations.

Ms. Anderson shared in the Working Group report, the group did not express an opinion. She believes it's up to the committee's discretion.

Dr. Schottenstein stated this addresses a non-disciplinary remedial education. The licensees in this position would not be violating a board order. They would have been recommended to take the courses.

Ms. Montgomery asked how a recommendation can be made.

Dr. Schottenstein stated there are licensees who don't rise to the level of needing an order in the opinion of the Secretary and Supervising Member but may still need to do remedial work. The licensee may choose to ignore the recommendation. The board can't enforce the recommendation because it is not an order. This legislative change may provide an additional method of enforcement.

Dr. Rothermel provided an example scenario of how a recommendation can be made. She wanted to know how the board could fine licensees in this situation because the board is not requiring the licensee to complete the recommendation. She stated once the recommendation is made, the Secretary and Supervising Member make it clear to the licensee that if they come back before the board with another similar complaint without taking the recommended course, there will be more significant consequences, maybe disciplinary. She wanted to know how the board could fine licensees in this situation because the board is not requiring the licensee to complete the recommendation.

Ms. Anderson stated if the statute was amended, the process would change making the course required. This would be like the CME process. If the licensee failed to complete the course, the board could move forward with the fine.

The committee discussed.

Ms. Montgomery asked if this problem happens often.

Dr. Rothermel opined they probably see an average of three to five of these cases a month.

Dr. Feibel asked if it would be a disciplinary action.

Ms. Anderson stated if a licensee fails to complete CME, they're given the opportunity to settle the issue in a non-disciplinary way by taking the course and paying a fine. There may be a disciplinary action if the behavior is continued.

Mr. Giacalone asked how confidentiality applies when the action is non-disciplinary.

Ms. Anderson shared an example and stated if the licensee did follow through with the CME course, it would remain confidential and would not be disciplinary.

Mr. Giacalone referred to page 33 of the memo and asked if including a peer review process is a good idea. He expressed concern that it could be good for enforcement but bad for public health.

Dr. Schottenstein worried that the peer review process being used to shield bad behavior. He stated there is a way to carve out the areas that should not be protected by peer review. Ideally peer review is there to act as an educational resource for licensees, but it becomes different when someone participates in criminal behavior.

Dr. Bechtel stated to move forward with the legislation the board needs buy-in from the Ohio State Medical Association and hospital associations. There will be huge concerns within the health care system.

Dr. Rothermel stated the peer reviewed process should be clearly defined up front.

Victim Advocate Protocol

Ms. Loucka updated the committee that the board has been working internally on the processes to incorporate the use of victim advocates. There are some victim advocates under contract now as well as staff members who have victim advocacy backgrounds. As a result of working with the investigators on the manual, a few investigators came forward and disclosed their backgrounds, offering to use their skill sets with the investigative role. The board has created teams of enforcement attorneys and investigators and those teams have victim advocates that are assigned to them as a resource. Two victim advocates are contractors, one is a current investigator. This arrangement will serve as a pilot to determine if it is more effective to have contracted victim advocates spread throughout the state or staff victim advocates. The investigator in the pilot will not fulfil both roles in a single investigation, she will be one or the other.

Ms. Montgomery asked about the current relationship between management and the investigators.

Ms. Loucka shared she does see the relationships being strengthened. She is planning to have a quarterly or semi-annual meeting with the investigators in each of the three regions to have informal conversations. She would also like to have all-staff meetings here in the office that includes investigations.

Dr. Schottenstein shared he had concerns in the past that investigators may not feel as if they have the ability to convey their concerns to the board. He suggested that one or two board members could join the regional investigator meetings.

Ms. Loucka shared that she discussed with an investigator how to keep investigators and enforcement attorney informed about techniques and practices and received ideas about gatherings.

Training Report:

Ms. Loucka referred the committee to the summary of training accomplishments to date. At the next meeting, the board will bring forward an ongoing training plan. As part of that plan, investigators, enforcement and compliance will work together to determine what training should entail going forward.

Working Group Project:

Mr. Nealis shared at this time, just under 40 percent of the overall task load is completed. This includes not just the recommendations but also the tasks that support those recommendations. About 60 percent of the historical case review paper files have been scanned; all the files have been sent for scanning. Access, the scanning company, has indicated the board is trending under on time and cost. The scanning may be completed a couple weeks sooner than expected and a couple thousand dollars cheaper than expected, based on their current projections. The board is also about 60 percent complete with compiling the electronic records.

Ms. Murray shared there are 11 reviewers under contract, two in the middle of the contract project and one person who is interested. There are five people in the system working on reviews and that number will continue to increase over the next couple of days. Board staff have created a job aide that outlines the goals of the project, the Working Group recommendations and how to use the system. The reviewers have access to a profile with a limited view to review cases.

Ms. Loucka shared in the last meeting, staff brought the different recommendations that could be a result of the review to the board. The staff used the selected recommendations and built the instructions.

Ms. Montgomery asked the board staff to share the materials with the committee members. She also asked what Mr. Nealis meant when he said the project was 40 percent completed.

Ms. Loucka shared the overall project, with respect to the Working Group report, is 40 percent completed. But it does not mean each of the items in the project are of equal weight. The look-back project is gigantic and has been made into its own project. Once all the reviewers are reviewing, the staff can begin putting metrics on the rate of review to complete the overall project based on the timeline.

Dr. Bechtel asked what the next step should be for a reviewer who looks at a case and is unsure if the right decision was made.

Ms. Loucka stated the board staff has built in a QA process. As reviewers get started (first three to five cases), Nate Smith in Legal will be reviewing the review to make sure the board is comfortable with their work. Based on Nate's reviews, board staff will decide how to proceed with that reviewer. The reviewers have board staff available to them to ask questions. Ms. Loucka emphasized the reviewers are instructed that these are independent reviews. She believes when the recommendation comes back into the investigator or enforcement process, the oddities should dissipate. The important part is to make sure the reviewers are giving a substantive review. With every review, the reviewers are asked for a detailed memo of their findings. Reviewers are looking for three things: appropriate closure, duty to report and notification of law enforcement, even if the board took action. If there was no action, the reviewer is looking to see if the board should have taken action and is still looking at the other two categories. The reviewer can also disagree with the board's decision to close.

Ms. Murray shared there is a fourth recommendation a reviewer can give. They can determine that pursuing an investigation would be difficult due to gaps in the evidence of the file if, for example, witnesses or victims are deceased.

Ms. Loucka stated reviewers determine an investigation was appropriately closed or it was not appropriately closed, and then provide memo details explaining why.

Dr. Bechtel shared his experience of serving as Supervising and Secretary. He expressed that getting the perspective of a victim advocate will be valuable to the process.

Mr. Nealis addressed one of the Working Group recommendations of highlighting the areas of the state with the highest occurrences of sexual misconduct complaints. A map illustrating the density of the complaints has been added to the Transparency page of the Medical Board website.

ADJOURN

Dr. Bechtel moved to adjourn the meeting. Mr. Giacalone seconded the motion. All in favor, the motion carried.

The meeting adjourned at 8:25 a.m.

Michael Schottenstein, MD
Chair



LICENSURE COMMITTEE MEETING
January 8, 2019 - Room 345

Committee Members Present: Bruce R. Saferin, D.P.M, Chair Kim G. Rothermel, M.D. Richard Edgin, M.D. Jonathan Feibel, M.D.	Staff Present: Joseph Turek, Director of Licensure & Licensee Services Mitchell Alderson, Chief of Licensure Jerica Stewart, Communication & Outreach Administrator Kimberly Anderson, Chief Legal Counsel Jonathan LaCross, Director of Public Policy and Government Affairs Collin Depew, Assistant Attorney
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Dr. Saferin called the meeting to order at 8:02 a.m.

MINUTES REVIEW

Dr. Edgin moved to approve the draft minutes of December 11. Dr. Feibel seconded the motion. All in favor. The motion carried.

LICENSURE APPLICATION REVIEWS

Amy Glines

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

Dr. Feibel moved to approve Ms. Glines'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. Edgin seconded the motion. All in favor. The motion carried.

Jodie Huston

Jodie Huston has applied for a respiratory care professional license in Ohio. She has not practiced within the last two years. Ms. Huston passed the Clinical Simulation Examination to obtain her RRT on October 31, 2019. Her CRT/RRT is current with an expiration date of October 31, 2024.

Dr. Edgin moved to approve Ms. Huston's application for an Ohio Respiratory Care Professional license. Dr. Feibel seconded the motion. All in favor. The motion carried.

Dr. Feibel asked if this application came before the board because Ms. Huston had not practiced in five years.

Dr. Saferin confirmed.

Mr. Alderson stated she was out of practice for longer than five years.

Mr. Turek stated if she had practiced within the last five years and retested, her license could have been approved by the Licensure department.

OTHER ITEMS

Staff requests that the board consider whether to amend the continuing education rules in chapter 4731-10 of the Ohio Administrative Code and whether to approve them for filing with the Common Sense Initiative.

Mr. Turek explained the rules were being amended as a result of the 50-hour CME change in the statute. The board received comments regarding the proposed draft with concern the rule would take away OSMA's ability to certify its own CME. Mr. Turek rewrote 4731-10-02 to address the concern. He believes it now better clarifies the requirements and who can certify CME.

The next change is regarding the one hour of CME residents receive for each week of participation in a training program. Because of the legislative change from 100 hours of CME to 50 hours of CME, Mr. Turek proposed a 0.5-hour CME for each week of participation in a training program. The board received some objections.

Mr. Turek shared the board also received some objections for the requirement to take an hour of CME on duty to report.

Dr. Saferin stated he'd like to leave the rule as one hour of CME per week for residents. There was concern from OSMA and their affiliate.

Mr. LaCross asked if the one hour CME was for category 1.

Mr. Turek replied it would have counted as one hour of credit. Residents automatically qualify for CME because an hour is accumulated each week over the course of their program.

Dr. Saferin stated no one is happy with the required CME for duty to report. He suggested Ms. Pollock create a video for the renewal process and reminded the committee applicants are now required to indicate they have a duty to report.

Dr. Feibel asked if the video is required to be watched before renewing.

Mr. Turek shared currently there is a human trafficking video that licensees are asked to watch before moving onto the next step in the application. Licensees can skip the video if they know how.

Dr. Feibel expressed concern with disseminating the information to licensees. He is worried that though duty to report CME will become a requirement, licensees will not be informed and can be disciplined.

Mr. Turek stated last month the board approved in addition to the application, the applicant will have to affirm their duty to report.

Dr. Feibel stated eliminating the CME will lessen the level of awareness of the issue.

Ms. Anderson pointed out the Governor's workgroup recommended the duty to report CME.

Dr. Rothermel asked where licensees get the hour of CME.

Ms. Anderson stated the board is planning to create it and work with FSMB's CME approval process to approve CME. Ms. Pollock has reached out to develop content.

Dr. Feibel asked if the board could create a 10-minute video that counts as an hour of CME, can't be skipped and can be attested.

Dr. Saferin expressed he doesn't think it is an hour long subject.

Mr. Turek suggested taking out the requirement for an hour of CME in the rule and create a process similar to that of Dietetics and Respiratory Care. The board posted a video on its website with ethics training and they were required to print out a certificate of completion that could be audited. Or the board could request the licensee upload evidence of completion.

Dr. Rothermel stated more people will see it if it is part of the renewal application. She opined the working group's intent of a one-hour CME recommendation is making all physicians aware of the requirement.

Dr. Rothermel stated licensees can get 30 minutes of CME instead of an hour minimum.

Dr. Feibel stated he thinks the video should be very short and to the point; 30 minutes is too long.

Mr. Turek reiterated the board could put the video online, print out the certificate and maybe require the certificate as part of the renewal application.

Ms. Anderson suggested it would not need to be put in a rule.

Mr. Turek stated the board could eliminate an hour requirement but have the rule state that the applicant "must provide evidence of watching the board approved video on the duty to report..." Or it could just be instructions on the front end of the application.

Ms. Anderson will write a motion to the board to create a video with information on duty to report which will be included in the renewal and new application for all license types.

Dr. Feibel asked if there is a way to prevent the applicant/licensee from moving forward until the duty to report section is completed.

Mr. Turek stated he thinks the video will have to be hosted elsewhere and then have the certificate of completion uploaded.

Ms. Anderson stated the Licensure committee should bring the proposal to the board during today's meeting.

Dr. Edgin moved to amend the rules to take out the mandatory CME for duty to report and to restore the residency program requirement to one-hour credit per week and

explore a duty to report video required for new applications and renewal for all license types. All in favor. The motion carried.

Dr. Feibel asked to make both proposals into one motion to make it clear that the board is addressing the duty to report concern.

Mr. Lacross stated the House, Senate and local government made recommendations.

Senate Bill 255: While Mr. Groeber was Executive Director, all occupational license types were reviewed. Three license types were recommended to be eliminated: cosmetic therapists, genetic counselors and acupuncturist/oriental medicine. They are reviewing their national certification for these license types and stated it doesn't provide a medical necessity but rather a personal preference because practitioners prefer having a state license but could get national certification. Mr. LaCross stated he is not sure what the legislation entails or of the intent. It may mean the board moves to accepting the national certification as part of the licensure process and continues to regulate the practitioners. It seems to get rid of the state license process overall.

Representative Butler approached Mr. LaCross and recommended to increase the amount of volunteer hours that count toward CME from 3 to 10 hours. Dr. Schottenstein met with the representative and assuaged him. His final recommendation was for the board to recreate category 2 CME and allow volunteers to receive 20 to 25 hours toward it. Category 1 CME would remain at 50 hours. This would require a statute and rule change.

Mr. LaCross stated one reason Category 2 was eliminated was because it was not trackable or verifiable.

Mr. Turek stated physicians would still have to complete 50 hours of category 1 and questioned the benefit of the additional 20 hours.

Dr. Feibel asked if the change from 40 hours to 50 hours was legislative.

Mr. Turek and Dr. Saferin shared the board proposed the change and the legislature agreed.

Dr. Rothermel commented the CME legislation was a very recent change.

Dr. Saferin stated the board worked four years to accomplish the change in CME. He recommended a maximum of 5 hours.

Mr. LaCross stated Representative Butler wants to incentivize physicians for volunteering. He informed the representative that most physicians complete well beyond their 50 hours.

Mr. Turek asked Mr. LaCross if the proposal had a 1:1 hour for CME.

Mr. LaCross confirmed the ratio was not 1:1 but a certain amount of volunteer hours equaled 1 hour of CME.

Dr. Edgin asked how the Medical Board would have authority over the occupational license types if they have national certification.

Mr. LaCross read from the recommendation language. He shared national certification may be an idea to use. For example, PAs are required to maintain national certification for licensure.

National certification can be made part of the licensure process, but the board should still be allowed to regulate and enforce for public health.

Mr. Turek stated the certifications are already required for many of the board's license types. It wouldn't change the requirements.

Mr. LaCross opined the overall intention of the house and senate is to make it easier for individuals to receive licensure in the state of Ohio.

ADJOURN

Dr. Edgin moved to adjourn. Dr. Feibel seconded the motion. All in favor. The motion carried.

The meeting adjourned at 8:37 a.m.

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

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FINANCE COMMITTEE MEETING MINUTES
January 8, 2020 - Room 335

Members in attendance:

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

Staff in attendance:

Susan Loe, Director of Fiscal & Human Resources
Tessie Pollock, Director of Communications
Kim Anderson, Chief Legal Counsel
Jerica Stewart, Communication & Outreach Administrator

Dr. Schottenstein called the meeting to order at 8:39 a.m.

MINUTES REVIEW

Dr. Edgin moved to approve the draft minutes of December 11. Dr. Saferin seconded the motion. All members voted aye. The motion carried.

FISCAL UPDATE

Dr. Schottenstein provided the following update: Revenue for FY 2019 was \$800,018. There was a 57 percent increase YTD compared to November 2017. During that time was the implementation of the eLicense system and licensees were encouraged to renew early in May and June 2017. The November 2017 numbers are artificially low and will likely continue through the end of 2019. Beginning in 2020 these comparisons will become more accurate. There was a net fiscal revenue for November 2019 of -\$513,803 which is substantially a function of two main factors. Sometimes there are third pay periods for wages paid out; November was one of those months. A typical pay period is \$310,000, twice a month. The board was also billed for the \$254,000 yearly eLicense cost in November. The total cost of both expenses is the amount paid over a typical month and explains the net negative fiscal revenue in November. The board has a cash balance of \$4,720,474. The balance is down from last month for the same reason. Without the unusual expenses, those are good numbers as there is no renewal deadline. The allied health groups all renew at the end of January and the respiratory care and dietitians renew in June which will be good revenue months. Expenditures are up 8 percent for November 2019 as compared to one year ago, the third pay period is reflected in those numbers.

Dr. Schottenstein continued: The board is starting to see the effect of the additional expenses related to the sexual misconduct committee work. There is a cushion because the board is spending substantially less than allocated but there is the potential to deplete it. The committee should monitor it and acknowledge at some point it may need to go to the controlling board to ask for an increase in allotted spending for this project. The situation has not reached that point and it may not be needed but Dr. Schottenstein would like to be proactive.

In the past month, the board has received \$417 in collection, \$6,000 in CME fines and \$8,500 in disciplinary fine payments.

COMMUNICATIONS UPDATE

Ms. Pollock informed the committee the communications team is preparing for a busy season of presentations. Ms. Stewart is putting together an RFP for a one-hour duty to report CME. Communications would like to contract with an outside company to assemble the video using existing media and new content. The new video will have interactive quizzes and provide a certificate of completion for audits. Once the RFP is completed, it will go out to bid and Ms. Pollock will bring the responses back to the Finance committee.

Dr. Saferin referenced the discussion on this topic in Licensure committee. He asked if the video will be mandated as an hour of CME. In the previous discussion, the committee talked about creating a shorter video that is watched during the application and renewal process that provides a certificate to prove it was completed. He questioned if it was possible to prevent the viewer from moving forward until it has been completed. He communicated the committee's desire to have a video, not a one-hour mandated CME.

Ms. Pollock replied that the communications team would like to move forward with the duty to report content regardless of the legislative mandate.

Dr. Schottenstein asked for clarification of the mandate being legislative or rule based.

Ms. Anderson confirmed it would be a rule change.

Dr. Schottenstein stated ultimately the decision will be made by the board.

Ms. Pollock assured the committee the communications team will have content for either decision.

Dr. Edgin asked about the ability to bypass the video.

Dr. Schottenstein added that having questions interspersed throughout the video will help deter that type of behavior. He also stated the board could make "passing" the video questions conditional to obtaining a renewal license.

Ms. Anderson stated she was unsure if the questions are in statute or rule and that legal would have to look to see if anything would need to be amended.

Ms. Loe stated the application used to include the verbiage "answer any questions asked by the board."

Ms. Pollock shared a digital communications update and informed the committee there are a lot of searches for telemedicine on the website.

NEW BUSINESS

Prosecutor Review of Closed Sexual Misconduct Cases

At the November meeting the Committee and full board approved \$50,000 funding for contracting with former prosecutor or other law enforcement agents to review closed sexual misconduct cases. To date the Board has contracted with five reviewers, with a maximum cost of \$10,000 each. In order to continue to conduct a timely review of these cases, it has become apparent that additional resources will be necessary. Staff has already identified at least six additional contractors who are able to perform this work and anticipates finding several others.

Dr. Edgin moved to approve up to \$150,000 in funding possible for contracting with up to 15 additional prosecutor or other law enforcement agents to review closed sexual misconduct cases. Dr. Saferin seconded the motion. All in favor, the motion carried.

Dr. Schottenstein asked if there is anticipation of using all the allotted funds.

Ms. Loe replied there is a buffer.

Board Member Compensation Annual Report

Ms. Loe shared the total compensation for all board members is approximately \$88,000. The board's policy states every January, fiscal will share with the full board what each board member is turning in to compare. Last year the total compensation for the board was also in the \$80,000 range, so this is typical.

Outside Counsel for Depositions

As part of the work on the recommendations from the Strauss Working Group, there are approximately 30 investigative depositions that need to be completed by the Chief Enforcement Attorney. The Attorney General's office has approved the hiring of special counsel to assist with these investigative depositions. Isaac, Wiles is the assigned law firm. Approval is requested for an amount up to \$60,000 for legal fees in completing these investigative depositions.

Dr. Edgin moved to approve up to \$60,000 for Isaac, Wiles counsel as special counsel for completion of investigative depositions. Dr. Saferin seconded the motion. All in favor, the motion carried.

ADJOURN

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

The meeting adjourned at 8:53 a.m.

Michael Schottenstein, M.D.
Chair

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POLICY COMMITTEE MEETING
January 8, 2019
30 East Broad Street, Columbus, OH 43215, Room 336

<p>Members: Mark Bechtel, MD Betty Montgomery Sherry Johnson, DO Robert Giacalone</p> <p>Other Board Members present: Bruce Saferin, DPM Kim Rothermel, MD Richard Edgin, MD Michael Schottenstein, MD Jonathon Feibel, MD Harish Kakarala, MD</p>	<p>Staff: Stephanie Loucka, Executive Director Jill Reardon, Deputy Director Strategic Services Kim Anderson, Chief Legal Counsel Rebecca Marshall, Chief Enforcement Attorney Jonithon LaCross, Director of Public Policy and Government Affairs Joe Turek, Director of Licensure and Licensee Services Nate Smith, Senior Legal and Policy Counsel Jerica Stewart, Communication & Outreach Administrator</p>
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Mr. Giacalone called the meeting to order at 9:03 a.m.

Meeting Minutes Review

Mr. Giacalone reported that the draft minutes of the December 11, 2019 meeting had been distributed to the committee and were included in the agenda materials.

Ms. Montgomery moved to approve the draft minutes of the Policy Committee meeting on December 11. Dr. Bechtel seconded the motion. All in favor. The motion carried.

Rules Review Update

2020 Schedule

Ms. Anderson provided an update. She directed the committee's attention to the 2020 schedule. She observed the schedule is light and that they are looking at rules that are initially being brought to Policy committee and the rules that are up for their five-year review in 2021. The board is also anticipating new legislation that will require rules. The schedules lists radiology assistant rules in February, personal information systems rules in March, hearing rules in April and universal precautions rules in May. The intent of the schedule is to keep the board on track for the five-year rule review, but other rules will also be addressed throughout the year.

CSI Determination on Light-Based Medical Device Rules

Ms. Anderson shared in 2017 or 2018, the board made amendments to the light-based medical device rules and received comments indicating possible anti-trust concerns. The board sent the rules to CSI for an anti-trust review and the board has now received them back with the finding

that the rules as drafted do not raise anti-trust issues. The rules will now move forward and will be sent back to CSI for the business impact analysis and small business review hopefully before the end of the month. After it passes, it will be filed with JCARR.

Legislative Update

HB 263 (Occupational License-Criminal Convictions Bill)

Mr. LaCross shared his memos with the board. The Medical Board has been working with the other health care boards to put together a summary of the concerns in desired amendments. The bill has been submitted but is in an unknown stage, though leadership is reviewing it. The health care boards are waiting for an IP meeting presumably to be scheduled within the next month.

Mr. Giacalone asked about Mr. LaCross' statement "board staff concerns did not impact the representative's position on the legislation."

Mr. LaCross explained the first conversation occurred between Ms. Anderson, Mr. Turek and the representative. The representative was not overly receptive to the Medical Board's individual concerns. However, once he heard the combined concerns from the boards, the message was better received. Mr. LaCross stated he is not sure if the bill has the traction to pass.

HB 432 Occupational licenses reciprocity bill

Mr. LaCross stated there are companion bills in the House and the Senate. The house bill is currently sitting because it was not an initial priority.

Ms. Loucka added the Medical Board will be working with the other boards to address the bill as well.

House State and Local Government Occupational Licensure Recommendations

Senate bill 255 requires a six-year review of all state occupational licenses. In 2019, Executive Director Groeber testified to the house and received initial feedback that the Medical Board would likely not see changes. However, the Senate and House have both focused on making licensing in Ohio easier. The House evaluated a few of the board's license types and recommended eliminating the cosmetic therapists, genetic counselors and acupuncturist/oriental medicine licenses. The recommendation identifies these three as licenses that provide a personal preference instead of a medical necessity and the practitioners can be certified through a national registry if they choose. The associations for the license types are in opposition to the bill. If the professions are no longer licensed, the board could no longer regulate or discipline them. Other license types do have national certifications; however, the board still regulates the licensees.

Ms. Montgomery asked how many of the occupations are dangerous to the public without local regulation.

The committee discussed.

Mr. LaCross shared the house staff informed him they had reviewed data from other states before providing this recommendation. Mr. LaCross expressed concern over national certification that the national standard can differ from Ohio.

Mr. Turek shared between the three license types; the board probably issues less than 100 new licenses a year. There are approximately 175 licensed cosmetic therapists and though he did not have an estimate for the genetic counselors and acupuncturists he acknowledged they also have low numbers. He also stated the genetic counselors and acupuncturists already have national certification as a requirement of licensure.

CME

Recently, the board changed the CME requirement from 40 to 50 hours of category 1. The one-third volunteer opportunity for CME was decreased to 3 hours. Representative Butler proposed increasing the volunteer CME credit to 10 hours. After speaking with Dr. Schottenstein the representative instead proposed implementing a category 2 of 20 to 25 hours physicians could use to volunteer. This would require a statute change.

Dr. Saferin expressed his opposition with re-implementing category 2 after four years of working to eliminate category 2. Category 2 could not be audited or verified. He is in favor of maintaining 3 hours or increasing to a maximum of 5 hours.

Dr. Rothermel shared Mr. Turek's data showed since volunteer hours were implemented, no audited physicians have used it. There is also a lot of paperwork required. She stressed physicians will volunteer because they want to and don't need an incentive.

The committee came to a consensus that 3 volunteer hours is sufficient.

Dr. Johnson suggested asking physicians how many hours they are volunteering during their renewal process.

HB224 Nurse Anesthetists (CRNA bill)

The nurse anesthetists cannot practice without physician supervision.

HB452 Occupational Regulations

In accordance with HB255 (reviews every six years). This could be the placeholder bill for the recommendations.

HB 455 surgical assistants

They are taking a registry approach instead of a license request at this time. Mr. LaCross will take the board's recommendations. The bill appears to propose a registry which will just be a list that surgical assistants will be on for the board but will not allow it to regulate.

Dr. Feibel stated surgical assistants want registration to be able to bill at higher rates. He recommended Mr. LaCross inform the legislature creating a registry would increase the cost of health care.

Mr. Giacalone stated the board should take a negative position on the registration.

Mr. LaCross stated surgical assistant positions are seen as an entry position in the field. Creating a registry could act as a barrier.

The committee discussed.

Dr. Saferin stated if the surgical assistants want to be a part of the Medical Board they should be licensed and become able to be disciplined.

Mr. Giacalone instructed Mr. LaCross to get an understanding of the scope of practice for surgical assistances before the board makes any decisions or takes a position.

SB 250 physicians using radiation equipment

The bill regards the authority of a physician to operate radiation equipment for the purpose of patient medical treatment but only if the equipment is not capable of generating energy of a level that does not exceed 200 kilovolts. The board will have to create rules and work with the Department of Health and other boards. Right now, it's referred to Health and Human Services.

Dr. Bechtel explained there's an evolution of new radiation oncology equipment that can be used in an office and not a hospital setting. Many times, it can be used for skin cancer and similar situations. There are states that allow it but there are patient safety and employee safety issues associated with its use.

FAQs for prescribing to patients after a sudden office closure

Last month the board had a statement regarding prescribing to patients after office closure and it was recommended to be developed into FAQs. There are now two documents. The FAQs illuminate the Medical Board's prescribing rules. It also informs prescribers that the board will not initiate a disciplinary action for prescribers following an appropriate weaning program that brings the patient in compliance within six months. It also states this response only applies to those situations where prescribers are undertaking care of a patient following an office closure. The FAQs provides resources instead of providing a written response for MAT.

Dr. Rothermel asked how Dr. Soin responded to the six-month time limit.

Ms. Anderson explained Dr. Soin agreed it was an appropriate time, but also noted some exceptions to the six months.

Mr. Giacalone suggested adding in a reference to qualified substance abuse treatment providers where appropriate.

HB224 Nurse Anesthetists (CRNA bill)

Ms. Anderson explained the verbiage is not coming from the bill. There are three states that may have recognized an optional title of nurse anesthesiologist for a CRNA.

- The American Association of Nurse Anesthetists has provided a paper about this issue. The AMA has issued a brief indicating allowing CRNAs to use the title anesthesiologists is misleading and confusing and doesn't further the mission of protecting the safety and welfare of citizens of the state.
- New Hampshire Board of Nursing issued a position statement that nurses can be referred to nurse as anesthesiologists, but the New Hampshire Board of Medicine issued a position statement that the word "anesthesiologist" cannot be used to refer to a nurse.
- Florida has a pending bill that makes several types of physician specialties available only to physicians including anesthesiologist.

Ms. Anderson and Ms. Loucka have spoken with Board of Nursing leadership. Their leadership has indicated they are not planning to promote nurse anesthetists using the title of

anesthesiologist. In the other states, medical boards seem to be reacting to their nursing boards' endorsements.

Ms. Montgomery asked even if the Ohio Board of Nursing doesn't promote the title, if it would discipline licensees who used it.

Ms. Anderson and Ms. Loucka agreed they had not asked that question.

Ms. Anderson reiterated the Board of Nursing has indicated it has no interest in issuing a position statement to endorse the nurse anesthesiologist title. The national council of nurses reviewed the issue a few years ago and took no further action.

Ms. Anderson suggested the committee has three choices:

- 1) Continue to work with the Board of Nursing to gather information and determine if it is an issue in Ohio
- 2) Pursue legislation similar to Florida
- 3) Adopt a position similar to the AMA position statement

Ms. Montgomery proposed pursuing options 1 and 3.

Mr. Giacalone proposed approaching the Board of Nursing to inform them of the Medical Board's intent to take a position (1 and 3).

Dr. Schottenstein proposed option 1 because he did not see the purpose of creating a problem that didn't yet exist. He suggested waiting to see if there is a problem with the use of the title or an issue with the Board of Nursing the other options will still be available to take action.

Dr. Feibel stated he'd rather be proactive.

Dr. Edgin pointed out the growing idea of nurse practitioners becoming independent from physicians and noted it seems similar to this issue. He suggested the title of nurse anesthesiologist implies they are independent.

Mr. Giacalone stated the title nurse anesthesiologist is ambiguous and may confuse patients. He suggested the board issue a joint statement with the Board of Nursing.

The committee members agreed.

Ms. Montgomery moved to approve the development and issuance of a collaborative position statement with the Board of Nursing to discourage the use of the title "nurse anesthesiologist" by nurse anesthetists. Dr. Bechtel seconded the motion. All in favor, the motion carried.

Adjourn

Dr. Bechtel moved to adjourn the meeting. Ms. Montgomery seconded the motion. All in favor, the motion carried.

The meeting adjourned at 10:01 a.m.

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