



**State Medical Board of Ohio Meeting Minutes
February 12, 2020**

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

MINUTES REVIEW

Motion to approve the minutes of the January 8, 2020 Board meeting, as drafted:

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Schottenstein asked the Board to consider the Reports and Recommendations appearing on the agenda. He asked if each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Kristian Amymarie Hall; Kelly N. Roan, D.O.; and Rodney J. Williams, M.D. A roll call was taken:

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

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

Dr. Schottenstein further asked if each member of the Board understands that the Board's disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from Dismissal to Permanent Revocation or Permanent Denial. A roll call was taken:

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

Dr. Schottenstein further asked if each member of the Board understands that 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. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

Dr. Schottenstein stated that in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the disciplinary matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising member in the matter of Dr. Roan. The matter involving Ms. Hall is non-disciplinary in nature and therefore all Board members may vote.

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

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Kristian Aymarie Hall

Dr. Schottenstein directed the Board's attention to the matter of Kristian Aymarie Hall. No objections were filed. Ms. Lee was the Hearing Examiner.

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

Motion	Dr. Johnson
2 nd	Dr. Edgin

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

Dr. Schottenstein stated that he agrees with the Proposed Order, which essentially extends the original Order by six months. Dr. Schottenstein opined that Ms. Hall's explanation was credible and reasonable.

Vote on Dr. Johnson's motion to approve:

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

The motion carried.

Kelly N. Roan, D.O.

Dr. Schottenstein directed the Board's attention to the matter of Kelly N. Roan, D.O. Objections have been filed and were previously distributed to Board members. Ms. Lee was the Hearing Examiner.

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

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

Mr. Tkach stated that Dr. Roan was able to appear today in person, for obvious reasons. Mr. Tkach reiterated Dr. Roan's adamant plea that he is innocent of the underlying criminal charges in this case. Dr. Roan's criminal case is currently under appeal with the 8th district court of appeals in Cuyahoga County. Mr. Tkach stated that Dr. Roan respectfully requests that this Board not make a final determination in his case until after the criminal matter has been fully decided in the Court of Appeals.

Mr. Tkach pointed out that Dr. Roan had a training certificate from the Board. Since training certificates are site-specific and Dr. Roan has been dismissed from his program, it is impossible for him to legally practice medicine in Ohio without requesting some new type of licensure from the Board. If Dr. Roan applies for new licensure, the Board can at that time hold a hearing which Dr. Roan can participate in, take evidence from

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witnesses, and take all the documentation it needs to make a fully informed decision. Mr. Tkach stated that it is inappropriate for the Board to permanently revoke Dr. Roan's medical license based on the evidence in the record before it. Mr. Tkach noted that on many occasions Ms. Montgomery has discussed the perception that the Board does not follow-up on cases in a timely manner, lending credence to the argument that justice requires, or at least suggests, that the Board not permanently revoke Dr. Roan's ability to practice medicine in Ohio based on this record.

Mr. Tkach stated that the public is sufficiently protected, noting that even if Dr. Roan were to win his appeal and be released from prison, he would be unable to walk into a hospital or practice without first coming to the Medical Board for a new license. Mr. Tkach requested that the Board either table this matter, dismiss it, or at least do a non-permanent revocation.

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

Ms. Snyder stated that the obvious reason that Dr. Roan cannot be here today is because he is in prison. Ms. Snyder stated that Dr. Roan is a rapist, having been convicted by a jury of his peers on three counts of rape. Ms. Snyder stated that unless those convictions are overturned on appeal, Dr. Roan will always be a rapist and will always have committed one of the most violent crimes against another person. Ms. Snyder stated that there is nothing Dr. Roan could do in the future to overcome that moral failing and total disregard for another human being; no amount of paying debt to society can under that conviction of being a rapist. Ms. Snyder stated that there cannot be any undoing of that damage done to that person or the damage to Dr. Roan's credibility and character. Ms. Snyder stated that a rapist cannot be a physician and the Board cannot license a rapist to practice medicine.

Ms. Snyder continued that it does not matter how old Dr. Roan is or that he only held a training certificate. Ms. Snyder stated that on the off-chance that Dr. Roan's conviction is overturned on appeal, the Board has a statute that allows his license to be reinstated. Ms. Snyder stated that without permanent revocation, Dr. Roan could apply for another training certificate and it would be granted automatically, whereupon he could request a hearing on his prior discipline. Therefore, permanent revocation is the only answer in this case. Ms. Snyder stated that the penalty should reflect the severity of Dr. Roan's crime.

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

Motion	Mr. Giacalone
2 nd	Dr. Kakarala

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

Mr. Gonidakis requested a clarification of Ms. Snyder's comments regarding the training certificate. Dr. Schottenstein replied that unless the Board permanently revokes Dr. Roan's training certificate, any application for a new training certificate would be automatically granted.

Dr. Feibel stated that he is respectful of the defense counsel's comments. However, Dr. Feibel noted that the Ohio Revised Code provides a mechanism for reinstatement if a permanent revocation is based on a conviction that is later overturned. If the convictions are not overturned, Dr. Feibel felt that permanent revocation is appropriate and any fact pattern Dr. Roan could add would be irrelevant in the face of three first-degree felonies for rape. Dr. Feibel supported the Proposed Order of permanent revocation.. Dr. Schottenstein agreed with Dr. Feibel.

Dr. Johnson noted that in the objections to the Proposed Order, it was mentioned that "the Board must not offend justice by summarily destroying Dr. Roan's professional future." Dr. Johnson stated that Dr. Roan is the one who made his decision, not the Board. Dr. Johnson stated that Dr. Roan had attributed to the destruction

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of his medical career, and the Board is following its legal requirement to show that Dr. Roan was adjudicated guilty. Dr. Johnson agreed with the Proposed Order.

Vote on Mr. Giacalone's motion to approve:

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

The motion carried.

Rodney J. Williams, M.D.

Dr. Schottenstein directed the Board's attention to the matter of Rodney J. Williams, M.D. Objections have been were filed and were previously distributed to Board members. Ms. Lee was the Hearing Examiner.

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

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

Ms. Collis respectfully requested, based on the evidence in this case, that the Board accept the Hearing Examiner's Report and Recommendation and grant Dr. Williams' application for licensure. However, Ms. Collis urged the Board to refrain from imposing a monetary fine or a probationary to complete additional course work. Ms. Collis stated that, as noted in his hearing, Dr. Williams has been incredibly cooperative and compliant with the government and he has established a payment plan to pay all back taxes to the IRS. Dr. Williams also fully cooperated with the Pennsylvania Department of State, Bureau of Professional and Occupational Affairs and has complied with all requirements of his consent agreement in that state. Finally, Dr. Williams self-reported to the State Medical Board of Ohio about his problems with the IRS, the DEA, and the Pennsylvania board.

Ms. Collis requested, as in the case of Dr. Picardi which involved much more serious facts, that the Board grant Dr Williams an unrestricted license.

Dr. Williams stated that he does not want to make any excuses for that period of time in his life. Dr. Williams stated that he is very proud of what he has done as a human being and the contributions he has made to his communities. Dr. Williams thanked the Hearing Examiner for the fairness of the hearing and the accurate representation of the facts. Dr. Williams stated that his error if failing to pay taxes led to his medical license not being renewed, his practicing in a lapsed license, and his surrender of his DEA registration.

Dr. Williams continued that this started in 2007. This was a difficult time in Dr. Williams' life because his wife was struggling with mental health issues, he and his wife had three children aged four to eight, and his wife had attempted suicide. Dr. Williams made choices at that time that he now regrets. Dr. Williams stated that that was the first time he had ever owed taxes and he did not handle that well. Dr. Williams was not managing his office well and consequently he was not aware when his medical license lapsed. Dr. Williams unknowingly

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practiced in a lapsed license for several months until a pharmacist contacted him. When the DEA recognized that Dr. Williams was practicing on a lapsed license, he surrendered his DEA registration.

Dr. Williams stated that it became clear at that point that things were not going well and he was not functioning as he once had. Dr. Williams moved back to Ohio, obtained the services of an attorney to approach his IRS issues, and made an action plan to get things back in order. Dr. Williams reobtained his DEA registration with no restrictions. Dr. Williams noted that the DEA never had any issues with the way Dr. Williams prescribed medications. Dr. Williams also submitted applications for medical licenses in other states and they did not put any restrictions on his prescribing.

Dr. Williams stated that he addressed many issues in this period of time. Dr. Williams entered into a payment plan with the IRS and made payments early. Dr. Williams also attended a prescribing program in San Diego. Dr. Williams stated that he never prescribes outside the package insert and he always tests his patients. Dr. Williams noted that he had been the medical director of detoxification for the University of Pittsburgh Medical Center Western Site, so he was very familiar with that patient population.

Dr. Williams felt that he has done everything that the Board may want someone in his position to do. Dr. Williams added that he also started a group in Ohio called Youth to Youth to help youth in central Ohio to avoid the throes of drug addiction by not starting in the first place. Dr. Williams asked the Board to appreciate the impact that an additional discipline would have on his national provider identifier (NPI) and his having to explain why there is new discipline when there is no new information and he has done nothing other than apply for licensure.

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

Mr. Wilcox stated that Dr. Williams is an applicant and he opined that the Proposed Order is not particularly onerous. Under the Proposed Order, Dr. Williams' application for licensure will be granted and he will be monitored under probationary terms for a minimum of six months. If Dr. Williams does well in those six months, he will be released from probation. Mr. Wilcox opined that the Proposed Order made perfect sense.

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

Motion	Dr. Kakarala
2 nd	Dr. Edgin

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

Dr. Soin stated that he could envision a scenario in which a physician who has many things going on in their life or is transitioning their practice could allow a license to lapse due to oversight. However, other things occurred over a span of years that led Dr. Soin to have concerns about Dr. Williams' practice. Dr. Soin also felt that given a few adjustments in his life, such as the elimination of outside stressors, Dr. Williams can have a pathway forward to practice. Dr. Soin favored the Proposed Order because it allowed Dr. Williams to practice with monitoring. Dr. Soin opined that Dr. Williams could be a good physician, assuming he can get everything in order.

Dr. Soin commented that the Board has fairly rigid rules and guidelines for office-based opiate treatment with medications such as Subutex and suboxone. Dr. Soin opined that it would be wise for Dr. Williams to review those rules and guidelines.

Ms. Montgomery was uncertain how much money Dr. Williams has paid to various entities in this matter, but it was a large amount. Ms. Montgomery noted that Dr. Williams has apparently paid back the I.R.S. in full. Ms. Montgomery suggested amending the Proposed Order to remove the \$3,500 fine.

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Motion to amend the Proposed Order to remove the fine:

Motion	Ms. Montgomery
2 nd	Mr. Gonidakis

Dr. Feibel agreed with Ms. Montgomery's proposed amendment, stating that the Board should reward physicians who are honest and forthright with the Board. Dr. Feibel also opined that the minimum six-month probationary period in the Proposed Order is warranted given Dr. Williams' past issues; the probationary period will give the Board an opportunity to ensure that Dr. Williams' practice proceeds appropriately. Dr. Feibel stated that the Board appreciates that Dr. Williams was honest with the Board and did the right thing.

Ms. Montgomery agreed that Dr. Williams did the right thing by coming forward to the Board. Ms. Montgomery noted that when Dr. Williams surrendered his DEA registration, he was late in realizing that he needed an attorney and therefore the consequences of that action were more complex than they needed to be. Ms. Montgomery hoped that the probationary period will ensure that Dr. Williams puts into place a structure to address the lack of organization and accountability in his office which led to these issues.

Mr. Giacalone agreed with the comments made on this matter thus far. Mr. Giacalone commented that he would have favored no probation for Dr. Williams, but for the Subutex and Suboxone prescribing issues. Mr. Giacalone further commented that the exact nature of Dr. Williams' prescribing issues in Pennsylvania is unclear, noting that the Pennsylvania State Board of Medicine only required Dr. Williams to complete prescribing courses and took no other action. Mr. Giacalone stated that a six-month probation will give the Board some gauge of Dr. Williams' practice.

Dr. Schottenstein stated that the minimal standards allegations of this case gave him pause. Dr. Schottenstein commented that out-of-state actions regarding alleged minimal standards violations can be frustrating because the Board cannot obtain information about the allegations except the physician's own speculations. In the case of Dr. Williams, it is difficult to know if the Pennsylvania Board included the allegation due to a mild degree of concern or a severe degree of concern. Dr. Schottenstein stated that to a certain extent, the Board may infer that the Pennsylvania Board's degree of concern was more mild because that board only reprimanded Dr. Williams and required him to take a controlled substance prescribing course, but it did not suspend Dr. Williams' license or put him on probation with a practice plan.

Dr. Schottenstein stated that the Board would be justified to include a practice plan and to extend the probation to one year, given the allegations of practicing below minimal standards and controlled substance prescribing issues to which Dr. Williams has stipulated. Dr. Schottenstein opined that the Board should practice due diligence to verify that Dr. Williams is practicing to the expected standard of care. Dr. Schottenstein further opined that an amendment of that nature would be to Dr. Williams' benefit because the feedback of a practice monitor could satisfy him he is practicing to the correct standard of care or allow him to rectify areas in which he has fallen short and avoid trouble in the future. Dr. Schottenstein noted that a minimum one-year probation is still less than the usual probation of at least three years that the Board typically approves for minimal standards cases.

Ms. Anderson reminded the Board that Dr. Williams was cited for an alleged violation of 4731.22(B)(22), Ohio Revised Code (ORC) due to an out-of-state action; Dr. Williams was not cited for alleged violation of 4731.22(B)(6), minimal standards of care. Ms. Anderson advised the Board to confine its decision in this case to the alleged violation of 4731.22(B)(22). Dr. Schottenstein agreed and noted that one of the items in the out-of-state action had to do with concerns of violation of minimal standards of care. Dr. Schottenstein also stated that in his testimony, Dr. Williams speculated that the Pennsylvania action was due to his prescribing habits.

Dr. Schottenstein was agreeable to removing the fine from the Proposed Order.

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Dr. Soin agreed with Dr. Schottenstein’s comments and expressed his understanding that this case is based on an out-of-state action. Dr. Soin observed that when Dr. Williams was asked if he had changed his prescribing habits regarding Subutex and suboxone, he replied “yes” and explained the changes he had made. The fact that Dr. Williams changed his prescribing practices indicated to Dr. Soin that there had probably been something amiss with his prior practices. Dr. Soin supported Dr. Schottenstein’s suggestion regarding probation.

Dr. Schottenstein stated that the current motion before the Board would remove the fine from the Order.

Vote on Ms. Montgomery’s motion to amend:

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

The motion to amend carried.

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

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

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Schottenstein stated that in the following matter, the Board issued a Notice of Opportunity for Hearing. No timely request for hearing was received. The matter was reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and it is now before the Board for final disposition. This matter is disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In this matter, Dr.

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Rothermel served as Secretary, Dr. Saferin served as Supervising Member, and Dr. Bechtel served as Secretary and/or Supervising Member.

Ashley Rae Strunk, L.M.T.

Motion to find that the allegations as set forth in the May 8, 2019 Notice of Opportunity for Hearing in the matter of Ms. Strunk have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky's Proposed Findings and Proposed Order:

Motion	Mr. Giacalone
2 nd	Ms. Montgomery

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

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

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

The motion carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Schottenstein 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. The first five of these matters are non-disciplinary in nature, and therefore all Board members may vote.

Brigitta Bittner, M.D.

Dr. Schottenstein stated that on October 16, 2019, the Board issued a Notice of Opportunity for Hearing to Brigitta Bittner, M.D., informing her that the State Medical Board of Ohio proposed to approve her application for a license to practice medicine and surgery provided that she take and pass the Special Purpose Examination (SPEX) due to the fact that Dr. Bittner has not engaged in the active practice of medicine and surgery for more than two years.

Motion to find that the facts set forth in the October 16, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Dr. Bittner's application for restoration, provided that she provided that she takes and passes the SPEX within six months of the mailing of the Notice of Opportunity for Hearing:

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

The motion carried.

Kristina Marie Kaniecki Snow, M.T.

Dr. Schottenstein stated that on October 23, 2019, the Board issued a Notice of Opportunity for Hearing to Kristina Marie Kaniecki Snow, 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. Kaniecki Snow has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the facts set forth in the October 23, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Kaniecki Snow's application for restoration, provided that she takes and passes the MBLEx within six months of the mailing of the Notice of Opportunity for a Hearing:

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

The motion carried.

Rebekah Nicole Kuntz, M.T.

Dr. Schottenstein stated that on October 23, 2019, the Board issued a Notice of Opportunity for Hearing to Rebekah Nicole Kuntz, M.T., informing her that the State Medical Board of Ohio proposed to deny her application for a certificate to practice massage therapy because she does not hold a diploma or certificate from a school, college or institution in another state or jurisdiction that meets the Board's required course of

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instruction, and hasn't held a current license, registration or certificate of good standing for massage therapy in another state for at least the preceding five years.

Motion to find that the facts set forth in the October 23, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, denying Ms. Kuntz's application:

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

The motion carried.

Kaci Jean Morgan, M.T.

Dr. Schottenstein stated that on October 23, 2019, the Board issued a Notice of Opportunity for Hearing to Kaci Jean Morgan, 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. Morgan has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the facts set forth in the October 23, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Morgan's application for restoration, provided that she takes and passes the MBLEx within six months of the mailing of the Notice of Opportunity for a Hearing:

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

The motion carried.

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Mercedes Angel Mueller, M.T.

Dr. Schottenstein stated that on October 23, 2019, the Board issued a Notice of Opportunity for Hearing to Mercedes Angel Mueller, 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. Mueller has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the facts set forth in the October 23, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Mueller's application for restoration, provided that she takes and passes the MBLEx within six months of the mailing of the Notice of Opportunity for a Hearing:

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

The motion carried.

Dr. Schottenstein explained that the final two Findings, Orders, and Journal Entries are disciplinary in nature, and therefore the Secretary and Supervising member must abstain from voting. In these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising Member in the matter of Dr. Lazzarini.

John Joseph Kelemen, M.D.

Dr. Schottenstein stated that on June 12, 2019, the Board issued a Notice of Opportunity for Hearing to Dr. Kelemen stating that the Medical Board intended to consider disciplinary action regarding his license to practice medicine in Ohio. The allegations contained in the Board's Notice of Opportunity for Hearing are based upon a December 19, 2018 Final Decision and Order by the Wisconsin Medical Examining Board that reprimanded the doctor's license, for: Failing to adequately repair an identified weakness in a patient's heart; failing to consider and/or timely identify the failed repair as the likely cause of the patient's post-operative complications; failing to timely take appropriate measures to address.

Dr. Schottenstein suggested that an appropriate order would reprimand Dr. Kelemen and impose a monetary fine of \$3,500. Mr. Giacalone questioned whether that was sufficient, noting that a patient death occurred in this case. Mr. Giacalone stated that he had asked what the Board had done in previous cases and, while the fact patterns were not identical to Dr. Kelemen's case, the previous sanctions were harsher.

Dr. Schottenstein stated that since the proposed discipline is based on an out-of-state action, information is limited. Dr. Schottenstein opined that based on the information the Board has, his suggestion would be an appropriate order. Dr. Schottenstein invited other Board members to express their opinions in this matter.

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Motion to issue an Order to reprimand Dr. Kelemen and levy a fine of \$3,500.:

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

The motion carried.

Frank D. Lazzerini, M.D.

Dr. Schottenstein stated that on July 10, 2019, the Board issued a Notice of Opportunity for Hearing to Dr. Lazzerini stating that the Medical Board intended to consider disciplinary action regarding his license to practice medicine in Ohio. The allegations contained in the Board's Notice of Opportunity for Hearing are based upon the doctor's June 19, 2019 conviction in the Court of Common Pleas of Stark County, Ohio, where a jury found him guilty of numerous felony offenses related to his prescribing, including: Involuntary Manslaughter, Aggravated Drug Trafficking, Drug Trafficking, Illegal Processing of Drug Documents, Medicaid Fraud, and Engaging in a Pattern of Corrupt Activity.

Dr. Schottenstein suggested that the permanent revocation of Dr. Lazzerini's license and a monetary fine of \$20,000 would be appropriate.

Motion to issue and order permanently revoking Dr. Lazzerini's license to practice medicine and surgery in Ohio, and levying a fine of \$20,000:

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

The motion carried.

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EXECUTIVE SESSION

Motion to go into Executive Session to confer with the Medical Board’s attorneys on matters of pending or imminent court action, and for the purpose of deliberating on proposed consent agreements in the exercise of the Medical Board’s quasi-judicial capacity; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official:

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

The motion carried.

The Board went into Executive Session at 11:14 a.m. and returned to public session at 12:08 p.m.

SETTLEMENT AGREEMENTS

Matthew D. Davis

Motion to ratify the proposed Permanent Withdrawal with Matthew D. Davis:

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

The motion carried.

Julie Mae Alderson, D.O.

Motion to ratify the proposed Step II Consent Agreement with Julie Mae Alderson, D.O.:

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

The motion carried.

Allison A. Robinson, M.D.

Motion to ratify the proposed Permanent Retirement/Surrender with Allison A. Robinson, M.D.:

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

The motion carried.

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

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

1. Harrison L. Kunz, Jr., R.C.P.: Based on noncompliance with the probationary terms of a Step I Consent Agreement.
2. Maneesh Lal Mehra, M.D.: Based on noncompliance with the terms of a Step II Consent Agreement.
3. Ghanshyam Bhambhani, M.D.: Based on a federal felony conviction related to practice, and the physician's surrender of his New York medical license.
4. Chelsie Colombini: To be issued to a massage therapist applicant, based on allegations of impairment.
5. Paul E. Kaplan, M.D.: Based on the physician's surrender of his California medical license.
6. Farhad A. Khorashadi, M.D.: Based on action taken by the Medical Board of California.

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7. Thomas Bailey, M.D.: An Immediate Suspension, based on the physician’s January 21, 2020 guilty plea and conviction in federal court for the felony offense of dispensing of a controlled substance.
8. Arthur H. Smith, M.D.: An Immediate Suspension, based on the physician’s January 21, 2020 guilty plea and conviction in federal court for the felony offense of dispensing of a controlled substance.
9. Jonathan Louis Rosenfield, M.D.: Based on action by the Texas Medical Board related to prescribing.
10. Joseph Michael Franzese, M.D.: Based on violation of the Board’s sexual misconduct rule and acts constituting a felony and misdemeanor related to sharing of controlled substances.

Motion to approve and issue proposed Citation #7, an Immediate Suspension:

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

The motion carried.

Motion to approve and issue proposed Citation #8, an Immediate Suspension:

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

The motion carried.

Motion to approve and issue proposed Citations #'s 1, 3, 4, 5, 6, and 10:

Motion	Mr. Gonidakis
2 nd	Dr. Soin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain

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

The motion carried.

Motion to approve and issue proposed Citations #'s 2 and 9:

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

The motion carried.

OPERATIONS REPORT

Human Resources: Ms. Loucka stated that the Board is in the process of hiring an additional enforcement attorney. The Board will also make two new hires that will bring the Licensure Section to fully-staffed levels.

Ms. Loucka announced that investigator Dawn Smith in the Cleveland region will retire in March 2020. Ms. Smith has been with the Board for many years and had previously served as a highway patrol officer.

Licensure: Ms. Loucka stated that the different license cycles explain the variance in the licensure statistics in the Operations Report.

Complaints Statistics: Ms. Loucka stated that all open complaints have been listed by license type. Ms. Loucka stated that this format will be continued in future Operations Reports.

Stakeholder Meetings: Ms. Loucka stated that the end of the Operations Report now includes the stakeholder meetings that the staff are engaged in. Ms. Loucka stated that this gives a good view of what investigators are doing in the community, such as meeting the task forces and law enforcement agencies.

New Staff Member: Ms. Loucka introduced Cierra Lynch, who was recently hired to support the Communications Group, Ms. Reardon, and Ms. Loucka. Ms. Loucka stated that Ms. Lynch has already staffed some committees and provided feedback on working with different stakeholders.

REPORTS BY ASSIGNED COMMITTEES

Dietetics Advisory Council Report

Ms. Reardon stated that the Dietetics Advisory Council had been scheduled to meet yesterday. However, there was not a quorum and so the meeting was cancelled. Ms. Reardon stated that this will be addressed legislatively to allow the members of the Council to meet by telephone.

Finance Committee Report

Fiscal Update

Dr. Schottenstein stated that in December 2019 the Board's revenue was \$991,974. Dr. Schottenstein noted that this was a renewal month for physicians and physician assistants, which helped the Board approach a million-dollar mark. The Board's net fiscal revenue for December 2019 of \$129,387 and there was a cash balance of \$4,689,764. Dr. Schottenstein stated that the allied health groups renewed at the end of January 2020 and estimated revenue for that month is about \$1,200,000. Respiratory care professionals and dietitians will renew in June, which is expected to be a significant revenue month.

Dr. Schottenstein continued that expenditures for December 2019 are up 3.9% compared to one year ago, which is fairly typical. Dr. Schottenstein stated that, as I mentioned last month, it is conceivable that the Board we may need to go to the Controlling Board to ask for an increase in its allotted spending due to spending related to addressing sexual misconduct. Dr. Schottenstein stated that the Board is still underspending with regard to its allocation. Payroll spending is temporarily down, but the Board is filling vacancies. The Board carried ten or eleven vacancies for months but is now down to approximately five vacancies, with three in the process of being filled.

Dr. Schottenstein stated that \$200,000 has already been authorized for sexual misconduct case review. The Finance Committee has voted to recommend an additional \$100,000 to get additional contractors to devote more time to this matter. These additional funds will provide flexibility in the hiring and paying of contractors that the Board needs.

Dr. Schottenstein stated that beginning in March, the monthly fiscal summary report will be modified to include data specifically related to the sexual misconduct project. This will allow the Board to track the spending and encumbered funds directly related to sexual misconduct spending.

Dr. Schottenstein stated that as of February 7, 2020, out of the \$150,000 encumbered toward the sexual misconduct case review, the Board has been invoiced \$7,910. Nine of the 16 expert reviewers have not yet invoiced the Board for any work; One reviewer has invoiced the Board for \$5,235; and the remaining reviewers have invoiced the Board for less than \$1,000 each. Additional reviewers are being onboarded and the board is confident they will be able to give more time to the project.

Regarding fines, Dr. Schottenstein stated that the Board received \$1,049 in collections, \$13,500 in CME fines, and \$13,500 in disciplinary fine payments.

Communications Update

Dr. Schottenstein provided the following update regarding communications:

- The Winter edition of the Board's magazine has been approved and printing is pending.
- The sexual boundaries videos have been posted to YouTube.

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- The Board is launching a Duty to Report educational campaign. The duty to report communication plan was presented to the sexual misconduct committee this morning and the plan is to begin implementation immediately. Additionally, the Board plans to display educational posters at the annual FSMB meeting and the annual AIM meeting regarding the subjects of sexual misconduct case management and best practices for reducing substance abuse stigma and supporting recovery.
- The Consumer FAQ document will be placed on the Board’s website.

Review of Closed Sexual Misconduct Cases

Dr. Schottenstein stated that at previous meetings the Committee and full Board approved \$200,000 funding for contracting with former prosecutor or other law enforcement agents to review closed sexual misconduct cases. To date the Board has contracted with 15 reviewers, with a maximum cost of \$10,000 each. In order to continue to conduct a timely review of these cases, additional resources will be necessary. Staff has identified additional contractors who are willing to perform this work, and would like approval to contract with additional individuals beyond what has already been approved. The Committee recommends approval of this request.

Dr. Schottenstein commented that if the Board determines at some point that it is not getting the time needed from these additional contractors, it will look at other measures.

Motion to approve an additional \$100,000 in funding for contracting with additional prosecutors or other law enforcement agents to review closed sexual misconduct cases:

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

The motion carried.

Mr. Gonidakis exited the meeting at this time.

Clear Basic Training for Newer Investigators

Dr. Schottenstein stated that as part of its overall training curriculum for new investigators, management has identified the Council on Licensure, Enforcement, and Regulation (CLEAR) Basic Investigator training as appropriate for newly hired investigators. The Medical Board holds a membership to this organization, which provides a discounted rate on this training. This training is offered periodically in different locations throughout the country, and the plan is to send investigators in small groups when training is offered in or near Ohio. Staff asks for approval to send six recently hired investigators to this three-day training in Raleigh, North Carolina, on March 17-19, 2020. The six investigators will be in teams of two driving state-issued vehicles from various

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areas of Ohio. Estimated costs include Registration: \$2,300; 4 nights lodging: \$3,240; Meal per diem \$1,680, plus the cost of fuel (approximately \$300). This was approved earlier today in Finance Committee.

Motion to approve out-of-state travel costs and registration fees for sending six newly hired investigators to CLEAR Basic Investigator training in Raleigh, North Carolina on March 17-19, 2020:

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

The motion carried.

Performance Audit

Dr. Schottenstein stated that in response to one of the Straus Working Group recommendations, the Medical Board sought proposals for an independent performance audit of its handling of complaints. The Board received three proposals, and the proposal chosen as the most comprehensive was from the Federation of State Medical Boards (FSMB). The review and assessment will be conducted by legal and medical professionals with experience in medical regulation, at a cost of \$32,590. The was approved earlier today in Finance Committee.

Motion to approve \$32,590 to enter into a contract with the FSMB for the purpose of conducting a performance audit of the Board's processes regard to its handling of complaints:

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

The motion carried.

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FSMB Annual Meeting

Dr. Schottenstein stated that the Federation of State Medical Boards' (FSMB) annual meeting will be held April 30 to May 2, in San Diego, California. Mr. Giacalone, Dr. Schottenstein and Ms. Loucka are scholarship recipients to this event, and the majority of their travel costs will be covered by FSMB. Staff is seeking approval for travel expenses in accordance with state travel policy for Dr. Edgin and Ms. Anderson to attend the annual meeting. This was approved earlier today in Finance Committee.

Motion to approve travel expenses and conference registration fees in accordance with state travel policy for Dr. Edgin and Ms. Anderson to attend the 2020 annual meeting of the FSMB in San Diego, California, and to approve any expenses not covered by FSMB scholarships for Dr. Schottenstein, Mr. Giacalone and Ms. Loucka; and that the attendance at the conference is in connection with their duties, and is related to their position, as board members or employees of the State Medical Board of Ohio:

Motion	Dr. Saferin
2 nd	Dr. Johnson
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y (Abstain in the matter of his own travel)
Dr. Soin	Y
Dr. Edgin	Y (Abstain in the matter of his own travel)
Dr. Schottenstein	Y (Abstain in the matter of his own travel)
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Administrators in Medicine Annual Meeting

Dr. Schottenstein stated that the Administrators in Medicine (AIM) annual meeting will be held April 29, 2020, in San Diego, California, just prior to the FSMB annual meeting. Ms. Loucka requests approval to attend that meeting, which will require her to travel to San Diego an additional day early that will not be covered by the FSMB scholarship. This was approved earlier today in Finance Committee.

Motion to approve additional travel costs for lodging and per diem expenses for Ms. Loucka to attend the Administrator in Medicine annual meeting in San Diego, California; and that Ms. Loucka's attendance at the meeting is in connection with her duties, and is related to her position, as Executive Director of the State Medical Board of Ohio:

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

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Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Sexual Misconduct Committee Report

Dr. Schottenstein stated that the Sexual Misconduct Committee met this morning and received an update on the latest meeting of the Governor's Working Group. Ms. Pollock reviewed the Duty to Report Educational Campaign. Ms. Loucka reviewed the draft law enforcement notification and consultation protocol, as well as the ongoing training plan for Medical Board staff.

The Committee also reviewed the External Audit update, which was discussed earlier in the Finance Committee report. The Committee received an update on the historical case review and victim advocate process.

Mr. Gonidakis returned to the meeting at this time.

Licensure Committee Report

Licensure Application Reviews

Lisa Ebbert

Dr. Saferin stated that Ms. Ebbert has applied for restoration of her Ohio license to practice dietetics. Ms. Ebbert has not practiced dietetics within the last two years. However, Ms. Ebbert holds current registration with the Commission on Dietetic Registration. The Committee recommends approval of Ms. Ebbert's application.

Motion to approve Ms. Ebbert's application for restoration of her Ohio license as presented:

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

The motion carried.

Aaron Fletcher

Dr. Saferin stated that Mr. Fletcher has applied for a massage therapy license in Ohio. Mr. Fletcher has not practiced massage therapy in the last two years. The Committee recommends approval of Mr. Fletcher's application, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEx).

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Motion to approve Mr. Fletcher’s application for an Ohio license, pending successful completion of the MBLEx within six months from the date of mailing of the Notice of Opportunity for Hearing:

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

The motion carried.

Jay Garnier

Dr. Saferin stated that Mr. Garnier has applied for an Ohio Respiratory Care Professional (RCP) license in Ohio. Mr. Garnier has not practiced as a respiratory care profession in the last two years. The Committee recommends approval of Mr. Garnier’s application, pending successful completion of the Clinical Stimulation Examination (CSE).

Motion to approve Mr. Garnier’s application for an Ohio license contingent on successful completion of the CSE within six months from the date of mailing of the Notice of Opportunity for a Hearing:

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

The motion carried.

Francis Larocca

Dr. Saferin stated that Mr. Larocca has applied for restoration of his Ohio massage therapy license. Mr. Larocca has not practiced massage therapy in the last two years. The Committee recommends approval of

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Mr. Larocca's application, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEx).

Motion to approve Mr. Larocca's application for restoration of his Ohio license contingent on his passing of the MBLEx within six months from the date of mailing of the Notice of Opportunity for Hearing:

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

The motion carried.

Mushtaq Qureshi, M.D.

Dr. Saferin stated that Dr. Qureshi has applied for a medical license in Ohio. Dr. Qureshi took longer than ten years to complete an acceptable examination sequence. The Committee has recommended approval of the Good Cause exemption to the 10-year rule as outlined in OAC 4731-6-05 (C)(2) and accept the examination sequence so that Dr. Qureshi can be granted a license:

Motion to approve the good cause exception to the 10-year rule as outlined in OAC 4731-6-05 (C)(2) and accept the examination sequence so that Dr. Qureshi can be granted a license:

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

The motion carried.

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Harry Robinson

Dr. Saferin stated that Mr. Robinson has applied for restoration of his Ohio Respiratory Care Professional license. Mr. Robinson has not practiced as a respiratory care profession in the last two years. Mr. Robinson passed the Registered Respiratory Therapist (RRT) examination in September 2019 and holds current RRT registration. The Committee recommends approval of Mr. Robinson’s application as presented.

Motion to approve Mr. Robinson’s application for restoration of his Ohio license as presented:

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

The motion carried.

Respiratory Care Continuing Education Course Approval

“Ethics 2020” Presentation, Breathe Easy Respiratory Conference

Dr. Saferin stated that the board received a request to approve the presentation “Ethics 2020” for one contact hour of respiratory care continuing education (RCCE) on Ohio respiratory care law or professional ethics. The Committee recommends approval of the request. Dr. Saferin commented that it was an excellent program.

Motion to approve the presentation for one contact hour of RCCE on Ohio respiratory care law or professional ethics, pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code:

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

The motion carried.

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Mr. Giacalone asked if the Board will be able to cease approving each course and presentation for RCCE credit. Ms. Anderson replied that there is a rule moving through the rule-making process that will accomplish that once it is finalized.

Administrative CME Penalty Schedule

Dr. Saferin stated that the staff proposes revisions to the civil penalty schedule used for the administrative CME program. The Committee recommends approval of the proposed administrative CME penalty schedule.

Motion to approve the proposed administrative CME penalty schedule:

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

The motion carried.

Continuing Medical Education, Duty to Report Misconduct

Dr. Saferin stated that in January, the Licensure Committee and full Board approved amendments to the CME rules and approved filing with the Common Sense Initiative. The Licensure Committee and full Board determined that Rule 4731-10-02(A) should not include a requirement for one hour of CME on the duty to report misconduct under section 4731.224 of the Ohio Revised Code. During the most recent meeting of the Strauss Working Group on January 16, 2020, it was clear that the Working Group expects the Medical Board and other healthcare boards to require continuing education on the duty to report misconduct. The Committee recommends approval of the amendment to require one hour of CME on the duty to report misconduct and to file the change with the Common Sense Initiative.

In response to a comment from Dr. Schottenstein, Dr. Saferin stated that the proposed amendment also stipulates that external parties who wish to produce their own duty to report misconduct must have it approved by the Board.

Motion to require one hour of CME on the duty to report misconduct in Rule 4731-10-02 and approve filing with the Common Sense Initiative:

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

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

The motion carried.

Policy Committee Report

Dr. Soin stated that the Committee had a rule review update and a legislative update. The Committee discussed many bills but spent most of its time on two bills: House Bill 455, the surgical assistant bill; and House Bill 492, the physician assistant bill. Mr. LaCross will work on gathering more information on these bills for the Committee. The Committee also discussed House Bill 432 and Senate Bill 246, the licensure reciprocity bills.

Dr. Soin noted that Mr. LaCross will also develop a system for tracking bills and a more formally defined process for the Board to weigh in on pending bills when it wishes to do so. Dr. Soin stated that this will likely be discussed further at the next Board retreat.

Senate Bill 7 Rules

Motion to approve Rule 4731-36-04 for filing with Common Sense Initiative and for filing internal management rule 4731-30-03:

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

The motion carried.

CRNA Regulatory Statement

Dr. Soin stated that the Committee discussed a proposed statement defining the fact that the term “anesthesiologist” refers to physicians only. The Committee recommends approval of the statement and placing it on the Board’s website.

Motion to adopt the policy statement regarding the term “anesthesiologist”:

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

The motion carried.

Podiatry Scope of Practice

Dr. Soin stated that the Committee had a robust discussion about the podiatrist scope of practice issue, in response to a letter the Board received from multiple associations. The letter requested that the Board reopen its rule on this matter and have a comment period. It was noted by the Committee that the proposed rule is currently in the Common Sense Initiative (CSI), which will have its own comment period on the rule. Therefore, it was determined that CSI's comment period addresses the letter's request.

Motion to deny the request to reopen the rule, but to pursue a comment period with CSI:

Motion	Dr. Bechtel
2 nd	Ms. Montgomery

Dr. Feibel added that those organizations can also go through the Joint Committee on Agency Rule Review (JCARR) to address their concerns.

Vote on Dr. Bechtel's motion:

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

The motion carried.

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Compliance Committee Report

Dr. Schottenstein stated that there are no initial probationary appearances for the Compliance Committee this month. Therefore, Dr. Schottenstein asked the full Board to consider the reports of conferences.

Motion to approve the Compliance staff's Reports of Conferences for January 6 and 7, 2020:

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

The motion carried.

PROBATIONARY REQUESTS

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

- a) Julie M. Alderson, D.O.: Request for approval of Scott Yoho, D.O., to serve as the treating psychiatrist; and approval of Sarah K. Vorhis, LISW-S, LICDC-CS, to serve as the mental health provider.
- b) Martin P. Ambrose, M.D.: Request for release from the terms of the January 14, 2015 Step II Consent Agreement.
- c) Saul I. Blecher, M.D.: Request for reduction in appearances to annually; and discontinuance of the chart review requirement.
- d) Courtney D. Bonner, D.O.: Request for release from the terms of the November 5, 2014 Step II Consent Agreement.
- e) Larry L. Doss, M.D.: Request for release from the term of the January 9, 2019 Board Order.
- f) Anshuli Gupta, M.D.: Request to discontinue the chart review requirement.
- g) Kenneth Hanover, M.D.: Request for reduction in appearances to every six months; and reduction in recovery meeting attendance to two times per week with a minimum of ten per month.
- h) James C. Johnson, D.O.: Request for discontinuance the chart review requirement.
- i) James A. Marsh, Jr., D.O.: Request for discontinuance of the drug log requirement; and discontinuance of the chart review requirement.
- j) Stephen P. Meese, D.O.: Request for approval of the course *Maintaining Proper Boundaries*, offered by Vanderbilt University Medical Center, to fulfill the physician/patient boundary course requirement.
- k) Dennis A. Patel, M.D.: Request for release from the terms of the February 11, 2015 Step II Consent Agreement.

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- l) Luke Simmons, M.D.: Request for approval of Carol Chung, M.D. to complete the psychiatric return to work assessment.
- m) John M. Smilo, D.P.M.: Request for release from the terms of the February 14, 2018 Consent Agreement.
- n) Frank G. Stoddard, D.P.M.: Request for reduction in recovery meeting attendance to two meetings per week; and approval of Scott J. Giaimo, M.S., D.P.M., ABLES, to serve as the new monitoring physician.
- o) Bradley Joseph Vargo, D.O.: Request for release from the terms of the May 14, 2014 Board Order.

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

The motion carried.

ADJOURN

Motion to adjourn:

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

The motion carried.

The meeting adjourned at 12:41 pm.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on February 12, 2020, as approved on March 11, 2020.

State Medical Board of Ohio Meeting Minutes – February 12, 2020


Michael Schottenstein, M.D., President


Kim G. Rothermel, M.D., Secretary

(SEAL)





FINANCE COMMITTEE MEETING MINUTES
February 12, 2020 - Room 335

Members in attendance:

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

Staff in attendance:

Stephanie Loucka, Executive Director
Susan Loe, Director of Fiscal & Human
Resources
Tessie Pollock, Director of Communications
Kimberly Anderson, Chief Legal Council

Dr. Schottenstein called the meeting to order at 7:31 a.m.

MINUTES REVIEW

Dr. Saferin moved to approve the draft minutes of January 8, 2020. Mr. Gonidakis seconded the motion. All members voted aye. The motion carried.

FISCAL UPDATE

Dr. Schottenstein provided the following update: Looking at the fiscal update for December 2019, revenue was \$991,974. This was a renewal month for physicians and PAs, which helped the board approach a million-dollar mark. There is a 36 percent increase in revenue YTD compared to December 2017. That is still the aftermath of the implementation of the eLicense system. The board encouraged licensees to renew early in the months of May and June 2017, so the December 2017 numbers are artificially low. Beginning in 2020, these comparisons will start to become more accurate again. The board had a net fiscal revenue for December 2019 of \$129,387. There was a cash balance of \$4,689,764. The allied health groups all renewed at the end of January, estimated about \$1.2 million from that month. The respiratory therapists and dietitians will renew in June so those will both be big revenue months. Expenditures are up 3.9 percent for December 2019 as compared to one year ago, which is typical. The board is staring to see the effects of the additional expenses related to the sexual misconduct committee work. There has been a cushion because the board has spent substantially less than what was allocated but it is potentially depleting it and it may need to go to the controlling board to ask for an increase in the allotted spending for this purpose. It has not reached this point, and it may never occur but Dr. Schottenstein would like to be proactive. Currently, the board is still under-spending the allocation.

Dr. Schottenstein continued: Payroll spending is temporarily down but the board is filling vacancies. The board carried 10 or 11 vacancies for months but is now down to approximately five and three are in the process of being filled.

The board is halfway through the fiscal year. Except for the sexual misconduct matters, there's nothing else unusual in how revenue and expenditures are proceeding in this fiscal year. With regard to the sexual misconduct case review, the committee is being asked to approve the motion for an additional \$100,000 to get additional contractors to devote to this matter. The board would like the additional motion to be approved to have the flexibility in the hiring and paying of contractors needed. If approved, the committee would have approved \$300,000 authorized toward the sexual misconduct case review. Spending has also increased for legal fees, training, travel expenses for the training and office supplies related to the matter and a related audit of the Medical Board is pending as well. Dr. Schottenstein thought it may be productive to modify the monthly Fiscal summary report to include data specifically related to the sexual misconduct project. Potentially another category under expenditure and allotments to track the spending and amount of encumbered funds directly related to sexual misconduct spending. This will be available in March.

As of February 7, out of the \$150,000 encumbered toward the sexual misconduct case review, the board has been invoiced \$7,910. Nine of the 16 expert reviewers have not invoiced the board for any work. One reviewer has invoiced the board for \$5,235. The remaining reviewers have invoiced the board for less than \$1,000 each. Additional reviewers are being onboarded and the board is confident they will be able to give more time, but that has been a problem so far.

In the past month, the board received \$1,049 in collections, \$13,500 in CME fines, and another \$13,500 in disciplinary fine payments.

Mr. Gonidakis asked why the reviewers' invoices have such a discrepancy.

Dr. Schottenstein replied that each reviewer is paid the same rate. He suspects reviewers overestimated how much time they thought they would have available to review cases. It has been a rate-limiting step in the board's attempt to complete this project in a timely manner. Board staff is onboarding as many people as they can but is not receiving the desired time commitment. Reviewers are external which allows the board to be transparent but also makes the board dependent on the reviewers' time. One way to address the issue is to hire additional full-time employees to review cases. Right now, board staff is onboarding another 6 reviewers that are investigators and it appears they may be able to give more of their time. The board may shift some of what has been encumbered to them and may be let go of reviewers who are unable to give their time. If the problem persists, the board will have to take more action possibly going to the AG for additional reviewers or hiring employees.

Ms. Loucka added there are almost 20 reviewers right now, six added the day before. The board assigns three cases to begin with for quality assurance purposes. Once those three are completed, five more are assigned. The board presumed many of the reviewers would be retired, but many are working. Ms. Loucka shared she spoke with a previous colleague, an attorney with a similar background and experience from DAS. There may be a possibility have him assist. Another option in this project is to sign a memorandum of understanding with other agencies. She also pointed out that it is taking longer to review the cases than originally expected, on average 5 hours per licensee.

Dr. Schottenstein stated the board will probably not keep the June 30 deadline but will not make a new deadline until there is a better sense of the time commitment needed.

Dr. Saferin asked about the quality assurance process.

Ms. Loucka explained the process: The reviewer is assigned three cases, and each is tested for quality assurance. In the first case, board staff almost always provide feedback. In the second case, there should be improvement. By the third case, the reviewer should be completing quality reviews. Board staff has set a limit so that a reviewer cannot submit more than five cases that do not meet the standard.

COMMUNICATIONS UPDATE

Ms. Pollock informed the committee the communications team finished the winter issue of the magazine and copies should be available soon. The link to the online version is available now.

Sexual boundaries videos were developed in 2019. They have been completed and posted to the board's public YouTube channel. One of the other members of FSMB requested resources from the board on this topic.

The duty to report campaign will be discussed in the sexual misconduct committee.

The board has been asked to participate in the FSMB AIM poster hall. Current ideas include managing sexual misconduct cases and initiatives of RecoveryOhio. Ohio has a unique approach in involving board and agencies that can be helpful to share with other states.

The CTR search from non-licensees continues to be one of the most popular pages on the website. People are looking for renewal information as well.

During the last board meeting, the board pointed out that FSMB had a version of consumer FAQs and suggested the Medical Board adopt a version applicable to Ohio. The communications team developed a version. Ms. Pollock asked for feedback from the committee.

Dr. Schottenstein asked if the board will need a motion to adopt the FAQs.

Ms. Loucka confirmed since it is informational, it would not need a motion.

NEW BUSINESS

1. Prosecutor Review of Closed Sexual Misconduct Cases

At previous meetings the Committee and full board approved \$200,000 funding for contracting with former prosecutor or other law enforcement agents to review closed sexual misconduct cases. To date the Board has contracted with 19 reviewers, with a maximum cost of \$10,000 each. In order to continue to conduct a timely review of these cases, additional resources will be necessary. Staff has identified additional contractors who are able to perform this work and would like approval to contract with up to ten additional individuals beyond what has previously been approved.

Ms. Loe stated the motion Dr. Schottenstein read was not the most current version and should not specify contracting 10 additional reviewers.

Dr. Schottenstein revised the motion.

Mr. Gonidakis asked if the request would have to go before the controlling board.

Ms. Loucka replied the request would have to go the controlling board if the board needed more than \$50,000 per individual reviewer and/or if the board exceeded its own appropriation of funds.

Dr. Edgin moved to approve an additional \$100,000 in funding for contracting with additional prosecutor or other law enforcement agents to review closed sexual misconduct cases. If approved, this matter will go to the full board for consideration and approval. Dr. Saferin seconded the motion. All in favor, the motion carried.

This matter will go to the full board for consideration and approval.

2. Clear Basic Training for newer Investigators

As part of its overall training curriculum for new investigators management has identified the Council on Licensure, Enforcement, and Regulation (CLEAR) Basic Investigator training as appropriate for newly hired investigators. The Medical Board holds a membership to this organization, which provides a discounted rate on this training. This training is offered periodically in different locations throughout the country, and the plan is to send investigators in small groups when training is offered in or near Ohio. Staff asks for approval to send six recently hired investigators to this three-day training in Raleigh, North Carolina, on March 17-19, 2020. The six investigators will be in teams of two driving state-issued vehicles from various areas of Ohio. Estimated costs include Registration: \$2,300; 4 nights lodging: \$3,240; Meal per diem \$1,680, plus the cost of fuel (approx. \$300).

Dr. Edgin moved to approve out-of-state travel costs and registration fees for sending six newly hired investigators to CLEAR Basic Investigator training in Raleigh, North Carolina on March 17-19, 2020. Dr. Saferin seconded the motion. All in favor, the motion carried.

This matter will go to the full board for consideration and approval.

3. Performance Audit

In response to one of the Straus Working Group recommendations, the Medical Board sought proposals for an independent performance audit of its handling of complaints. The Board received three proposals, and the proposal chosen as the most comprehensive was from the Federation of State Medical Boards (FSMB). The review and assessment will be conducted by legal and medical professionals with experience in medical regulation, at a cost of \$32,590.

Mr. Gonidakis stated over the last several years, the board was conservative with its spending, but he felt recently it has increased. He referred to the poor financial position the board has experienced in the past and asked if the spending is being monitored.

Dr. Schottenstein shared others are concerned as well, but the expenses cannot be avoided. He believes the financial conservatism of the past will be beneficial to the board at this time and the cash balance is purposed for these kinds of expenses. He also stated this unique situation does not mean the board should become lax with its general spending.

Dr. Saferin moved to approve \$32,590 to enter into a contract with the FSMB for the purpose of conducting a performance audit of the Board's processes regard to its handling of complaints. Dr. Edgin seconded the motion. All in favor, the motion carried.

This matter will go to the full board for consideration and approval.

4. FSMB Annual Meeting

The Federation of State Medical Boards' (FSMB) annual meeting will be held April 30 to May 2, in San Diego, California. Mr. Giacalone, Dr. Schottenstein and Ms. Loucka are scholarship recipients to this event, and the majority of their travel costs will be covered by FSMB. Staff is seeking approval for travel expenses in accordance with state travel policy for Dr. Egin and Kimberly Anderson to attend the annual meeting.

Dr. Saferin moved to approve travel expenses and conference registration fees of \$495 per person in accordance with state travel policy for Dr. Edgin and Ms. Anderson to attend the 2020 annual meeting of the FSMB in San Diego, California, and to approve any expenses not covered by FSMB scholarships for Dr. Schottenstein, Mr. Giacalone and Ms. Loucka. The attendance at the conference is in connection with their duties, and is related to their position, as board members or employees of the State Medical Board of Ohio. Mr. Gonidakis seconded the motion. Dr. Saferin, Mr. Gonidakis and Dr. Edgin voted aye for Dr. Schottenstein's travel; Dr. Schottenstein abstained. Dr. Saferin, Mr. Gonidakis and Dr. Schottenstein voted aye for Dr. Edgin's travel; Dr. Edgin abstained.

This matter will go to the full board for consideration and approval.

5. Administrators in Medicine Annual Meeting

The Administrators in Medicine (AIM) annual meeting will be held April 29, 2020, in San Diego, California, just prior to the FSMB annual meeting. Ms. Loucka requests approval to attend that meeting, which will require her to travel to San Diego an additional day early that will not be covered by the FSMB scholarship.

Dr. Edgin moved to approve additional travel costs for lodging and per diem expenses for Ms. Loucka to attend the Administrator in Medicine annual meeting in San Diego, California. Her attendance at the

meeting is in connection with her duties, and is related to her position, as Executive Director of the State Medical Board of Ohio. Dr. Saferin seconded. All in favor, the motion carried.

This matter will go to the full board for consideration and approval.

ADJOURN

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

The meeting adjourned at 7:53 a.m.

Michael Schottenstein, M.D.
Chair

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SEXUAL MISCONDUCT COMMITTEE MEETING
February 12, 2020 - Room 336

<p>Committee Members Present: Michael Schottenstein, MD, Chair Robert P. Giacalone, JD Betty Montgomery, JD Michael L. Gonidakis, JD</p> <p>Other Board Members Present: Kim Rothermel, MD Richard Edgin, MD Bruce Saferin, DPM Jonathan Feibel, MD Mark Bechtel, MD</p>	<p>Staff Present: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Stuart Nealis, Project Manager Tessie Pollock, Chief Communications Officer Alexandra Murray, Standards Review Nate Smith, Senior Legal and Policy Counsel Jill Reardon, Deputy Director of Strategic Services</p>
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Dr. Schottenstein called the meeting to order at 8:01 a.m.

MINUTES REVIEW

Mr. Giacalone moved to approve the minutes from the January 8, 2020 meeting. Mr. Gonidakis seconded the motion.

WORKING GROUP RECOMMENDATIONS PROGRESS REPORT

Working Group Meeting

Ms. Loucka shared the Medical Board was asked to attend the Governor's Working Group meeting the previous month with the other health care boards. Although the focus of the Working Group has been on the Medical Board, the other boards were asked to provide information on their own processes. Most of the meeting was spent going through the responses and identifying differences and similarities between the boards and the opportunities for consistency. Throughout the report, the Working Group wanted to hear from the Medical Board. During the meeting, the group also talked in depth about the duty to report. A few of Dr. Strauss' victims attended. Medical Board staff gave an update and identified areas of continued growth. Ms. Loucka believes the working group was pleased with the Medical Board's progress.

Mr. Gonidakis asked who attended on behalf of the board.

Ms. Loucka replied herself and Ms. Pollock attended.

Dr. Schottenstein stated there is another Working Group meeting in April that he thinks board members will attend.

Ms. Loucka shared approximately 13 or 14 Executive Directors attended.

Duty to Report Communications Plan

Ms. Pollock stated a large part of the Working Group meeting was duty to report and educating all licensees on the requirement to inform the Medical Board of regulatory violations.

Ms. Pollock referred the committee to the packet.

Key messages

- Making sure the Medical Board is aware of violations
- Confidential hotline – confidential complaints are not new to the process but per the recommendation of the Working Group, the board created one more channel to share information
- Online complaint submission – which can be anonymous but do not need to be since the process is confidential. If the board has contact information, it can improve the investigation process.

Key Audiences

- Physicians, other licensees and medical students

Because of the conversation at the Working Group, Ms. Pollock wanted to make sure that the created tool kit can be utilized by other boards. For example, videos and handouts can have tailored content added.

Tactics

Videos: A long video and a short shareable video. Board staff has already started to include PowerPoint slides in every presentation that is given, regardless of the topic.

There will be full presentations to cover duty to report. There are discussions about taking those presentations to hospitals and health care systems.

Board staff will make posters displaying the Medical Board's requirements that can be distributed.

The packet includes a proposed timeline. Board staff have begun creating slides and drafting a script. Board staff will work with the Ohio Department of Public Safety to produce the video because they have a studio and full-time staff dedicated to video production. It will help with cost savings and be accessible to other boards that want to customize the video. At the end of the communication plan is the audience and the channels to reach them.

Ms. Montgomery shared there are duty to report mandates for child abuse, sexual abuse, elder abuse and domestic violence among others and questioned why the board is only using one code section.

Ms. Pollock replied board staff have identified all the duty to report statutory requirements to include all the information in the duty to report video.

Ms. Montgomery emphasized the board should make sure that mandatory reporters are educated beyond just one duty to report requirement. She asked if there was any way to include in the verbiage that duty to report is personal as a license holder and not organizational.

Dr. Saferin asked if asked the required video will be an hour.

Ms. Pollock responded as the video is put together, she will evaluate the length. CMEs are usually in one-hour increments but there are half credits for half an hour. She assured him that the video will include pertinent information and will not be stretched beyond the time that it should be. As part of the Working Group's recommendation, the board will have the Working Group review the video.

Ms. Montgomery asked about page 14 and what vendor-hosted meant.

Ms. Loucka explained and provided an example – it was in referral to retreats and training. Ms. Montgomery asked about the phrase *acts constituting* and suggested adding more specificity.

Dr. Feibel recommended focusing training on medical students for duty to report education. He asked if the board has talked to Ohio medical schools about giving an hour presentation.

Ms. Pollock shared about the Partners in Professionalism program, which started with OU. The communications team is taking on the task of connecting with all the medical schools. There has been a less aggressive timeline because it is challenging to adjust curriculum, but the team will be pushing now.

Dr. Feibel stated the next step would be presenting information to the training programs.

Dr. Schottenstein stated its important to speak to medical students because it's good to form a healthy culture, which he thinks starts young.

Mr. Gonidakis asked if the board has a dedicated budget to market the duty to report communications plan. The board has a captive audience with medical students but not with the rest of the licensees.

Dr. Schottenstein shared one of the goals is to enforce the duty to report education through the 5-minute video and 1-hour mandated CME. Ultimately that's how the message gets through as well as being available for association meetings and presentations to disseminate the information. He noted he did not think there was a designated budget for this outreach but that the board should be in a good position to get the message out.

Ms. Pollock stated fine money is used for outreach and education. She will bring any requests to the finance committee if needed but she believes it will stay within the monetary limits.

Dr. Bechtel commented that medical students are not licensed and don't have obligation to the board. He pointed out that Dr. Strauss was a professor and worked with medical students. He opined that medical students may feel uncomfortable reporting a professor or someone they are working with because of the ramifications. He stated it's important when working with training programs and academic institutions because there's a comfort for trainees being able to ask their medical school or Medical Board how to handle a difficult situation. He doesn't want residents to feel intimidated.

Training Plan for SMBO Staff

Ms. Loucka stated in the last meeting, the committee discussed trainings that have already been accomplished that were requested by the Working Group or that the board identified as takeaways from the Working Group. However, the board does not have an ongoing strategic training plan for all staff members. Starting July 1, the board will implement an ongoing strategic training plan for all employees. This will include the yearly ethics training and the current required state training. It will also include training needs for how to be an investigator or enforcement attorney for onboarding consistency (what do you need to do, what do you need to be mentored on, etc.). Ms. Loucka shared the board has heard significant feedback from employees wanting this kind of training information as a result of the Working Group. Similar to a board retreat, the board will have a state park day retreat with enforcement attorneys and investigators. The current group has gotten a lot of training because of the Working Group. As the board onboards new employees, it needs to make sure they stay relevant with all of the

topics that are talked about now (victim advocacy, how to interview a victim of sexual trauma, best investigative techniques, enforcement techniques, working with the AG's office). The retreat will build in those topics and others such as prescribing and will bring in relevant speakers. The board asked for feedback. Ms. Loucka shared that investigators are the front line of the board. For instance, they may have to interview an impaired licensee and if impaired, the licensee may need to be de-escalated. The board needs to provide investigators and enforcement attorneys with basic skills to complete those types of tasks. Some of the training will be technical and some will be Salesforce training or organizational.

Law Enforcement Notification Protocol

Ms. Loucka stated this is draft three of the internal draft. Ms. Loucka worked with the investigators, enforcement attorneys and leadership team to develop a law enforcement notification protocol. There was a lot of discussion and together the group learned how to resolve conflict and work together. Ms. Loucka opined this work product was a great first step in addressing the Working Group's observation of cultural issues with internal staff.

The protocol outlines that law enforcement will be notified when there is a crime. Investigators and enforcement attorneys may consult with law enforcement using discretion, if it's helpful to law enforcement or the investigation. They can also provide information to law enforcement.

As part of the sexual misconduct protocol review, a decision to not notify law enforcement will be recorded in the case files. That information will then go to the committee for review which will provide feedback or make a notification.

Ms. Montgomery provided an example scenario. She asked how the investigators/enforcement attorneys are being trained to recognize when disciplinary issues are criminal acts and should be reported. She also asked if the board would create a form to make a formal report.

Dr. Schottenstein added along the thought process, on a computer, there could be dropdown categories where the reporter can elaborate.

Dr. Feibel suggested having a protocol for egregious cases to issue a summary suspension quickly. He expressed concern that the board may defer to law enforcement too greatly in these situations and it has a responsibility to protect the public.

Ms. Montgomery complimented the Complaint, Investigation, Enforcement and Disciplinary Process flow chart. She asked what happens when an issue arises that is not within the board's jurisdiction.

Ms. Pollock responded there are protocols built into the process in Salesforce to address that situation.

Mr. Nealis stated right now, it is coded as a referral.

Ms. Montgomery suggested clarifying the step regarding a complaint not within the board's jurisdiction and adding settlement agreement to the consent agreement box.

Mr. Giacalone agreed with Dr. Feibel's point and re-emphasized it.

Ms. Loucka shared that the board had a productive meeting with the Ohio Police Chief's Association and has been invited to return. She expressed the more relationships can be developed, the quicker the board can take action against licensees in those situations.

Mr. Giacalone stated he was particularly referring to federal agencies.

External Audit Update

Ms. Loucka shared the board was asked to do an audit of internal process in the handling of sexual misconduct. The board initially discussed FSMB performing the audit with an understanding it could be completed as a membership service. Since there was a discovered cost, the board put out a request for bids and solicited three bids: CLEAR, AIM and FSMB. The FSMB proposal was the most specific and targeted to the board's request. They also provided a team with the requisite experience to best respond to the board's needs. The other two proposals did not appear to have clear total costs.

Dr. Schottenstein stated the board is hoping to get started right away and potentially have results by the April meeting. The board will implement the FSMB recommendations and then the Office of Budget Management will review. Dr. Schottenstein, Ms. Montgomery and Ms. Loucka will meet with OBM in June.

Historical Case Review

Dr. Schottenstein stated during Governor DeWine's press conference on August 30, 2019, he asked for the Medical Board to review 25 years of sexual misconduct cases that were closed without action. Although the initial thought was to go back 40 years, the board has decided to prioritize the last 25 years which addresses doctors who are still actively practicing. In that 25 years, there are almost 1,200, cases some of which have multiple complaints, totaling nearly 2,000 complaints to re-examine. Data shows an average of 5 to 8 hours of review time per case, though sometimes a lot more. The reviews are complex, and board will likely not make the June deadline. Dr. Schottenstein stated he is not inclined to set another deadline until there is more information of how long the cases are taking to review and how many hours the reviewers can give. The board hired outside reviewers and is working to continue hiring. As of today, the board authorized \$300,000 for this task. The Governor's Working Group charged the board with 181 tasks and subtasks. The board is either on time or ahead of schedule for 180 of the 181 tasks. Over half of the recommendations have been completed and will likely be 80-90% completed by July 1; the case review is the one task that is behind. The board has never taken on a task of this nature before, but it will accomplish it and do it correctly.

Dr. Feibel stated the emphasis to the public should be that the delay is not because the Medical Board is failing, but because it is doing the review the right way.

Dr. Schottenstein responded the limitation in the process has been getting the reviewer hours. The board has diligently vetted and hired reviewers, and the reviewers have agreed to do the work, but the amount of work they complete is up to their discretion and it has not been significant lately. The board recently onboarded six additional reviewers who are former investigators and is optimistic more time can be given to their reviews. If the issue continues, the board will take more action by going to the AG, creating a memorandum of understanding with other agency personnel or increasing full time employee staff.

Ms. Loucka stated when the initial timeline was given, the board did not know the scope and complexity of the process. Reviewers are going through a lot of materials: depositions, medical charts, police reports, etc. It is taking a long time to identify the three areas at issue.

- 1) Was the investigation done well?
- 2) Are there duties to report that were missed?
- 3) Was a law enforcement notification made?

Then the reviewers are asked to memo that information. All the reviews are done through Salesforce in a template. Board staff reviews the first three reviews completed by a reviewer for quality assurance.

Dr. Rothermel asked if the reviewers should be able to guarantee a minimum amount of time they can give to review.

Ms. Loucka replied the board staff have learned since the first round of reviewers what not to do and what type of profile they should be looking for in a reviewer. Board staff is now daily checking to see who has logged into the system. One reviewer was let go because they were not responding to emails. Board staff has also learned to onboard as a group. The prioritization of the cases are active licensees with the most complaints. Some of the files in the beginning are the most complex. Reviewers who have completed a greater number of reviews are often able to move faster.

Mr. Gonidakis asked if board staff can provide members of the sexual misconduct committee and/or the full board a summary of significant updates as they occur.

Ms. Loucka shared she has a scheduled call with Dr. Schottenstein and Dr. Edgin every Friday at 12 p.m. that always begins with sexual misconduct. She invited the committee members to attend.

Dr. Schottenstein reminded the committee that they had to be careful not to have more than five board members on the phone.

Ms. Pollock recommended reporting the information out instead.

Dr. Bechtel asked about the role of the victim advocate in the investigative process.

Ms. Loucka replied in the daily workflow, the victim advocate is a part of the investigators/enforcement attorneys' work. The board is using three at this time: two are contracted, one is an employee. The board is piloting victim advocates to see which option is more effective. The investigators and enforcement attorneys are assigned as teams to a specific victim advocate. When an investigator is working with a victim and there is sexual impropriety (whether or not criminal) a victim advocate is offered, and the victim decides if they'd like to have them involved. Frequently if it becomes criminal, the victim advocate will transition the victim to the criminal victim advocate. It also comes up when closing sexual misconduct cases or in rounds. The investigators were very welcoming of the victim advocates.

ADJOURN

Ms. Montgomery moved to adjourn. Mr. Giacalone seconded the motion. All in favor, the motion carried.

The meeting adjourned at 8:53 a.m.

Michael Schottenstein, MD
Chair