



**Medical Board of Ohio Meeting Minutes  
August 11, 2021**

Betty Montgomery, President, called the meeting to order at 10:02 a.m. in the Administrative Hearing Room, 3rd floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio 43215 with the following members present: Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael L. Gonidakis, Esq.; Amol Soin, M.D.; Robert Giacalone, J.D., R.Ph.; Michael Schottenstein, M.D.; Harish Kakarala, M.D.; Jonathan Feibel, M.D.; Yeshwant Reddy, M.D.; and Mark A. Bechtel, M.D.

**MINUTES REVIEW**

**Dr. Reddy moved to approve the minutes of the August 11, 2021 Board Meeting. Dr. Kakarala seconded the motion.** All members voted aye. The motion carried.

**REPORTS AND RECOMMENDATIONS**

Ms. Montgomery asked the Board to consider the Reports and Recommendations appearing on the agenda. Ms. Montgomery asked if each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Roger Dale Anderson, M.D.; Kedar Krishna Deshpande, M.D.; and Bozena L. Johnson. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

Ms. Montgomery 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. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y

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Ms. Montgomery	Y
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Ms. Montgomery 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. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

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

During these proceedings, no oral motions were allowed by either party. Respondents and their attorneys not addressing the Board are viewing this video conference meeting remotely and have a number to call in the event of an emergency or procedural concern.

## **Roger Dale Anderson, M.D.**

Ms. Montgomery directed the Board's attention to the matter of Roger Dale Anderson, M.D. No objections have been filed. Ms. Shamansky was the Hearing Examiner.

A request to address the Board has been filed on behalf of Dr. Anderson. Five minutes will be allowed for that address.

Dr. Anderson was represented by his attorney, Elizabeth Collis.

Ms. Collis stated that the Hearing Examiner did an excellent job summarizing the evidence in the Report and Recommendation. Ms. Collis stated that Dr. Anderson practiced medicine for 38 years without any disciplinary action or criminal convictions. Dr. Anderson began his career in Pittsburgh in infection diseases and working with HIV-positive patients. Dr. Anderson relocated to his home in Marietta, Ohio, in 2000 with his family and spent years helping improve the community. Dr. Anderson eventually opened a private practice in downtown Marietta and purchases and renovated downtown properties that had been unoccupied for years. Ms. Collis noted the multiple letters of support in the hearing record and the witnesses that testified at his hearing regarding the way in which Dr. Anderson improved the lives of many in his community.

Ms. Collis continued that while Dr. Anderson was loved by many, he is a gay man who had moved to southern Ohio with his husband and three children, and the fact that he was married to a man was difficult for many in the community to accept. Ms. Collis strongly believed that Dr. Anderson had been unfairly charged and convicted due to bigotry and intolerance that exists in a small community in southern Ohio. All the allegations in the criminal indictment arose while Dr. Anderson was in private practice in Marietta.

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Ms. Collis noted that the government had raised concerns related to billing and prescribing practices without appropriate testing or documentation. Ms. Collis stated that in an administrative case before the Board, one cannot rechallenge criminal charges or introduce any evidence to rebut those charges. Ms. Collis pointed out that the criminal charges are on appeal and Dr. Anderson is currently serving a term of incarceration in federal prison. Ms. Collis stated that Dr. Anderson has been a model inmate and has been asked by the warden to work in the prison health care system to provide much-needed care for inmates. Ms. Collis observed that prisons are spreading grounds for COVID-19.

Ms. Collis understood that this is not the forum to challenge Dr. Anderson's criminal convictions. However, based on the totality of the evidence, Ms. Collis asked that the Board refrain from imposing a permanent revocation, but instead allow Dr. Anderson to continue to practice while incarcerated and to restrict him from prescribing controlled substances. Ms. Collis stated that if the criminal convictions are overturned, the case will come before the Board again with different allegations and charges. Finally, Ms. Collis asked that no monetary fine be imposed, noting the Dr. Anderson has filed for bankruptcy, is incarcerated, and has not ability to pay a monetary fine.

Ms. Montgomery asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that he wished to respond.

Mr. Wilcox stated that this had been Ms. Pelphrey's case, and so he did not have any specific comments other than to support the Report and Recommendation.

**Dr. Kakarala moved to approve and confirm the Proposed Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Dr. Anderson. Mr. Gonidakis seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

Dr. Schottenstein stated that this is a case of mitigation and the Board cannot relitigate the case. Dr. Schottenstein stated that the nature of the behavior as represented in Dr. Anderson's felony conviction is reminiscent of a pill mill practice, including pre-signing of prescriptions for controlled substances in the absence of medical evaluation, lack of a treatment plan, lack of documentation, lack of prior medical records, and ignoring red flags for diversion or abuse of medicine.

Dr. Schottenstein noted the testimony regarding Dr. Anderson's character and the very positive letters of support. The defense painted a disturbing and almost surreal picture of a good, caring physician who has been sabotaged by his own staff, scapegoated by the hospital system where he worked, victimized by an intolerant community, and persecuted by local law enforcement. Dr. Schottenstein was respectful of defense counsel's suggestion of an indefinite suspension or a non-permanent revocation. Dr. Schottenstein stated that that suggestion would be more compelling if not for 4731.22(H), Ohio Revised Code, which stipulates that if a criminal conviction is overturned on appeal the respondent may file a petition for reconsideration by the Board. Therefore, if Dr. Anderson's appeal is successful then the Board can reinstate his license, and if the appeal is not successful then the Board will have done its duty on behalf of the citizens of Ohio.

Based on the egregious nature of the behavior for which Dr. Anderson was convicted, Dr. Schottenstein supported the Proposed Order of permanent revocation. Based on the mitigation that was presented, Dr. Schottenstein would support an amendment to forego the \$18,000 fine.

Dr. Soin appreciated Dr. Schottenstein's comments. Dr. Soin stated that when he first joined the Board there were cases of true pill mills, typified by extremely high doses of opioids, benzodiazepines, and Soma. Dr. Soin noted that such things were absent in the ten patient records pulled in Dr. Anderson's case. Further, the morphine-equivalent doses (MED) in Dr. Anderson's cases were often 30 or lower and none of them would be considered the high-dose levels that would trigger increased diligence.

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Dr. Soin observed that the dates for the prescriptions are mostly in the timeframe of 2014 to 2016. While the Report and Recommendation commented that Dr. Anderson had not checked the Ohio Automated Rx Reporting System (OARRS), Dr. Soin noted that at that time it was recommended but not mandated to check OARRS, at least to the extent that the Board was enforcing those cases. The same is true to urine drug screens, particularly in light of the Board's current rules for lower doses of 30 MED or less.

Ms. Anderson reminded the Board that case is based on criminal convictions and not violation of the Board's rules. Dr. Soin thanked Ms. Anderson for the reminder. Dr. Soin stated that he wished to mention that scenario when the Board reviews pain management cases.

**Dr. Schottenstein moved to amend the Proposed Order to remove the \$18,000 fine. Dr. Feibel seconded the motion.**

Mr. Gonidakis asked about the rationale for removing the proposed fine, noting that in the past the Board has not based fines on a respondent's financial status. Dr. Schottenstein replied that he moved the amendment based on the mitigating factors in the case such as witness testimony and letters of support, and not on Dr. Anderson's financial status.

Dr. Feibel stated that he seconded Dr. Schottenstein's motion to amend for purposes of discussion. Dr. Feibel stated that he agrees with Mr. Gonidakis and that there should be consistency in the Board's fining. Dr. Feibel agreed that there were mitigating factors in Dr. Anderson's case, but stated that that is also true in other cases in which the fine was not removed. Dr. Feibel proposed keeping the fine for the sake of precedent.

Mr. Giacalone stated that he is sympathetic to this case, but opined that the case is being retried before the Board. Mr. Giacalone stated that the Board has gotten one side of the story, but the court and jury in Dr. Anderson's criminal case had the whole story and still convicted him. Mr. Giacalone stated that the case can be reconsidered if Dr. Anderson's conviction is overturned, but barring that Mr. Giacalone struggled with the concept of absolving the fine.

Based on feedback from the Board and a lack of support, Dr. Schottenstein stated that he would like to withdraw his motion.

**Dr. Schottenstein wished to withdraw his motion to amend.** No Board member objected. The motion to amend was withdrawn.

A vote was taken on Dr. Kakarala's motion to approve and confirm:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Kedar Krishna Deshpande, M.D.**

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Ms. Montgomery directed the Board's attention to the matter of Kedar Krishna Deshpande, M.D. Objections have been filed and were previously distributed to Board members. Ms. Lee was the Hearing Examiner.

A request to address the Board has been filed on behalf of Dr. Deshpande. Five minutes will be allowed for that address.

Dr. Deshpande was represented by his attorney, Levi Tkach.

Mr. Tkach stated that Dr. Deshpande is not trying to retry his criminal matter, but he wished the Board to have proper context for his plea agreement. Dr. Deshpande admits that he could and should have done better, and that is how he ended up in federal court. However, Mr. Tkach opined that the Board should have reviewed the medical records that had been proffered. Mr. Tkach suggested that the Board remand this matter back to the Hearing Examiner to consider the record.

Mr. Tkach continued that the inclusion of the count in the indictment that was not related to the plea agreement was not appropriate. Mr. Tkach stated that the prosecutor left that count out of the plea agreement and that it prejudices the hearing record. Mr. Tkach asked the Board to not give weight to that portion of the Report and Recommendation.

Mr. Tkach stated that Dr. Deshpande is a candidate for rehabilitation and is willing to attend courses, modify his practice, and limit his prescribing. Dr. Deshpande wishes to continue treating patients in Ohio.

Dr. Deshpande stated that he started his private practice after his fellowship training to provide personalized care to his patients. Dr. Deshpande had felt that in a private practice setting he would be able to devote more time and attention to his patients. As Dr. Deshpande's practice grew, he became a strong advocate for his patients. Dr. Deshpande often called insurance complaints to obtain approvals for medications or safe procedures, offered free support group meetings in his office in evenings to patients and their family members to discuss issues related to their pain, and held meetings with primary care physicians for updates in pain management and discuss any difficult cases they may have. Many of Dr. Deshpande's patients had his personal cell phone number so they could reach him if they had emergencies or issues.

Dr. Deshpande continued that he advocated through the media for his patients through Channel 6 and Channel 10 to bring awareness to the public regarding safer pain medication options and safer procedures that were not being approved by insurance companies without trying cheaper, more dangerous drugs first. Dr. Deshpande wrote letters to representatives, senators, and even the President of the United States regarding these issues. Dr. Deshpande worked day and night for his patients, putting his personal life on hold. Dr. Deshpande never had a malpractice suit and never lost a patient for any type of medication misuse or overdose.

Dr. Deshpande continued that he gained popularity among his referring physicians due to his strict practice policies, low morphine-equivalent doses (MED), reduction in medications, and compassion and commitment to his patients. Dr. Deshpande improved the lives of thousands of patients through interventions and judicious prescribing methods. Dr. Deshpande was able to get patients back to work, improve their function, and improve their quality of life. Dr. Deshpande stated that his compassion extended beyond his practice, noting that he purchased 400 new winter coats for children in schools who did not have winter clothing.

Dr. Deshpande stated that he has learned that mistakes can happen in the practice of medicine despite the fail-safes he had in place. Dr. Deshpande stated that one has to be held accountable regardless of the cause, and he whole-heartedly accepted responsibility for what happened. In hindsight, Dr. Deshpande was sorry and he wished he could undo what he had done. To improve himself, Dr. Deshpande enrolled in billing and coding courses so he would know exactly what is involved in the billing process so that mistakes are extremely unlikely to recur.

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Dr. Deshpande stated that he has lost everything he has worked hard to achieve. The law firm he hired was confident in going to trial, but requested an additional \$320,000 as a deposit for the trial. By that time, Dr. Deshpande had lost all his savings, his home, his car, and his children's college funds were exhausted in legal fees. When Dr. Deshpande told the law firm he could not pay that amount and that he was declaring bankruptcy, he was advised to take a plea agreement or go to trial with a public defender. Dr. Deshpande was assigned a public defender who was very kind and competent, but the public defender's office did not have the time or resources to properly defend his case. For that reason, Dr. Deshpande took the plea agreement.

Dr. Deshpande stated that he holds the practice of medicine as a sacred entity. Dr. Deshpande stated that he spent his entire adult life training and preparing to be a proficient physician, improving the lives of other people. If Dr. Deshpande has the opportunity to practice again, he would continue to advocate for his patients' best interests. Dr. Deshpande would practice Musculo-skeletal medicine without the use of opioid medication to improve patients' function and restore dignity to those suffering from pain. Dr. Deshpande pleaded with the Board to allow him to use his skills as a physician to improve the lives of others. Dr. Deshpande promised to never let down the Board, his patients, or the community again.

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

Ms. Snyder stated that this case is based on a felony conviction, so the federal court has already determined that Dr. Deshpande is guilty. Ms. Snyder encouraged the Board to not re-weigh the evidence that the federal court considered or could have considered.

Ms. Snyder took issue with Dr. Deshpande's statement that he whole-heartedly accepted responsibility. Ms. Snyder stated that throughout his hearing, Dr. Deshpande insisted that he is innocent, and he repeated today that he is innocent. Ms. Snyder stated that this is not mitigation or accepting responsibility. Ms. Snyder stated that there is conclusive proof of all the elements of the crime Dr. Deshpande pleaded guilty to, and he encouraged the Board to adopt the Report and Recommendation.

**Dr. Kakarala moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Deshpande. Dr. Feibel seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

Dr. Schottenstein stated that this is a case of mitigation and it is undisputed that Dr. Deshpande pleaded guilty to two felony counts. However, Dr. Schottenstein felt that instead of providing mitigation, Dr. Deshpande's hearing testimony was evasive and self-exculpatory. Dr. Schottenstein stated that one cannot plead guilty to two felonies and then tell the Medical Board that the plea was just a legal strategy. Dr. Schottenstein noted the Board's rule 4731-13-24, which stipulates that a plea of guilty to, or a judicial finding of guilt of a crime is evidence of commission of all aspects of that crime. Therefore, by the Board's rule, all the evidence has been conclusively proven.

Dr. Schottenstein continued that in the hearing record, and even before the Board today, Dr. Deshpande's attorney has stated that he will not relitigate this matter. However, Dr. Schottenstein had the sense that the matter was being relitigated. In the regard, Dr. Schottenstein was not moved by defense counsel's efforts to aggressively parse the evidence. The only mitigation that Dr. Schottenstein could determine is the absence of a prior disciplinary record. However, Dr. Schottenstein regrettably saw multiple aggravating factors:

- Dr. Schottenstein disagreed that Dr. Deshpande has taken responsibility for his actions, either in his hearing testimony or before the Board today.
- Dr. Schottenstein opined that Dr. Deshpande had a selfish, dishonest motive.
- There were multiple violations.

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- Dr. Deshpande's patients were vulnerable to this behavior.
- Dr. Deshpande's conduct was reckless because he knew better but engaged in the behavior anyway.
- Dr. Schottenstein opined that Dr. Deshpande used the trust in his position to accomplish his deception.
- Dr. Schottenstein perceived brazen and audacious behavior that chips away at the trust the public has in the medical profession.

Dr. Schottenstein stated that he supports the Proposed Order to permanently revoke Dr. Deshpande's Ohio medical license.

Dr. Soin understood that this case involves a felony conviction and the fact that Dr. Deshpande was convicted is undisputed. Dr. Soin also understood the Board's Rule 4731-13-24 that a plea of guilty to, or conviction of a crime is evidence of admission. At the same time, Dr. Soin suggested a possible opportunity for rehabilitation and return to practice for this physician.

Dr. Soin stated that he will not relitigate the criminal case, but he reviewed the fact pattern outlined in the Report and Recommendation and identified two major issues: Inappropriate prescribing, including pre-signing prescriptions; and upcoding one patient from Level 3 to Level 4. Dr. Soin also understood that there can be scenarios in which practical realities, such as prohibitive expense, can lead one to enter into a plea agreement. Dr. Soin also reiterated that Dr. Deshpande does not have a prior disciplinary record.

Dr. Soin continued that permanent revocation of a practitioner's license is the most drastic action the Board can take and can be life-altering. Dr. Soin wondered if there are mechanisms to rehabilitate physicians in ways that protect the public and also allow the physician to serve the public, especially physicians who provide pain management treatments that are not opioid-based. Dr. Soin agreed that there were significant prescribing problems in this case and suggested that the Board consider an order that permanently limits Dr. Deshpande from prescribing controlled substances, a substantial suspension, and probation for a number of years with a requirement of a practice plan and a monitoring physician. Dr. Soin stated that such an order would protect the public by addressing Dr. Deshpande's inappropriate prescribing and also send a clear message that the Board does not take these matters lightly. Dr. Soin commented that this case has a different fact pattern than the previous case in today's meeting, in which Dr. Soin supported permanent revocation of the practitioner's license.

Ms. Montgomery stated that, to her knowledge, there is no such thing as an Alford plea in the federal court system. In state court, a defendant can make an Alford plea without admitting guilt to the charges. A defendant in state court may agree to an Alford plea if they perceive a likelihood of being found guilty of a higher offense. Ms. Montgomery stated that a decision to enter into a plea could result from weighing the future and the possibility of not being able to see one's children, which was brought up in Dr. Deshpande's hearing. Ms. Montgomery further commented that the Board today is only considering discipline based on Dr. Deshpande's felony convictions.

Ms. Montgomery noted that Mr. Gonidakis and Dr. Reddy have recused themselves from voting in this matter. Since Dr. Rothermel, Dr. Saferin, and Dr. Bechtel also cannot vote and Dr. Johnson is absent from today's meeting, there are only six voting Board members in this matter. Six affirmative votes is the minimum number needed to impose discipline.

Dr. Schottenstein agreed with Ms. Montgomery and stated that he has been mindful that this is a felony conviction issue and not a minimal standards issue. Dr. Schottenstein was grateful for Dr. Soin's comments, but he felt that the allegations against Dr. Deshpande speak to intentionality and character, not a mistake. For example, at his hearing Dr. Deshpande was asked about the amount of restitution he had been required to pay, which was \$117,124.88. Dr. Deshpande indicated that that was the amount the government had wanted,

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but he was not certain it corresponded to anything in particular. Dr. Schottenstein noted that the Criminal Monetary Penalties document in the hearing record lists the following losses:

- \$18,483.16 from the Ohio Department of Medicaid.
- \$27,061.32 from Medicare.
- \$70,956.67 from the Ohio Bureau of Workers' Compensation.
- \$623.73 from Tricare.

Dr. Schottenstein stated that these figures add up to the restitution amount of \$117,124.88. These figures contradict Dr. Deshpande's defense that there was an isolated clerical error. Dr. Schottenstein felt that the monetary amount indicates an intentional pattern of stealing from the taxpayer.

Dr. Feibel agreed with Dr. Schottenstein that this was not an isolated case. Dr. Feibel stated that when governments bring action against people, it is not for one isolated error in coding. Many medical offices have a compliance plan and it is very rare to get 100% on the compliance plan, but it does not result in formal action. Dr. Feibel stated that Dr. Deshpande may have pleaded to one count of upcoding from Level 3 to Level 4, but it is exceedingly unlikely that that was the only violation.

Dr. Feibel opined that the totality of the evidence and the totality of Dr. Schottenstein's comments about restitution, combined with the convictions, is enough to support permanent revocation of Dr. Deshpande's Ohio medical license. Dr. Feibel appreciated Dr. Soin's comments and agreed that he would not want to permanently revoke a license from someone he felt could be rehabilitated. However, Dr. Feibel did not feel that was the case in this matter.

Mr. Giacalone appreciated all the comments made thus far. Mr. Giacalone stated that he struggles with Dr. Deshpande's testimony at hearing, which he found to be insincere and evasive. Mr. Giacalone noted the following portion of the hearing transcript, in which Dr. Deshpande is questioned by the Assistant Attorney General, as an example:

Q. So your testimony is you admitted to committing that felony crime but you were innocent?

A. That prescription was necessary for that patient.

Mr. Giacalone stated that he understands the concept of entering into an agreement to get the best out of a worst-case scenario. However, Mr. Giacalone found Dr. Deshpande's testimony to be lacking in credibility. Mr. Giacalone felt that this is not a situation in which the respondent deserves something less than permanent revocation.

Mr. Giacalone's other concern is that opioid abuse is a significant issue. Mr. Giacalone stated that if the Board fails to send the right message in this case, a physician may decide to over-prescribe to patients in the belief that the worst that could happen is that he or she will lose their ability to prescribe controlled substances but will still be able to practice. Mr. Giacalone stated it is important for the people of Ohio that physicians understand that if they cross that line, their career is over.

Ms. Montgomery stated that she is sympathetic to an Alford-type plea based on personal and financial considerations, but commented that Dr. Deshpande's testimony reflected a certain arrogance. However, Ms. Montgomery added that the Board does not punish personality. Instead, the Board should determine if Dr. Deshpande can be rehabilitated or if there is so much risk to the public that his license should be permanently revoked. Ms. Montgomery stated that she would be more persuaded if there was another option besides permanent revocation.

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Dr. Soin thanked the Board members for their comments. Dr. Soin stated that he has considered Dr. Deshpande's case a great deal, and in fact did not sleep last night until 3:00 a.m. thinking about this case. Dr. Soin stated that he did not read Dr. Deshpande's comments in the hearing transcript as an indication of arrogance, but he appreciated those who did read them that way. Dr. Soin opined that arrogance can be rehabilitated.

Dr. Soin opined that there can be a pathway forward that would protect the public, potentially allow Dr. Deshpande to return to practice, and send a harsh message that will dissuade practitioners from this type of behavior.

**Dr. Soin moved to amend the Proposed Order to reflect the following:**

- **A permanent restriction from prescribing controlled substances.**
- **An indefinite suspension of Dr. Deshpande's Ohio medical license for a minimum of two years.**
- **Standard Interim monitoring conditions during suspension.**
- **Conditions for reinstatement to include successful completion of a course on billing and a course on ethics.**
- **Following reinstatement, probationary terms and conditions for a minimum of three years, including a practice plan and a monitoring physician approved by the Board.**
- **No change to the \$18,000 fine.**

**Dr. Feibel seconded the motion.**

Dr. Feibel stated that he seconded Dr. Soin's motion to amend for discussion purposes. Dr. Feibel appreciated Dr. Soin's comments and his efforts to make sure the Board does not overreach. Dr. Feibel opined that everyone is capable of being rehabilitated and he questioned whether that should be the Board's litmus test. Dr. Feibel stated that the primary purpose of Board actions is not to send a message to other physicians, but to protect the public from a particular physician. Dr. Feibel opined that Dr. Deshpande's actions are egregious enough to warrant permanent revocation.

Mr. Giacalone stated that in the past the Board had tried to address the problem of opioid over-prescribing by offering relevant continuing medical education (CME) courses to rehabilitate physicians, but that approach did not get the Board very far. Rather, the over-prescribing of opioids declined rapidly due to the ramifications of permanent revocation of licensure. Mr. Giacalone expressed concern that if the Board does not permanently revoke Dr. Deshpande's license, the attorney for the next similarly-situated respondent will point back to this case and say their client can also be rehabilitated. Mr. Giacalone asked about the patients who are impacted by such physicians and become drug addicts due to over-prescribing, and stated that the Medical Board must speak for those individuals.

Dr. Soin stated that over-prescribing is not part of Dr. Deshpande's case; rather, it is about felony convictions. However, any concerns about over-prescribing can be allayed by the proposed amendment, which would permanently restrict Dr. Deshpande from prescribing controlled substances. Dr. Soin reiterated that the Board can be substantially punitive with guardrails in place to protect the public and still have a physician who can potentially contribute to society.

Dr. Schottenstein questioned whether Dr. Deshpande needs a monitoring physician. Dr. Schottenstein explained that his concern is Dr. Deshpande's duplicitous behavior and refusal to take responsibility for his actions. Dr. Schottenstein was further concerned that this pattern may continue if Dr. Deshpande retains licensure.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	N
Dr. Soin	Y
Dr. Schottenstein	N
Mr. Gonidakis	Abstain
Dr. Kakarala	N
Dr. Feibel	N
Dr. Reddy	Abstain
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion to amend did not carry.

A vote was taken on Dr. Kakarala's motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Deshpande:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	N
Dr. Schottenstein	Y
Mr. Gonidakis	Abstain
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Abstain
Dr. Bechtel	Abstain
Ms. Montgomery	N

The motion to approve did not carry.

The Board Parliamentarian asked that the Report and Recommendation be placed back before the Board by motion for further discussion.

**Dr. Soin moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Deshpande. Dr. Kakarala seconded the motion.**

Dr. Feibel asked if the Board could remand this matter back to the Hearing Unit. Ms. Anderson replied that that is an option available to the Board, but it would need to give the Hearing Examiner instructions, such as gathering additional evidence. Other options available to the Board are to accept the Report and Recommendation as written, amend the Report and Recommendation, or table the subject.

**Dr. Feibel moved to table the matter of Dr. Deshpande.**

The Board Parliamentarian noted that under the Standard Rules of Parliamentary Procedure, a motion to table, once seconded, must be voted upon without further discussion.

**Dr. Feibel withdrew his motion to table.**

Dr. Feibel stated that he withdrew his motion to table so that discussion can continue. Dr. Feibel, noting Dr. Johnson's absence from today's meeting, stated that he favored tabling this matter so that all voting Board

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members can participate in the discussion. Dr. Feibel felt that it would be difficult at this time to pass an Order that would be acceptable to all six of the voting members present today. Dr. Feibel added that tabling would also give Board members time to think about and consider the comments they have heard today. Dr. Feibel stated that he would appreciate extra time to reflect on the discussion and re-review the record because he feels this is a serious case and the Board could be setting a precedent. Dr. Feibel expressed concern about encouraging practitioners to take a plea agreement in federal court and then come before the Board claiming innocence and asking for rehabilitation.

Mr. Giacalone preferred considering more options rather than tabling. Mr. Giacalone stated that he favors permanently revoking Dr. Deshpande's medical license, but also suggested that some modifications on Dr. Soin's earlier proposed amendment could be considered so that the process can be expedited.

Dr. Soin commented that the Board has many options that are very punitive short of a permanent revocation that would still send a strong, clear message to the public and to physicians that the kind of behavior displayed by Dr. Deshpande is not acceptable. Dr. Soin stated that he would never defend Dr. Deshpande's actions, but he cannot support permanent revocation. Dr. Soin felt there is a way to protect the public, send a message, and allow a pathway to rehabilitation.

Mr. Giacalone suggested a minimum five-year suspension of Dr. Deshpande's Ohio medical license, followed by a minimum five-year probationary period. Mr. Giacalone did not propose changing the proposed fine of \$18,000. Dr. Feibel suggested that Dr. Deshpande also be required to take the Special Purpose Examination (SPEX) before returning to practice. Mr. Giacalone agreed.

**Mr. Giacalone moved to amend the Proposed Order to reflect the following:**

- **A permanent restriction from prescribing controlled substances.**
- **An indefinite suspension of Dr. Deshpande's Ohio medical license for a minimum of five years.**
- **Standard Interim monitoring conditions during suspension.**
- **Conditions for reinstatement to include successful completion of a course on billing and a course on ethics.**
- **Following reinstatement, probationary terms and conditions for a minimum of five years, including a practice plan and a monitoring physician approved by the Board.**
- **A requirement to take and pass the SPEX before resuming medical practice.**
- **No change to the \$18,000 fine.**

**Dr. Soin seconded the motion.**

Mr. Giacalone characterized his proposed amendment as a compromise that may not please every Board member, but would resolve the matter.

Dr. Feibel expressed concern that the proposed amendment could potentially fall short in protecting the public. If the amendment is adopted, Dr. Feibel hoped Dr. Deshpande does not harm the public in the future. Dr. Feibel stated that he was uncertain how he will vote on the amendment, but he realized that all the Board members have the same goal of protecting the public. Dr. Feibel's had suggested tabling until next month so that another Board member could add her voice to the discussion. Dr. Feibel felt that a full complement of Board members could add clarity and insight into the issue and potentially change minds, including his own.

Dr. Schottenstein appreciated the proposed amendment, but expressed concern about Dr. Deshpande returning to medicine after a five-year hiatus and being able to practice, notwithstanding the SPEX.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Abstain
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Abstain
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion to amend carried.

**Dr. Kakarala moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order, as amended, in the matter of Dr. Deshpande. Dr. Feibel seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Abstain
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Abstain
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion to approve carried.

## **Bozenna L. Johnson**

Ms. Montgomery directed the Board's attention to the matter of Bozenna L. Johnson. No objections were filed. Ms. Lee was the Hearing Examiner. This matter is non-disciplinary in nature, and therefore all Board members may vote.

**Dr. Bechtel moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Ms. Johnson. Dr. Reddy seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

Dr. Bechtel stated that this case involves massage therapy licensure. The qualifications for licensure are well-defined in the Ohio Revised Code, including required curriculum hours. Dr. Bechtel felt it is important for the Board to be consistent, stating that it would be unfair to approve a license when the Board has denied so many for the same reasons. Dr. Bechtel agreed with the Proposed Order to deny licensure.

Dr. Schottenstein agreed with Dr. Bechtel and stated that there is a difference between a guidelines and a rule. Dr. Schottenstein stated that Ms. Johnson conceptualized the Board's licensure criteria as a guideline and that considerable leeway was allowed based on individual circumstances. Ms. Johnson appears to believe that the Board can deviate from the guideline and grant her a license based on a positive representation of herself and

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her accomplishments. However, the Board's licensure criteria is not a guideline; rather, it is based on a rule in the Ohio Administrative Code and has the force of law. Just like the Board's licensees, the Board itself is bound by the rule and cannot break it for a sympathetic applicant. The rule does not allow for exceptions or equivalency, and the Board is bound by that.

Dr. Schottenstein stated that although he is respectful of the applicant, her motivations, and everything she has accomplished thus far, he will not vote to grant the license because she does not currently meet the criteria. Dr. Schottenstein hoped that by either maintaining her Michigan license over time or transferring to a Board-approved school and making up the deficient credits, she can meet the criteria for licensure in the future and reapply.

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

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion to approve carried.

### **PROPOSED FINDINGS AND PROPOSED ORDERS**

Ms. Montgomery stated that in the following matters, the Board issued Notices of Opportunity for Hearing. No timely requests for hearing were received. These matters were reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and they are now before the Board for final disposition. These matters are disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

#### **Duane Boomershine, L.M.T.**

**Dr. Bechtel moved find that the allegations as set forth in the October 14, 2020 Notice of Opportunity for Hearing in the matter of Mr. Boomershine have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order. Dr. Kakarala seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter. No Board member offered discussion in this matter.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y

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Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **Michael Stephen Lazaro, L.M.T.**

**Dr. Bechtel moved find that the allegations as set forth in the May 13, 2020 Notice of Opportunity for Hearing in the matter of Mr. Lazaro have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee’s Proposed Findings and Proposed Order. Mr. Giacalone seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

Ms. Giacalone asked if this matter was reported to law enforcement. Ms. Anderson replied that the Board has a protocol to make such reports to law enforcement and she will follow-up to make certain that occurred. Dr. Bechtel echoed Mr. Giacalone’s comments and noted that, unlike the case with physicians, there is not a mechanism for automatically reporting actions against massage therapists to other states. Dr. Bechtel also noted that Mr. Lazaro resides in Florida and expressed concern about the ability of the Board to communicate this action to authorities in Florida in case Mr. Lazaro tries to obtain licensure in that state. Ms. Anderson stated that the Board’s action will be a public record and the staff can explore sharing that.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **Theodore E. Okechuku, M.D.**

**Dr. Bechtel moved find that the allegations as set forth in the October 14, 2020 Notice of Opportunity for Hearing in the matter of Dr. Okechuku have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee’s Proposed Findings and Proposed Order. Dr. Feibel seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

Mr. Giacalone opined that permanent revocation is very appropriate in this case. Ms. Montgomery commented that the Board should make sure this matter was reported to law enforcement.

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

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Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **Sherman Washington, M.D.**

**Dr. Bechtel moved find that the allegations as set forth in the October 14, 2020 Notice of Opportunity for Hearing in the matter of Dr. Washington have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee’s Proposed Findings and Proposed Order. Dr. Feibel seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter. No Board member offered discussion in this matter.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **FINDINGS, ORDERS, AND JOURNAL ENTRIES**

Ms. Montgomery stated that in the following matters, the Board issued Notices of Opportunity for Hearing, and documentation of Service was received for each. There were no timely requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. These matters are therefore before the Board for final disposition. These matters are non-disciplinary in nature, and therefore all Board members may vote.

### **Laura M. Anzano, M.T.**

Ms. Montgomery stated that on or about June 9, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Laura M. Anzano, M.T., informing her that the State Medical Board of Ohio proposed to approve her application for restoration of her license to practice massage therapy, provided that

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she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Anzano has not engaged in the active practice of massage therapy for more than two years.

**Dr. Saferin moved to find that the facts set forth in the June 9, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Anzano’s application for restoration of her license to practice massage therapy in the State of Ohio, provided that she takes and passes the MBLEx within six months of the date of mailing of the order. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **Erin L. Wortman, M.T.**

Ms. Montgomery stated that on or about June 9, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Erin L. Wortman, M.T., informing her that the State Medical Board of Ohio proposed to approve her application for restoration of her license to practice massage therapy, provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Wortman has not engaged in the active practice of massage therapy for more than two years.

**Dr. Saferin moved to find that the facts set forth in the June 9, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Wortman’s application for restoration of her license to practice massage therapy in the State of Ohio, provided that she takes and passes the MBLEx within six months of the date of mailing of the order. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **Sarai F. McCathren, M.T.**

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Ms. Montgomery stated that on or about June 9, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Sarai F. McCathren, L.M.T., informing her that the State Medical Board of Ohio proposed to approve her application for restoration of her license to practice massage therapy provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. McCathren has not engaged in the active practice of massage therapy for more than two years.

**Dr. Saferin moved to find that the facts set forth in the June 9, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. McCathren's application for restoration of her license to practice massage therapy in the State of Ohio, provided that she takes and passes the MBLEx within six months of the date of mailing of this order. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **EXECUTIVE SESSION**

**Dr. Kakarala moved to go into Executive Session to confer with the Medical Board's attorneys on matters of pending or imminent court action; and for the purpose of deliberating on proposed consent agreements in the exercise of the Medical Board's quasi-judicial capacity; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Dr. Saferin seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

The Board went into Executive Session at 11:34 a.m. and returned to public session at 12:01 p.m.

The Board recessed at 12:01 p.m. The meeting resumed at 12:55 p.m.

**EXECUTIVE DIRECTOR COMPENSATION**

**Dr. Bechtel moved to increase the hourly rate of the Executive Director by 3%, to be effective the pay period which includes July 1, 2021. Dr. Saferin seconded the motion.**

Ms. Montgomery commented that Ms. Loucka has earned every bit of this increase in compensation. The Board members gave Ms. Loucka a round of applause.

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

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**SETTLEMENT AGREEMENTS**

**Gustav Richard Eles, D.O.**

**Dr. Soin moved to ratify the proposed Permanent Surrender with Dr. Eles. Dr. Kakarala seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Alan G. Weinberg, M.D.**

**Dr. Bechtel moved to ratify the proposed Permanent Surrender with Dr. Weinberg. Dr. Kakarala seconded the motion. A vote was taken:**

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

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Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Michael A. Bummer, M.D.**

**Dr. Schottenstein moved to ratify the proposed Permanent Withdrawal with Dr. Bummer. Dr. Reddy seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Khaled Labib Amr, M.D.**

**Dr. Reddy moved to ratify the proposed Permanent Surrender with Dr. Amr. Dr. Kakarala seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Kavita Kang, D.O.**

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

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Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Amir Qader Dada, D.O.**

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Raju Fatehchand M.D.**

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

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

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

1. Brian J. Beesley, D.O.: Based on sexual misconduct involving one patient.
2. Beth Gergis, M.D.: Based on a recent action by Florida Board of Medicine regarding one incidence of patient death from 2014.
3. Mahmood Rahman, M.D.: Based on minimal standards violations related to prescribing involving 12 patients.
4. Alberto Leon, M.D.: Based on issuance of non-controlled substances to patients without a medical examination.
5. Arthur T. Armstrong, M.D.: Based on sexual misconduct involving two patients from 2011 to 2013.

Regarding proposed Citation #4, Ms. Montgomery noted that this physician's license had previously been subject to an immediate suspension for another matter, but there is no propose suspension with today's citation. Ms. Marshall stated that an immediate suspension is statutorily restricted to cases involving a drug-related felony, as was the case in the prior action. The current case involved non-controlled substances and is not associated with criminal action.

Ms. Montgomery asked about a summary suspension of this physician's license. Ms. Marshall stated that, generally speaking and not commenting on this specific matter, this kind of case would generate robust discussion and evaluation of whether a summary suspension would be appropriate and advice from the Assistant Attorneys General would be sought.

**Dr. Kakarala moved to approve and issue proposed Citation #1. Dr. Soin seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Dr. Reddy moved to approve and issue proposed Citations #'s 2 through 5. Dr. Kakarala seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y

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Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

## **OPERATIONS REPORT**

Ms. Montgomery congratulated Ms. Loucka and the staff on the Annual Report. Ms. Montgomery stated that the report contains quality, substantive information.

**Human Resources:** Ms. Loucka stated that the Board is in the process of hiring new staff, both to fill vacancies and new positions recently authorized in the new budget. An offer has been made to a candidate for the project manager position.

**Budget Update:** Ms. Loucka stated that the Board's cash balance is very health. The cash balance will drop as new staff is hired, as will the Board's workload.

Ms. Loucka stated that Dr. Schottenstein will give a more thorough financial report later in the meeting.

**Complaints:** Ms. Loucka stated that the Operations Report includes a report on submitted vs. closed complaints. Although last month the number of closed complaints exceeded new complaints, the opposite is true this month. This is a reflection of the current staffing situation. Ms. Loucka noted that other health care boards are reporting a similar situation, that complaints are not only more numerous but also more complex.

At the Board's October 12, 2021 Retreat, the Board will spend time discussing how to address the backlogged cases with an approach similar to the sexual misconduct historical case review.

**Certificate to Recommend Annual Report:** Ms. Loucka stated that Ms. Dorcy and Ms. Stewart have completed the Certificate to Recommend Annual Report on physicians who hold a certificate to recommend the medical use of marijuana. The only thing that may change in the report is some information on telehealth, which was initially based on last month's Board discussion.

Dr. Reddy noted that the chart of the average number of medical marijuana patients the physician sees each month, one physician apparently sees 1,500 such patients. Dr. Reddy found this very concerning and asked if there is a way to follow up on that. Ms. Dorcy commented that, despite instructions to limit survey answers to just the physicians' medical marijuana practice, many physicians included information on patients not related to medical marijuana. Ms. Loucka stated that the Board can look into contacting that physician.

**Dr. Sojin moved to approve the Certificate to Recommend Annual Report, with potential amendments reflective of the Board's conversation on telemedicine. Dr. Bechtel seconded the motion.** All members voted aye, except Mr. Gonidakis, who abstained. The motion carried.

## **RULES & POLICIES**

### **Rule Review Update**

Ms. Anderson stated that the Rule Review update has been provided in the Board materials.

Ms. Anderson stated that the staff is working on changes to the massage therapy rules as required by House Bill 442. During review of comments on the rule, it was determined that the new Massage Therapy Advisory Council (MTAC) should review and discuss the rule. The MTAC is expecting to have it's first meeting in

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November 2021. The rule in question regards recognition of massage therapy schools in good standing, giving notice to students about criminal convictions, and requirements for instructors.

### **Proposed New Internal Management Rule**

Ms. Anderson stated that House Bill 263 changed how licensing boards deal with applicants who have criminal convictions. In September, the Board will consider a draft list of disqualifying offenses for licensure applicants. An internal management rules has been drafted defining how the Board will review that list in the future. The draft rule would allow the Board to review new criminal offenses that are adopted by the legislature and consider whether to add those offenses to the list of disqualifying offenses. The list would be reviewed at least once every calendar year and posted to the website.

Dr. Schottenstein asked if current licensees who may have past criminal convictions would be affect when they renew their licenses. Ms. Anderson stated that the list would only apply to initial licensure applicants. Dr. Schottenstein stated that there will be inconsistencies because some current licensees may have an offense while new applicants could be denied for the same offense.

**Dr. Bechtel moved to approve circulation of the draft internal management rule to interested parties for a two-week comment period. Dr. Saferin seconded the motion.** All members voted aye. The motion carried.

### **Podiatric Scope of Practice**

Ms. Anderson stated that the Board has all the materials on this topic that were available as of August 4. However, more comments and more research has been received since that time which she would also like to provide for the Board's review. Ms. Anderson stated that the Board will discuss this topic at the September 2021 Board meeting. The comment period for this topic ends on August 19.

### **Ethics Requirements**

Ms. Anderson stated that by Executive Order, the Board members and staff are required to complete a one-hour of ethics training annually. Ms. Anderson has sent links to the Board members so they can take the course online. Continuing legal education credit for attorneys is also available through the course.

### **Updated Telemedicine FAQ's**

Ms. Montgomery stated that the draft updated telemedicine FAQ's have been provided to the Board members for their review.

Ms. Loucka stated that at the June meeting, the Board decided to end the moratorium on enforcement of telemedicine rules that was instituted due to the COVID-19 pandemic. Currently, the moratorium is set to end on September 17, which is three months after the Governor lifted the state of emergency.

Ms. Loucka commented that the Board has learned that many people do not understand the telemedicine rules and there is a misconception that they are more prohibitive than they actually are. This revised FAQ document is meant to address that issue.

Ms. Loucka drew the Board's attention to Question #1, which lists three questions that physicians can ask themselves if they are wondering whether they can provide telemedicine services:

- Am I licensed in Ohio?
- Can I meet the standard of care in a telehealth visit the same as I would in an in-person visit?
- Is there some type of prescribing scenario that requires me to have an in-person visit?

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Ms. Loucka stated that the Board has heard from many stakeholders and major health care delivery systems about the resumption of enforcing the telehealth rules in September 17, particularly in relation to the rising number of COVID-19 cases due to the delta variant of the virus. Many systems are not prepared to switch back to fully in-person visits and there is a continued patient safety concern. Generally, the commenters are asking for an extension of the moratorium.

Ms. Loucka suggested some options for the Board's consideration. First, the Board can resume telehealth rule enforcement on September 17 as planned. Second, the Board can extend the deadline to a future date, such as December 31, 2021. Third, the Board could pursue legal options to carve out certain telehealth exceptions. Fourth, the Board can direct the staff to review all the telemedicine rules in light of what has been learned during the pandemic. Ms. Loucka noted that the fourth option can be pursued in conjunction with any of the first three options.

Ms. Loucka commented that overdose deaths are soaring, largely driven by fentanyl being mixed with street drugs. Many have asked that medically-assisted treatment (MAT) for addicts be allowed via telehealth so that they can be kept in active treatment and hopefully prevent them from returning to street drugs and risking overdose.

The Board discussed this matter thoroughly. Dr. Bechtel stated that the spread of the delta variant has made things very different than they were in June. One of the main reasons systems such as The Ohio State University Wexner Medical Center is advocating for telehealth is to keep patients who may not know they are infected out of the waiting rooms where the infection can spread further. Dr. Bechtel recommended extending the telehealth enforcement moratorium to December 31.

Dr. Reddy stated that telemedicine is a good tool during a pandemic. However, since patients have been returning to his practice, he and his colleagues have noticed many issues that had been pushed aside because of the telemedicine. Dr. Reddy stated that he had provided much-needed treatment through telemedicine, but it is inferior to in-person visits, where more treatments, and more correct treatments, can be provided. While telemedicine is very useful during an emergency, Dr. Reddy felt that it would result in less care going forward in the absence of an emergency.

Dr. Reddy also noted that abuse of prescription medications has reduced significantly across the country in the last several years due to rule and regulations enacted by medical boards. Dr. Reddy stated that more than 70% of current overdose deaths are due to non-prescription medications, which the Board has no control over. Dr. Reddy was uncertain what role the Board can play in addressing that problem.

Dr. Feibel agreed with Dr. Bechtel and Dr. Reddy. Dr. Feibel stated that the Board should be very careful in its regulation of telemedicine because of the risk of abusing it and leading to worse care. Dr. Feibel agreed that the telehealth rule enforcement moratorium should be extended to December 31, while simultaneously reviewing the telemedicine rules for possible changes. Dr. Feibel noted that there is pending legislation regarding telemedicine and the Board's proactive stance on the issue could help shape that process in a positive direction. Dr. Feibel also agreed with Dr. Reddy's comments that in-person visits allow physicians to provide a better standard of care than telemedicine.

Dr. Schottenstein also agreed with extending the moratorium to December 31, noting that it could be extended further depending on the situation in December. Dr. Schottenstein opined that carving out exceptions to the telemedicine rules could be complicated and arbitrary. Dr. Schottenstein recommended changes to the telemedicine rules for all specialties. Dr. Schottenstein stated that there is a risk that the Board could create new rules, but then legislation is passed that is contrary to those rules and the Board would have to go through the process again. Dr. Schottenstein suggested that the Board keep in touch with the legislature on this subject and try to influence that process. Dr. Schottenstein agreed with Dr. Reddy about the quality of telemedicine compared to in-person visits. Dr. Schottenstein also supported making MAT as available as possible to help control overdose deaths.

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Dr. Soin also agreed with extending the moratorium to December 31. Dr. Soin also agreed that the Board should open the telemedicine rules to review. Regarding MAT, Dr. Soin fundamentally disagreed with the argument that telemedicine increases access and is therefore better for MAT patient. Dr. Soin pointed out that telemedicine has been available throughout the pandemic, but overdose deaths are still soaring because there is no accountability with telemedicine. Dr. Soin stated that it may be the wrong thing to liberalize visits for that cohort of patients.

Mr. Giacalone also agreed that the moratorium should be extended to December 31 and that the telemedicine rules should be reviewed. Mr. Giacalone stated that Dr. Soin's point about MAT is well-taken. However, Mr. Giacalone stated that like any entitlement, once the populace is used to something it is difficult to change back. Mr. Giacalone expressed concern that if the Board does not take the lead and try to work with the rules and the legislature in tandem, the Board will be run over with bad legislation. Mr. Giacalone stated that people are now used to telemedicine and the legislature is going to listen to them.

Mr. Gonidakis was uncertain if the moratorium should be extended. Mr. Gonidakis stated that many people want to see their doctor and to have their children see their doctor, but he worried that some doctors are requiring telemedicine because it impacts their finances positively.

Dr. Rothermel opined that extending the moratorium is reasonable at this time, but there could be a new COVID-19 variant in three months and perhaps another new variant after that. Dr. Rothermel stated that there is great risk in reusing the same argument every three months to extend the moratorium further. Dr. Rothermel supported reviewing the telemedicine rules and working with the legislature. Dr. Rothermel also agreed with Dr. Reddy's point and stated that physicians have a commitment to patients to make certain they are getting good overall care, and part of that is seeing them in person.

Ms. Montgomery opined that for the moment, an extension of the moratorium is rational, as is a complete review of the telemedicine rules. Ms. Montgomery appreciated Mr. Gonidakis' comments, but she is also swayed by comments from the medical associations and from the Ohio Hospital Association.

The Board continued to discuss this topic thoroughly. Mr. Gonidakis asked by what authority can the Board choose not to enforce rules and laws passed by the legislature. Ms. Anderson stated that the Board has basic prosecutorial discretion, but agreed that Mr. Gonidakis has raised a good point. Ms. Anderson noted that the moratorium was initially tied to the state of emergency declared by the Governor, but that is not longer in existence. What the Board is trying to do now is provide an "exit ramp" and give people enough time to be aware that enforcement of the telehealth rules are going back to normal. Ms. Anderson commented that the further removed the Board is from the emergency declaration, the more concerned she would be.

Ms. Montgomery commented that she has just received notification that there are 3,393 new COVID-19 cases in Ohio today and the situation is described as "surging."

**Dr. Saferin moved to extend the Board moratorium on the enforcement of telemedicine rules to December 31, 2021. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	N
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y

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Ms. Montgomery	Y
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The motion carried.

**Dr. Saferin moved to adopt the draft telemedicine FAQ document, changing the dates from September 17, 2021, to December 31, 2021. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

## **Recommendations for Quality Assurance Committee**

Ms. Loucka stated that the FSMB Recommendations Committee has made recommendations for a Quality Assurance (QA) Committee, as outlined in the Board's materials. Ms. Loucka briefly reviewed the outline:

- The QA Committee would be a new standing committee with five members, including four physicians and one consumer member.
- The Committee would meet quarterly.
- Documents on closed cases would be provided to Committee members monthly, two cases per month. The members' reviews would be performed electronically in the SalesForce system.
- The Committee would have a dedicated staff member who will consolidate and provide the materials to the Committee members in a user-friendly format.
- The cases to be reviewed will be selected randomly.
- A report will be produced for each quarterly meeting of the Committee.

Mr. Giacalone suggested that the membership of the Committee rotate among the Board members so everyone has a chance to be educated on the process.

Ms. Montgomery asked for volunteers for the QA Committee. Drs. Schottenstein, Feibel, Kakarala, Reddy, and Bechtel volunteered to be physician members. Ms. Montgomery and Mr. Giacalone volunteered to be the consumer member. Ms. Montgomery stated that she will review committee assignments and inform the Board who has been chosen to serve on the QA Committee.

## **Legislative Update**

Ms. Wonski stated that the legislature is currently on recess and there has not been significant legislative activity since June.

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Ms. Wonski stated that there were provisions in House Bill 110 which require actions on the part of the Board. Ms. Reardon has been leading the implantation of the provision creating the Massage Therapy Advisory Council (MTAC). A preliminary meeting was held with the Ohio Chapter of the American Massage Therapy Association (AMTA) to get their feedback on the implementation. The Board should begin accepting applications for the Council in September and the first meeting is expected in November. The legislation requires one physician member of the Medical Board to be a member of MTAC.

The second provision regards the right of conscience. The Board is required to create educational materials on the right of conscience and post those to its website. Works continues on the design and language of those materials.

The Board continues to work through the implementation of the Interstate Medical Licensing Compact (IMLC). The effective date of that language is September 30, 2022.

Ms. Wonski stated that several other pieces of legislation concerning the Board have been introduced in the past few months. These bills will not see any movement until September when the legislature returns, but Ms. Wonski has had conversations with the legislators and their staff to explain the Board's interests, concerns, and suggested changes.

- House Bill 318, concerning anesthesiologist assistants.
- House Bill 196, concerning the licensure of surgical assistants.
- House Bill 81, concerning massage therapy bill.
- House Bill 356, concerning drug offenses and treatment.

**House Bill 286:** Ms. Montgomery stated that this bill, sponsored by Majority Floor Leader Representative Bill Seitz, would change the venue of an appeal from the Franklin County Court of Common Pleas to possibly the home court of the respondent. Ms. Montgomery opined that this is a recipe for inconsistency and home-court advantage. Ms. Montgomery added that judges in other courts may see very few of such cases, and they may know the respondent.

**Senate Bill 206:** Mr. Giacalone asked about the status of this bill, which would require the Board to license and regulation music therapists. Ms. Wonski noted that there is also a House Bill containing that language. Ms. Wonski stated that neither bill has had a hearing as of yet, but both have been introduced. Ms. Wonski stated that this bill was also introduced last year and had a few hearings with some support, so she expected one or both of these bills to see some movement.

Mr. Giacalone opined that music therapists should not be licensed by the Medical Board. Ms. Wonski stated that the staff will do a lot of education to explain that the Medical Board is not the appropriate place for music therapists.

**Senate Bill 105:** Mr. Giacalone asked if the Board should be supporting this bill, which would require anyone practicing massage in Ohio to be licensed. Mr. Giacalone stated that if the Board licensed those who are currently unlicensed, it should set some standards and provide a window for consumers to file complaints. The bill would also help the Board address human trafficking issues among those who are currently unlicensed. Ms. Wonski stated that the Board is listed as "Neutral" on that bill and there has already been discussion with the bill sponsor, as well as internally. Ms. Montgomery asked if there has been any opposition to the bill. Ms. Wonski answered that there is a general push in the legislature for deregulation.

Ms. Wonski stated that when the Board is listed as "Neutral" on a bill, it does not mean that the Board is not supportive of that bill; rather, it means that the Board is an interested party. Ms. Wonski stated that she could work with the Policy team to develop a different way to indicate the Board's position on bills. The Board agreed.

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Dr. Reddy opined that for any legislation dealing with medical issues, the Board should be proactive instead of reactive. Ms. Montgomery, a former member of the legislature, commented that there is an art in working with the legislature, when one intervenes or speaks, and whether one speaks directly or uses surrogates such as associations. Ms. Montgomery stated that putting something into “Neutral” does not mean one is not paying attention, but it keeps one’s capacity to maneuver. Ms. Montgomery stated that one does not want to be so proactive that it appears that one is doing the legislature’s job.

Dr. Feibel agreed that there is a fine line between infringing on the legislature’s purviews and allowing them to listen to the Board. Dr. Schottenstein noted that one example is the legislation requiring the Board to join the Interstate Medical Licensing Compact (IMLC). The Board was initially opposed to that bill, and then the Board essentially adjusted its stance to “interested party” so it could have more input into the process.

### **COMMITTEE BUSINESS**

#### **Compliance Committee Report**

Ms. Montgomery stated that the Committee met this morning and discussed the mental health questions on the Board’s licensure applications. It was generally agreed to approve the draft language with some modifications. The Committee also discussed the fact that just because a licensee received a letter from the Board, it does not mean that licensure will be disciplined. Finally, the Committee discussed an acknowledgement statement that encourages licensees to take care of themselves as well as their patients.

#### **Finance Report**

Dr. Schottenstein stated that for June 2021 was a very good month financially, with revenue at \$1,257,070. Dr. Schottenstein stated that the Board has caught up from the revenue that had been delayed from the July 1, 2021 renewal deadline extension. Dr. Schottenstein further noted that there was less attrition of licensees and more growth than expected. Net revenue in June was positive \$473,283, compared to that of June 2019 of negative \$388,670. Dr. Schottenstein stated that the Board’s cash balance is \$6,718,580, which is a record. Dr. Schottenstein echoed Ms. Loucka’s thoughts about the need to fill vacancies and spend that balance down.

Noting that June is the end of the fiscal year, Dr. Schottenstein stated that Fiscal Year 2021 had a net revenue of \$1,868,967, as compared to the net revenue of Fiscal Year 2019 of \$24,074. So, somewhat surprisingly, Fiscal Year 2021 turned out to be a very good financial year for the Board. Dr. Schottenstein also noted only a 0.1% increase in expenditures for Fiscal Year 2021 due to a combination of remote work by the staff, no longer using contractors for sexual misconduct case reviews, no longer using temporary workers, less use of supplies, less travel due to the COVID-19 pandemic, and having seven to ten staff vacancies at any given time. The Board had been allotted approximately \$11,300,000 for Fiscal Year 2021 and has spent about \$10,100,000 of that thus far, and there is about \$150,000 that is encumbered and will be spent, meaning that the Board will underspend its allotment by about \$1,000,000.

In summary, Dr. Schottenstein stated that the Board had an approximately 17% increase in revenue and expenditures have stayed flat. Dr. Schottenstein further noted that the Board is entering an even-numbered fiscal year, which are historically higher-revenue years. This is even more true now because all dietitians and respiratory care professionals renew their licenses in June of even-numbered fiscal years, which results in about an additional \$1,000,000 in revenue.

Dr. Schottenstein stated that the Board received \$8,000 in disciplinary fines and \$266.66 in collections in June. Total fines received for Fiscal Year 2021 is \$165,688, which is in-line with expectations.

Ms. Montgomery reiterated that the Board should spend down its cash balance by brining on additional staff to address the significant workload and backlog. It is fortunate that the Board has the funds to allow it to fulfill this function. Ms. Loucka agreed, stating that the Board’s licensee base has grown by 50% over the last five years,

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yet staff has not been added to reflect that. The Board's cash balance is high because of increase revenue from licensing fees, but the work entailed with the higher number of licensees is catching up with the Board. Ms. Loucka stated that the Board's complaints have gone up by 37% in five years, but the Board's staffing level is the same as it was in the 1990's. Ms. Loucka emphasized the need to be strategic about staffing

### Licensure Application Reviews

**Dr. Kakarala moved to approve the Licensure staff recommendations for the requests of Adrienne Flood, L.D.; Mary Jo Schroeder, R.C.P.; Ghiath Alnouri, M.D.; Lora Haskin, M.T.; and Teah Qvavadze, M.D. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### PROBATIONARY REPORTS AND REQUESTS

#### Office Conference Review

**Dr. Schottenstein moved to approve the Compliance staff's Reports of Conferences for July 12 and 13, 2021. Dr. Soin seconded the motion.** All members voted aye, except Dr. Rothermel, Dr. Saferin, and Dr. Bechtel, who abstained. The motion carried.

#### Probationary Requests

**Dr. Soin moved to approve the Secretary and Supervising Member's recommendations for the following probationary request:**

- a) Julie M. Alderson, D.O.: Request for approval of Suman Vellanki, M.D., to serve as the new monitoring physician.
- b) Mark L. Allen, M.D.: Request for release from the terms of the August 12, 2015 Board Order.
- c) Thomas M. Bender, A.A.: Request for release from the terms of the August 10, 2016 Step II Consent Agreement.
- d) Saul I. Blecher, M.D.: Request for release from the terms of the June 14, 2017 Board Order.
- e) Joseph M. Franzese, M.D.: Request for approval of the course *Prescribing: Opioids, Pain Management and Addiction*, offered by PBI, to fulfill the controlled substance prescribing course requirement; approval of the course *Medical Ethics and Professionalism*, offered by PBI, to fulfill the professional ethics course requirement; approval of the course *Intensive Course in Medical Ethics, Boundaries and Professionalism*, offered by Case Western Reserve University, to fulfill the physician/patient boundary course requirement; approval of the course *Medical Record Keeping*, offered by PBI, to fulfill the medical records course requirement; and approval of the course *Intensive Course in Managing Inappropriate Communications in Medical Practice*, offered by Case Western Reserve University, to

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fulfill the disruptive physician behavior course requirement.

- f) Dale A. Harris M.D.: Request for approval of Douglas Beech, M.D., to complete a psychiatric return-to-work assessment for reinstatement.
- g) Randall O. Krawcheck, D.O.: Request for approval of the course *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, offered by Case Western Reserve University, to fulfill the medical records course requirement.
- h) Ryan R. Lee, M.T.: Request for approval of the course *Creating Health Boundaries*, offered by AMTA; and approval of *Sports Massage: Ethics and Building Trust*, offered by the AMTA to fulfill the personal/professional ethics course requirement.
- i) Joseph Peyton, D.O.: Request for approval of the previously completed course *Intensive Course in Controlled Substance Prescribing: Pain, Anxiety, Insomnia*, offered by Case Western Reserve University, to fulfill the controlled substance prescribing course requirement; and approval of the previously completed course *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, offered by Case Western Reserve University, to fulfill the medical records course requirement.
- j) William S. Richardson, M.D.: Request for release from the terms of the August 10, 2016 Step II Consent Agreement.
- k) Brittney T. Stone, D.P.M.: Request for release from the terms of the May 13, 2020 Consent Agreement.
- l) John O. Uche, M.D.: Request for release from the terms of the August 12, 2020 Consent Agreement.
- m) Jared A. Warren, D.O.: Request for reduction in appearances from every three months to every six months; and reduction in 12-Step recovery meeting attendance from three per week to two per week.
- n) Jerome B. Yokiell, M.D.: Request for approval of the submitted practice plan; approval of Charles V. Barrett, D.O. to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per month.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

### **ADJOURN**

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

The meeting adjourned at 2:45 p.m.

State Medical Board of Ohio Meeting Minutes – August 11, 2021

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on August 11, 2021, as approved on September 8, 2021.

Betty Montgomery  
Betty Montgomery, President

Kim G. Rothermel MD  
Kim G. Rothermel, M.D., Secretary

(SEAL)





State Medical Board of Ohio

**COMPLIANCE COMMITTEE MEETING**

**August 11, 2021**

30 E. Broad Street, 3<sup>rd</sup> Floor, Administrative Hearing Room, Columbus, OH 43215

<p><b>Members:</b> Betty Montgomery, Chair Robert Giacalone, R.Ph., J.D. Michael Schottenstein, M.D. Harish Kakarala, M.D.</p> <p><b>Other Board Members present:</b> Kim Rothermel, M.D. Bruce Saferin, D.P.M. Mark Bechtel, M.D. Yeshwant Reddy, M.D.</p>	<p><b>Staff:</b> Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Angela Canepa, Deputy Director Investigations, Enforcement, Compliance, and Standards Review Joe Turek, Deputy Director of Licensure Nathan Smith, Senior Legal and Policy Counsel Chelsea Wonski, Legislative Liaison Amy Pridday, Compliance Manager Brycen Hatfield, Administrative Professional Benton Taylor, Board Parliamentarian</p>
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The meeting was called to order at 9:00 a.m.

**Mental Health Impairment Questions on Licensing Applications**

Ms. Dorcy briefly reviewed the Committee memo outlining the proposed language for mental health questions on initial licensure application. Ms. Montgomery observed that the language is the same as for the prior version of the question, but with an added sentence to make certain applicants do not inadvertently respond incorrectly because they don't understand that the term "medical condition" includes mental health.

The memo also outlines the following suggestions:

- Regarding emphasis on the importance of physical and mental health and physician well-being, a new statement to that effect has been incorporated into the application.
- Include a statement that an investigation is not the same as a disciplinary undertaking, and it is possible that information will be reviewed and the matter may not go forward.

Regarding the statement on investigations, Dr. Rothermel's suggested removing the words "or colleague" from the phrase "If you suspect or have observed inappropriate behavior by a health care professional or colleague ...". Ms. Montgomery agreed, and also suggested that the phrase "You should contact ..." be amended to "You must contact..." The Committee agreed with both suggestions.

Mr. Giacalone asked if the term “colleague,” in this context, only includes licensed health care providers. Ms. Wonski replied that the term phrase “colleague or health care professional” could include individuals who are not licensed by are in the health care industry.

Ms. Loucka noted that following “colleague or health care profession,” the statement then says “...file complaint with medical board.” Ms. Loucka stated that this can lead to many complaints send to the Medical Board that involve individuals who are not Board licensees. Ms. Loucka recommended redrafting the paragraph, perhaps using some of the duty-to-report language that was developed some months ago.

Dr. Kakarala commented that the requirement to contact the Board within a certain time may be difficult for some practitioners. For instance, an emergency physician may have difficulty reporting something in the middle of a shift. Ms. Anderson believed that the time required to report is within 48 hours of the incident. Dr. Kakarala opined that that is appropriate.

Dr. Schottenstein noted the phrase, “This may take the form of joining a support group or organization that emphasizes health, creating specific boundaries, contacting the Ohio Physicians Health Program.” Dr. Schottenstein asked about the meaning of “...creating specific boundaries...”? Ms. Dorcy replied that that is a broad cover for individuals who may have boundary issues.

Dr. Schottenstein asked about the nature of communication between the Board, the licensees, and the complainants about disciplinary matters. Ms. Loucka responded that when a complaint is received, the complaints receives an acknowledgement. Likewise, when the complaint is closed, complainants receive close letters. Ms. Loucka stated that out of 7,000 complains per year, there may be some in which close letters are not sent due to human error, but the staff goes back and corrects that oversight. Ms. Loucka stated that the close letter is very generic because the complaint, although closed, could still result in something non-public such as a caution letter or an office conference, and that information cannot be shared with the complainant.

Regarding communication with the licensee, Ms. Loucka stated that if the licensee has been advised during the investigation that there is a complaint, they will be notified when the complaint is closed. If the licensee is never informed of the complaint, then no letter is sent.

### **NPDB Overview**

Mr. Turek provided a brief overview of the Federation Credentials Verification Service (FCVS) and the National Practitioner Databank (NPDB) and how they relate to licensure in Ohio. Almost all physician applicants are required to provide FCVS to the Board as part of their application. The FCVS verifies many things, including the applicant’s identity, education, training, residencies, and licensing examinations, as well as the NPDB report. The FCVS also provides information from the Physician Data Center (PDC), which also includes actions in other states and also other useful info such as board certification.

The NPDB was created by Congress with the goal of improving health care quality, protecting public and reducing health care fraud and abuse in U.S. The NPDB collects information on malpractice payments and certain adverse actions and discloses that to eligible entities, such as the Board The NPDB reports on several different matters, including malpractice, exclusion actions, clinical privileges actions, DEA certification actions, professional society membership actions, negative actions by peer review organizations, and negative actions by private accreditation organizations. Mr. Turek noted

that the NPDB does not include board actions in other states, but that information is provided by the Federation of State Medical Board (FSMB).

The Licensure staff reviews the information from the FCVS and the NPDB and any red flags are investigated.

Dr. Bechtel asked if the Board receives information on actions against massage therapists in other states. Mr. Turek replied that the Federation of State Massage Therapy Boards (FSMTB) may provide information, but there is no requirement to report. Out-of-state actions against massage therapists are often discovered through disclosure on applications. Background checks are also done on initial applications for massage therapist licenses.

In response to a question from Mr. Giacalone, Ms. Anderson stated that the timing reports of disciplinary actions to the FSMB depend on the state. Ohio reports its actions to the FSMB every 30 days, but Ms. Anderson was uncertain if other states did the same. Mr. Giacalone suggested that this could be a topic at the next FSMB Annual Meeting, perhaps in a discussion group.

## **Adjourn**

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

The meeting was adjourned at 9:32 a.m.

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