



**State Medical Board of Ohio Meeting Minutes
March 11, 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.; Robert Giacalone, R.Ph., J.D.; Mark A. Bechtel, M.D.; Sherry Johnson, D.O.; Harish Kakarala, M.D.; and Jonathan Feibel, M.D.

MINUTES REVIEW

Motion to approve the minutes of the February 12, 2020 Board meeting, as drafted:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
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: Ajay P. Anvekar, M.D.; Tim R. Valko, M.D.; and Peter Zavell, M.D. A roll call was taken:

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

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

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
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. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	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. Valko. The matter involving Dr. Anvekar 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.

Ajay P. Anvekar, M.D.

Dr. Schottenstein directed the Board’s attention to the matter of Ajay P. Anvekar, M.D. Objections were filed and previously distributed to Board members. Mr. Porter was the Hearing Examiner.

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

Motion	Dr. Edgin
2 nd	Dr. Johnson

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

Dr. Schottenstein agreed with the Proposed Order to grant Dr. Anvekar's license. Dr. Schottenstein noted that the Board has obtained new information that had not been available when the Board first denied Dr. Anvekar's application. Dr. Schottenstein observed that Dr. Anvekar's level of training appears to be equivalent to and even exceed the 24-month requirement for graduate medical education through the second-year level.

Vote on Dr. Edgin's motion to approve:

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

The motion carried.

Tim R. Valko, M.D

Dr. Schottenstein directed the Board's attention to the matter of Tim R. Valko, M.D. No objections have been filed. Mr. Porter was the Hearing Examiner.

Dr. Schottenstein stated that Dr. Valko's counsels, Mr. Zinsmaster and Ms. Dorn, have submitted an affidavit requesting the submission of newly-discovered evidence. A copy of the motion was previously distributed to Board members.

Motion to grant the motion for submission of newly-discovered evidence:

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

The motion carried.

The newly-discovered evidence, consisting of Dr. Valko's certificate of attendance for the course *Intensive Course in Controlled Substance Prescribing* at Case Western Reserve University and a Medical Education Evaluation form completed by Dr. Valko evaluating the course, were provided to Board members for their review.

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

Motion	Dr. Johnson
2 nd	Dr. Kakarala

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

Dr. Schottenstein stated that the Food and Drug Administration (FDA) approves medication, but it does not regulate the practice of medicine. State medical boards regulate the practice of medicine, and in that respect it is ultimately the Board's judgment whether off-label prescribing is below the minimal standards of care. Dr. Schottenstein opined, with regret, that Dr. Valko's prescribing was grossly negligent and fell below the minimal standards of care. Dr. Schottenstein stated that it is not persuasive to equate this level of prescribing with the off-label prescribing that is very common in the medical field.

Dr. Schottenstein continued that a physician has a duty to care for his patients, and he opined that Dr. Valko violated that duty by deviating so substantially from the standard of practice in a way that cannot be explained away by describing his prescribing as "off-label." Dr. Schottenstein commented that by the defense counsel's definition, every case in which a physician practices below minimal standards could be conceptualized as off-label, and every such case could also be explained as individualizing the treatment as Dr. Valko testified. Dr. Schottenstein noted the defense argument that ten different psychiatrists may look at a patient and develop ten different approaches to treat that patient; however, what is left out of that remark is that all ten of those approaches, even if they are different from one another, should exercise caution and prudence and be consistent with what most practicing psychiatrists would consider reasonable. Dr. Schottenstein opined that the average, reasonable psychiatrist would react to this amount of prescribing with incredulity and a feeling of fear for the welfare of the patients.

Dr. Schottenstein noted that Dr. Valko justified his prescribing, in part, by saying that his patients are complex. However, Dr. Schottenstein stated that the complexity of the patients' presentation would never justify this kind of prescribing. Dr. Schottenstein stated that he has been practicing child psychiatry for over 20 years, just as the State's expert Drew H. Barzman, M.D., has, and he has never seen anything like the prescribing in this case. Not only were these very high doses, but frequently the medications were started at a very high level and then may be doubled or tripled, or stopped abruptly without any gradual taper. Dr. Schottenstein saw this pattern not only with stimulants, but also anti-psychotics, anti-depressants, and alpha-agonists. In many cases, Dr. Valko did not seem inclined to try small dose increases first to see if they would be effective.

Dr. Schottenstein stated that he looked through the articles that Dr. Valko referenced to bolster his claim that his prescribing was legitimate, including the article from the Southern Medical Journal reference in the defense counsel's closing argument. Dr. Schottenstein opined that it would be very challenging to find a psychiatrist who would look at those articles and feel that they sufficed as justification for Dr. Valko's prescribed dosages or the aggressiveness of dose changes. Dr. Schottenstein opined that the articles provided by Dr. Valko in no way justified this level of prescribing, nor is there substantial peer review to justify it.

Dr. Schottenstein stated that patients can develop serious reactions to stimulant medications, including dependency, psychosis, mania, and aggression. In patients prone to cardiovascular issues, one may see hypertension, myocardial infarction, stroke, and arrhythmia, and those adverse reactions may be dose-related. Dr. Schottenstein also pointed out substantial concerns about Dr. Valko's prescribing of non-stimulants. Dr. Schottenstein stated that one does not, as Dr. Valko did, increase Clonidine from 0.2 mg per day to 0.8 mg per day, which is twice the FDA recommended maximum dose, all at once. Dr. Schottenstein also stated that one does not, as Dr. Valko did, put a patient on 13 mg per kg per day of Wellbutrin when the recommended maximum dose is 6 mg per kg per day. Dr. Valko also prescribed a patient 1200 mg per day of Clozapine when the recommended maximum dose is 900 mg per day. Dr. Schottenstein noted that another psychiatrist had previously come before the Board whose arguably aggressive prescribing of Clozapine led to the death of a patient; that physician also justified his prescribing by pointing to the complexity of the patient.

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Dr. Schottenstein stated that Dr. Valko's manner of practice is heedless of the risks of these medications. Dr. Schottenstein opined that instead of portraying a picture of being appropriately aggressive with a complex patient, this prescribing paints a picture of someone who is flailing and does not know what he is doing. Dr. Schottenstein noted Dr. Valko's testimony that he does not pay attention to the body weight of his patients, but just pushes the dosage as long as there is no obvious adverse event. Dr. Schottenstein stated that the whole point is to avoid the adverse event in the first place by being mindful of things like age and weight when prescribing.

Dr. Schottenstein commented that in his testimony, Dr. Valko did not appear to appreciate the fact that stimulant medications are Schedule II drugs, meaning they have a high potential for abuse which could lead to psychological or physical dependence. There are severe restrictions on the ways in which these drugs can be used because they have the highest potential for abuse among drugs allowed for medical use, in the same category as opioids. Dr. Schottenstein stated that there is risk of abuse, dependency, diversion, and societal harm with Dr. Valko's manner of prescribing. Dr. Schottenstein opined that it is not reasonable to justify this level of prescribing based on a few cherry-picked articles that basically consist of non-blinded case reports with low sample sizes, especially with drugs that are this potentially dangerous to individual patients as well as to society at large. Dr. Schottenstein stated that when prescribing these medications, one should proceed in a way that reflects the consensus of the practitioners in the field.

Given the fact that stimulants are drugs of abuse, Dr. Schottenstein wondered if Dr. Valko was not mindful of the possibility of stimulant intoxication and dependency. Dr. Schottenstein further wondered, when Dr. Valko prescribes a stimulant dose that is ten times higher than the FDA recommended maximum, if he contemplates the possibility that the patient will become intoxicated from the stimulant and that regular stimulant intoxication can provoke severe behavioral reactions such as anxiety, agitation, psychosis, and increased psychomotor activity, which have all been seen in Dr. Valko's patients. Dr. Schottenstein questioned what the difference would be between the doses prescribed by Dr. Valko and the dose one would take if one was inclined to abuse these medications. Dr. Schottenstein stated that the doses prescribed by Dr. Valko look like dosages of abuse, the kind of doses one would take in order to get high, and these doses are being prescribed to children.

Regarding Dr. Valko's explanation that his patients are complex, Dr. Schottenstein stated that, if anything, a physician should proceed even more cautiously when a patient is complex because there is arguably a great risk of adverse reactions. Dr. Schottenstein commented that by Dr. Valko's logic, there is no such thing as a minimal standard of care in a complex patient and that the complexity itself justifies a medication regimen that is so excessive that it is experimental and unstudied. Dr. Schottenstein stated that the complexity of the patient is not justification to violate the standard of care, and that standard was violated repeatedly in this case.

Dr. Schottenstein noted that Patient 10 was admitted to a psychiatric hospital and one of his admitting diagnoses was medication-induced psychosis. Dr. Schottenstein stated that the term "medication-induced" refers to the high dose of stimulants that Dr. Valko prescribed to Patient 10. The admitting physician's notes stated the following:

I believe that agitation has been made worse by the unusual level of medications that have been prescribed from Dr. Valko's office.

Dr. Schottenstein also quoted from later in the note:

We'll reduce the dose of Vyvanse to more reasonable levels and will reduce some of the other medications. It is possible in the end that the patient may not have medication-responsive symptoms and that he may need more behavioral therapy.

Dr. Schottenstein observed that this subsequent psychiatrist is approaching Patient 10 in a spirit of humility and he understands that medication management may be inadequate to fully address Patient 10's symptoms.

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Dr. Schottenstein further observed that the subsequent psychiatrist is not contemplating medication dosing that is orders of magnitude higher than the recommended dose range.

Dr. Schottenstein had noticed the pattern in many of these patients in which the prescribing of high dosages of stimulants would precede a subsequent need for anti-psychotic or anti-depressant medication to control agitation or anxiety. Dr. Barzman had also recognized this pattern and expressed at times his concern that stimulants could be provoking aggression, anxiety, obsessive-compulsive features, and behavior disturbance, and that Dr. Valko should have considered lowering the dosage of stimulants. While one could argue that these patients were prone to those symptoms to begin with, Dr. Schottenstein stated that the pattern was such that several patients were medicated with these substantial doses of stimulants before requiring medication for agitation or anxiety, and then received additional diagnoses to justify those additional medications after the fact.

Dr. Schottenstein stated that he does not have the sense that Dr. Valko entertains evidence that is contrary to his belief that hyperaggressive doses and dose changes of medications are legitimate interventions in challenging patients. When a patient has a bad reaction to high dosages or abrupt dose changes, Dr. Valko explains it away with another diagnosis and another medication. Dr. Schottenstein noted that Dr. Valko testified that he had not been inclined to get his own expert for his hearing because he felt he could answer the questions himself; Dr. Schottenstein opined that Dr. Valko would have been hard-pressed to find an expert who would have felt this kind of prescribing was justified.

Dr. Schottenstein quoted from Patient 11's medical record:

Mother called stating pharmacy refused to fill the rest of [Patient 11's] scripts and that they felt the amount Dr. Valko was giving him was lethal.

Dr. Schottenstein commented that if he ever received a call like that, it would scare him and he would call the pharmacist to learn what had so concerned the pharmacist, and he would then rethink his prescribing. However, Dr. Valko just told the patient to fill the prescription at another pharmacy; Dr. Valko also added that that happens about once a year, a statement that Dr. Schottenstein could not quite believe. Dr. Schottenstein then quoted from the initial psychiatric assessment from Patient 11's subsequent child psychiatrist:

The patient's mother says that her pharmacist actually refused to fill these prescriptions because it seemed to be in unusually high dosages. ... The patient's pharmacist as well as the patient's mother's psychiatrist told her to come to our clinic because of the fact that the patient was being over-medicated by Dr. Valko. ... The patient's mother says that each time she went for a visit, the patient would come back with another additional medication, and it came to the point where the patient was on six medications.

Dr. Schottenstein commented that Patient 11 was a seven-year-old child and had been treated over the preceding four years by Dr. Valko. The subsequent outpatient psychiatrist's plan referred to the fact that Patient 11 presented on "multiple psychotropic medications at unusually high dosages." The outpatient psychiatrist had to explain to Patient 11's mother that Patient 11 had likely experienced an irreversible event with regard to what he thought was likely Tardive dyskinesia "as a result of unusually high dosages and excessive dosage of anti-psychotic medications at a young age." The outpatient psychiatrist's note continued:

The patient's mother was urged to contact authorities and file complaints with requisite board members, and most likely I will have to make a report to the State Medical Board of Ohio because of significant malpractice and making significant departure from usual and customary medical services as they are delivered to a four-year-old.

Dr. Schottenstein opined that this outpatient psychiatrist seeing Dr. Valko's patient was more than just concerned, he was appalled at the nature of the care provided to this child by Dr. Valko. The outpatient psychiatrist did not entertain the possibility that the complexity of the patient's presentation justified the kind of

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treatment he received from Dr. Valko, he did not excuse that treatment by conceptualizing it as off-label, and he did not think back to reputable journal articles that would legitimize the treatment because there are no such articles.

Dr. Schottenstein continued that the notes on Patient 11 show that a pharmacist, Patient 11's mother's psychiatrist, Patient 11's primary care physician, and Patient 11's subsequent outpatient child psychiatrist all expressed significant concern about this level of medication dosing.

Dr. Schottenstein stated that there was no acknowledgement in Dr. Valko's testimony that his level of prescribing had been concerning. Rather, it was the opposite, because despite the fact that multiple patients experienced what appears to be obvious adverse effects from Dr. Valko's medical management and his medical practice is so obviously below the minimal standards of care, Dr. Valko and his defense counsel made the case that everything has been appropriate and that the Board should take no further action. Dr. Schottenstein asked where was Dr. Valko's insight, his humility, his self-reflection, and his ability to acknowledge that he may have been wrong.

Dr. Schottenstein quoted from the defense counsel's closing argument:

Although the dosages of some of the medications were above FDA guidelines, Dr. Barzman testified that the medications were effective for the patients and there were no adverse effects.

Dr. Schottenstein stated respectfully that that is not what Dr. Barzman said. The defense counsel went on to say the following:

Additionally, the reliable literature indicates that Dr. Valko's prescribing was appropriate.

Dr. Schottenstein stated respectfully that that is just not true.

Despite statements about the complexity of the patients, references to off-label prescribing, and journal articles, Dr. Schottenstein stated that this kind of prescribing is just not okay. Dr. Schottenstein characterized Dr. Valko's prescribing as negligent and stated that Dr. Valko hurt his patients. Further, Dr. Schottenstein considered Dr. Valko's failure to take responsibility for his prescribing to be an aggravating factor in this case and made him doubt Dr. Valko's ability to be remediated.

Dr. Schottenstein suggested amending Finding of Fact 1(l) regarding Patient 15. The Hearing Examiner found that Dr. Valko had appropriately used BuSpar when he added it to a lower dose of Prozac to prevent possible serotonin syndrome. Specifically, Patient 15 had been on 80 mg per day of Prozac, and the dose was reduced to 40 mg per day with the addition of BuSpar 10 mg twice per day. Dr. Schottenstein stated that these changes were fine, but it arguably would not reduce the risk of serotonin syndrome because BuSpar is a serotonergic drug. Dr. Schottenstein suspected that this had little to no effect on the risk of serotonin syndrome. Dr. Schottenstein felt that this Finding of Fact should be amended to reflect this and that Conclusion of Law be amended to include Finding of Fact 1(l)(ii) as a violation.

Dr. Schottenstein also suggested amending Finding of Fact 2(i)(ii) regarding Patient 9. The Hearing Examiner found that the stimulant prescribing in this case was appropriate because GeneSight testing showed that Patient 9 was a rapid metabolizer. Dr. Schottenstein stated that Patient 9 was put on a dose that is ten times the maximum recommended dose for his age and was far beyond the dose increase that one would contemplate to compensate for a rapid metabolism. Dr. Schottenstein stated that being a rapid metabolizer in no way justifies such a large dose of stimulant medication, and he therefore found this prescribing to be inappropriate. Dr. Schottenstein suggested amending this Finding of Fact accordingly.

Dr. Schottenstein was respectful of the Hearing Examiner's Proposed Order, but he felt it did not go far enough. Dr. Schottenstein asked the Board to consider amending the Proposed Order to permanently revoke Dr. Valko's license. Mr. Giacalone agreed.

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Motion to amend the Findings of Fact and Conclusions of Law as discussed by Dr. Schottenstein, and to amend the Proposed Order to permanent revocation of Dr. Valko’s medical license while keeping the Proposed Order’s fine of \$2,500:

Motion	Mr. Giacalone
2 nd	Dr. Kakarala

Mr. Giacalone stated that as a pharmacist and as someone who understands the FDA’s approval process regarding safety and effectiveness, he found the doses of medication in this case to be eye-popping, especially in children. Mr. Giacalone also did not understand why the process of titration appeared to be non-existent as medications were changed in what appeared to be a helter-skelter fashion. Mr. Giacalone stated that although the changes in medication were well-intentioned given that the patients’ psychiatric conditions were extremely complex, he could not follow Dr. Valko’s logic in the doses prescribed or the changes in medication without even providing some transition point to see if the changes made were effective or not. Mr. Giacalone stated that Dr. Valko tried to get results, which is something to be applauded, but Mr. Giacalone stated that he was not sure that the changes that Dr. Valko made were in the best interest of the patients. Dr. Schottenstein agreed, stating that this case is not only about high doses and that Dr. Valko’s prescribing seemed haphazard and desultory.

Dr. Feibel stated that he was also most concerned about Dr. Valko’s lack of willingness to accept responsibility. Because of this, Dr. Feibel was inclined to support the amendment to permanently revoke Dr. Valko’s license.

Vote on Mr. Giacalone’s motion to amend:

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

The motion to amend carried.

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

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

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The motion carried.

Peter Zavell, M.D.

Dr. Schottenstein directed the Board's attention to the matter of Peter Zavell, M.D. No objections were filed. Ms. Lee was the Hearing Examiner.

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

Neither Dr. Zavell nor his counsel was present in the meeting at this time. The Board decided to come back to this matter later in the meeting when Dr. Zavell and/or his counsel is available.

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. These matters, except for the matters of Ms. Banks and Dr. Ring, are non-disciplinary in nature, and therefore all Board members may vote.

Thomas Gerard Feeny, P.A.

Dr. Schottenstein stated that on October 23, 2019, the Board issued a Notice of Opportunity for Hearing to Thomas Gerard Feeny, P.A., informing him that the State Medical Board of Ohio proposed to deny his application for prescriptive authority as a physician assistant because, although he is currently licensed to practice as a physician assistant, he has not provided documentation to the Board that he has completed a master's degree or higher from an accredited program, and has not previously held prescriptive authority while practicing in another jurisdiction, or while in the armed forces, national guard, or in the United States public health service commissioned corps.

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 Mr. Feeny's application:

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

The motion carried.

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Amy Lynn Glines, M.T.

Dr. Schottenstein stated that on January 8, 2020, the Board issued a Notice of Opportunity for Hearing to Amy Lynn Glines, 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. Glines 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 January 8, 2020 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. Glines' application, provided that she takes and passes the MBLEx within six months of the mailing of the Notice of Opportunity for Hearing?

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

The motion carried.

Leslie N. Hellman, M.T.

Dr. Schottenstein stated that on October 23, 2019, the Board issued a Notice of Opportunity for Hearing to Leslie N. Hellman, M.T., informing him that the State Medical Board of Ohio proposed to deny his application for a certificate to practice massage therapy because he does not hold a diploma or certificate from a school, college or institution in another state or jurisdiction that meets the Board's required course of instruction, and hasn't held a current license, registration or certificate of good standing for massage therapy in another state for at least the preceding five years.

Motion to find that the 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 Mr. Hellman's application:

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

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The motion carried.

Raquel Lynn Pearce, R.C.P.

Dr. Schottenstein stated that on October 23, 2019, the Board issued a Notice of Opportunity for Hearing to Raquel Lynn Pearce informing her that the State Medical Board of Ohio proposed to deny her application for a limited permit to practice respiratory care because applications for a limited permit must be submitted within one year following the date of graduation from a respiratory care educational program. Because Ms. Pearce graduated from the University of Akron on or about May 6, 2018, but submitted her application for a limited permit on August 21, 2019, she was not an eligible recipient.

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. Pearce's application:

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

The motion carried.

Leah Quiana Penrice, M.T.

Dr. Schottenstein stated that on November 13, 2019, the Board issued a Notice of Opportunity for Hearing to Leah Quiana Penrice, 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 MBLEx, due to the fact that Ms. Penrice 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 November 13, 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. Penrice's application, provided that she takes and passes the MBLEx within six months of the mailing of the Notice of Opportunity for Hearing:

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

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

The motion carried.

Lisa Mae Schmidt, R.C.P.

Dr. Schottenstein stated that on September 17, 2019, the Board issued a Notice of Opportunity for Hearing to Lisa Mae Schmidt, R.C.P., informing her that the State Medical Board of Ohio proposed to deny her application for a license to practice respiratory care because, although she passed the Certified Respiratory Therapist (CRT) examination conducted on June 21, 2013, the Board only recognizes completion of CRT examinations passed prior to January 1, 2015, so long as the application is filed within three years of the date of passing. Furthermore, Ms. Schmidt has not held a current license, registration or certificate of good standing for respiratory care issued in another state, nor has she ever held a license to practice respiratory care in another state.

Motion to find that the facts set forth in the September 17, 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. Schmidt's application:

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

The motion carried.

Lisa Marie Turkovich, M.T.

Dr. Schottenstein stated that on November 13, 2019, the Board issued a Notice of Opportunity for Hearing to Lisa Marie Turkovich, M.T., informing her that the State Medical Board of Ohio proposed to approve her application for restoration of her certificate to practice massage therapy provided that she take and pass the MBLEx due to the fact that Ms. Turkovich 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 November 13, 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. Turkovich's application, provided that she takes and passes the MBLEx within six months of the mailing of the Notice of Opportunity for Hearing:

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

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

The motion carried.

Elizabeth Marie Wagler, M.T.

Dr. Schottenstein stated that on December 11, 2019, the Board issued a Notice of Opportunity for Hearing to Elizabeth Marie Wagler, 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. Wagler 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 December 11, 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. Wagler’s application, provided that she takes and passes the MBLEx within six months of the mailing of the Notice of Opportunity for Hearing:

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

The motion carried.

Dr. Schottenstein stated that the matters of Ms. Banks and Dr. Ring 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.

LaToya Nachele Banks, M.T.

Dr. Schottenstein stated that on October 16, 2019, the Board issued a Notice of Opportunity for Hearing to Ms. Banks stating that the Medical Board intended to consider disciplinary action regarding her license to practice massage therapy in Ohio. The allegations contained in the Board's Notice of Opportunity for Hearing are based upon Ms. Banks' submission of her June 1, 2019 renewal application, in which she disclosed a December 6, 2017 conviction in the Scioto County Court of Common Pleas, to one felony count of Illegal Conveyance of Drugs of Abuse onto Grounds of a Specified Governmental Facility, in violation of Section 2921.36(A)(2)(G)(2), to which she was sentenced to nine months of incarceration, followed by three years of

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Post Release Control. The conviction was based upon Ms. Banks illegally conveying drugs to an incarcerated family member.

Dr. Schottenstein suggested that the Board adopt an order to non-permanently revoke Ms. Banks' license and to levy a fine of \$8,000, in accordance with the Board's fining guidelines. Dr. Schottenstein stated that there is more information about this case the he would like to know, so that information may be provided if Ms. Banks is inclined to apply for another license.

Mr. Giacalone commented that the Board does not know what kind of drugs were conveyed to Ms. Banks' incarcerated family member, whether it was something like marijuana or something more significant such as opioids. In the absence of such information, Mr. Giacalone was inclined to support Dr. Schottenstein's suggested order.

Motion to find that the allegations 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 to enter an Order, effective immediately upon mailing, revoking Ms. Bank's license to practice massage therapy and levying a fine of \$8,000.

Motion	Dr. Bechtel
2 nd	Dr. Kakarala

Mr. Giacalone questioned whether a fine should be included in the motion. In response to a question from Dr. Bechtel, Ms. Anderson stated that the Board's fining guidelines provide for a fine of \$8,000 to \$20,000 for this violation. Ms. Anderson reminded the Board that it is not bound by the fining guidelines and may choose a fine outside that range.

Dr. Bechtel stated the he wished to modify his motion so that the fine is removed. No Board member objected to the change in the motion. The change in the motion was accepted.

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

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

The motion carried.

Joseph J. Ring, D.O.

Dr. Schottenstein stated that on November 13, 2019, the Board issued a Notice of Opportunity for Hearing to Dr. Ring stating that the Medical Board intended to consider disciplinary action regarding his license to practice osteopathic medicine and surgery in Ohio. The allegations contained in the Board's Notice of Opportunity for Hearing are based upon a May 15, 2019 Consent Agreement For Order of Probation and Preceptor, issued by the Arizona Board of Osteopathic Examiners in Medicine and Surgery, that placed that doctor's license on probation for three years and ordered the doctor to work with a preceptor to oversee patient care, controlled substance prescribing and medical record keeping. The May 2019 Arizona Consent Agreement was based on the finding that Dr. Ring had failed to query the Controlled Substance Prescription Monitoring Program

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database before certifying 70 patients for medical marijuana, and that he had deviated from the standard of care in the treatment of five patients.

Dr. Schottenstein recommended placing Dr. Ring under probationary terms and conditions until he has a full and unrestricted license in Arizona. Dr. Schottenstein also recommended a fine of \$3,500 based on the minimal standards violations occurring after September 29, 2015.

Mr. Giacalone observed that, according to the documentation from Arizona, Dr. Ring prescribed opioids and benzodiazepines to patients with sleep apnea, “which has a risk of profound sedation, respiratory depression, coma and death.” Mr. Giacalone further quoted the Arizona documentation: “One patient displayed possible drug seeking behavior yet Respondent continued to prescribe controlled substances.” Lastly, Dr. Ring “prescribed a large dose and number of oxycodone ... even though the patient had only been on hydrocodone in the recent past.” Mr. Giacalone favored a suspension of Dr. Ring’s Ohio medical license and suggested a suspension period of at least 90 days. Mr. Giacalone stated that Dr. Ring is not practicing in Ohio anyway, but the suspension sends a message. Dr. Kakarala and Dr. Schottenstein agreed.

Motion to issue an Order to suspend Dr. Ring’s Ohio medical license for a minimum of 90 days. Conditions for reinstatement of Dr. Ring’s license shall include full compliance with the May 2019 Arizona Consent Agreement. Upon reinstatement, Dr. Ring’s Ohio license will be on probation until he holds a full and unrestricted license in Arizona. During probation, Dr. Ring shall do the following:

- Provide quarterly declarations of compliance with the Ohio Order.
- Provide evidence of compliance with the May 2019 Arizona Consent Agreement.
- Provide any updates that Dr. Ring also provides to the Arizona Board of Osteopathic Examiners in Medicine and Surgery.
- Obtain a monitoring physician, approved by the Board, before commencing practice in Ohio.

Dr. Ring shall also be levied a fine of \$3,500 based on conduct occurring on or after September 29, 2015:

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

The motion carried.

Peter Zavell, M.D.

Ms. Anderson stated that, per Dr. Zavell’s attorney, Dr. Zavell will not address the Board today.

Dr. Schottenstein stated that no objections were filed in the matter of Dr. Zavell. Ms. Lee was the Hearing Examiner.

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

Motion	Mr. Gonidakis
2 nd	Mr. Giacalone

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

Mr. Giacalone agreed with the Proposed Order, stating that he saw no reason to pile on in this situation. Mr. Giacalone that Dr. Zavell had tried to make business decisions based on advice from certified public accountants and attorneys. Mr. Giacalone stated that while the ultimate responsibility is Dr. Zavell's, he did not feel that Dr. Zavell had intentionally done anything inappropriate and he simply got caught up in something. Mr. Giacalone observed that Dr. Zavell had been referred by a colleague of his and that numerous other people had also been involved. Mr. Giacalone further observed that Dr. Zavell had to have a witness impact statement, indicating the he was also a victim in this matter.

Mr. Giacalone reiterated that he agreed with the Proposed Order to grant Dr. Zavell's license and to take no further action. Mr. Giacalone opined that it would be a travesty to do anything else.

In response to questions from Dr. Feibel, Ms. Anderson stated that if the Proposed Order is adopted, it will not be reported to the National Practitioners Databank. However, the Notice of Opportunity for Hearing and the Board Order will be posted to the Ohio eLicense website. Consequently, Dr. Zavell's profile on that website will include an indication of "Yes" under the heading "Disciplinary Action Taken," though when one clicks on the link one will see that the Board took no further action.

Dr. Feibel noted that on the eLicense website, it will look like the Board took an action against Dr. Zavell even though it did not. Dr. Feibel suggested that the Board discuss these situations at a future meeting. Dr. Feibel committed that as a patient, he would not go to a physician who he thought had a formal disciplinary action.

Mr. Giacalone agreed that Dr. Feibel had a point, noting that unless one clicked on the "Yes" link one would not know that the Board did not take a formal disciplinary action. Mr. Giacalone acknowledged that the Notice of Opportunity for Hearing was a public document, but he asked if the Board could choose not to post it to the website and have it available upon request. Ms. Pollock stated that the eLicense website does not belong to the Board, but is for the State of Ohio.

Vote on Mr. Gonidakis' motion to approve:

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

The motion carried.

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

The motion carried.

The Board went into Executive Session at 10:52 a.m. and returned to public session at 11:29 p.m.

SETTLEMENT AGREEMENTS

Paul A. Kirila, D.O.

Motion to ratify the proposed Permanent Surrender/Retirement with Paul A. Kirila, D.O.

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

The motion carried.

Mahmud M. Kara, M.D.

Motion to ratify the proposed Permanent Surrender with Mahmud M. Kara, M.D.:

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

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

The motion carried.

Jaydutt B. Patel, M.D.

Motion to ratify the proposed Probationary Consent Agreement with Jaydutt B. Patel, M.D.:

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

The motion carried.

Robert James Brauer, D.O.

Motion to ratify the proposed Consent Agreement with Robert James Brauer, D.O.:

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

The motion carried.

Trent D. Ranville

Motion to ratify the proposed Permanent Withdrawal with Trent D. Ranville:

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

The motion carried.

Manish Raj Gupta, M.D.

Motion to ratify the proposed Permanent Surrender with Manish Raj Gupta, M.D.:

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

The motion carried.

Kenyadus Hollins, L.M.T.

Motion to ratify the proposed Permanent Surrender with Kenyadus Hollins, L.M.T.:

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

The motion carried.

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. Marcus F. Cox, M.D.: Based on allegations of two instances of sexual misconduct that took place in 2017 and 2018.
2. William Louis Houser, M.D.: Based on a federal felony for failure to pay taxes.
3. John Kavlich, M.D.: Based on noncompliance with the probationary terms under his October 2018 Step I Consent Agreement.
4. Leonid Macheret, M.D.: To be issued to a physician with a prior disciplinary record with the Board, based on alleged violations of minimal standards of care in the treatment of nine patients.
5. Jornel M. Rivera, D.O.: Based on a guilty plea that has been accepted by a federal court.
6. Shawn M. Swick, M.D.: Based on noncompliance with the probationary terms under his December 2018 Step I Consent Agreement.
7. Michael Sorkis Zahra, M.D.: Based on action taken by the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation.
8. Roger Dale Anderson, M.D.: An Immediate Suspension, based on recent convictions, including illegal dispensing of controlled substances.
9. Kenneth Hanover, M.D.: A Summary Suspension, based on violation of his December 2018 Step II Consent Agreement.
10. William R. Danko, M.D.: Based on the physician's receipt of intervention in lieu of conviction for a drug-related felony.

Dr. Schottenstein asked if any Board member wished to discuss a proposed citation separately. Dr. Feibel stated that he would like to discuss Citation #1 separately.

Dr. Feibel stated that he is very concerned about the allegations in Citation #1, which appear to him to be sexual assault. Dr. Feibel questioned why Citation #1 was not a summary suspension so that the physician is not a danger to society.

Ms. Marshall stated that the Board does not always receive information about incidents when they occur, noting that the timeframe of the alleged assault in Citation #1 is not recent. Ms. Marshall stated to a summary suspension must meet two requirements. First, there must be clear and convincing evidence of a violation; second, there must be a risk of immediate serious harm to the public. Ms. Marshall stated that the immediacy requirement is more difficult to reach legally when the acts are remote in time. Ms. Marshall stated that this factors are considered by the Secretary and Supervising Member and the assistant attorneys general.

Dr. Feibel commented that the Board has no knowledge of whether this physician is continuing these actions and people just have not come forward. Dr. Feibel stated that he is concerned about this particular situation because of the egregiousness of the allegations. Ms. Marshall stated that the Board must always weigh the needs for due process. Ms. Marshall continued that evidence is required to support a summary suspension and not knowing whether a situation is continuing does not constitute evidence. In the matter of Citation #1, it was not felt that the legal burden for a summary suspension had been met. Ms. Marshall stated that if additional evidence is received by the Board, this physician can be cited again with a summary suspension if appropriate.

Dr. Feibel stated that he remains uncomfortable with Citation #1 and the lack of a summary suspension.

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

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

The motion carried.

Motion to approve and issue proposed Citation #9, a Summary Suspension:

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

The motion carried.

Motion to approve and issue proposed Citations #'s 2 and 7:

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

The motion carried.

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

Motion	Dr. Kakarala
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2 nd	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y (Abstain in the matter of Citation #1)
Dr. Bechtel	Abstain

The motion carried.

OPERATIONS REPORT

Ms. Loucka stated that the Operations Report did not contain anything of operational concern or significant note at this time.

COVID-19 Virus: Ms. Loucka stated that yesterday the Board staff reviewed the Board's operational plan with respect to the COVID-19 virus. Ms. Loucka stated that one of three scenarios:

- The Governor may declare that only essential employees will be working.
- The Governor may declare that only essential employees will work, and they will be working from home.
- The Governor may declare that the entire workforce will be required to work from home.

Ms. Loucka stated that about 12 employees of the Board have been designated as essential in order to keep basic operations going. All Board employees have been asked to update their contact information in the notification system. Ms. Loucka stated that she and Ms. Pollock spent yesterday working on and updating the Board's continuity-of-operations plan. Ms. Loucka stated that the Board stands ready if it needs to go to essential employees only.

Summary Suspensions: Ms. Loucka stated that she has asked Ms. Anderson to provide a refresher on summary suspensions.

Ms. Anderson stated that a summary suspension is a pre-hearing suspension of a license, meaning that the license is suspended without a hearing. Consequently, it is constitutionally required that extra due process be involved in the process.

Ms. Anderson continued that under statute, there is a two-pronged procedure before imposing a summary suspension. First, there must be clear and convincing evidence of a violation of the Medical Practices Act. Second, the licensee's continued practice must constitute an immediate and serious harm to the public. Both of these prongs must be met in order to issue a summary suspension.

Ms. Anderson discussed the different levels of burden of proof:

- **Probable Cause:** A more-likely-than-not standard, for an indictment or charge based on probable cause that a criminal violation was committed. This is the lowest burden of proof and is not an indication that anything as been proven yet.
- **Preponderance of the Evidence:** Considered a 51% or more standard, used in most civil actions.

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- **Reliable, Probative, and Substantial:** This standard is used in most administrative actions, needed in a regular case that comes before the Board.
- **Clear and Convincing:** Greater than Reliable, Probative, and Substantial, this is the standard that must be met for a summary suspension.
- **Beyond a Reasonable Doubt:** The highest burden of proof, used in criminal proceedings.

Ms. Anderson noted that the burden of proof for an indictment is lower than the burden of proof for a summary suspension, which can lead to frustration when someone may be indicted but cannot be summarily suspended. Ms. Anderson further noted that when someone has been convicted of a crime, a specific statute allows the Board to move forward because a higher burden of proof as already been met. Dr. Anderson stated that the Board's enforcement staff makes efforts to do as much as possible with the tools available.

Dr. Schottenstein commented that he often considers the Clear and Convincing standard to be about 70% or greater certainty, while he considers the Beyond a Reasonable Doubt to be a 90% to 100% certainty.

Dr. Feibel stated that he struggles with the fact that when someone is indicted, they are arrested and put through the legal system and is possibly required to post bail. Dr. Feibel stated that the Board's duty is to protect the public and if the Board knows enough through the investigative process to bring an action, there is clear and convincing evidence that the crime or action has occurred. Dr. Feibel stated that if the Board waits for a conviction, it will have allowed the practitioner to practice for a fairly long time. Dr. Feibel opined that the situation concerning Dr. Strauss has indicated how the Board can best protect the public, especially in sexual misconduct cases, so that perpetrator cannot continue their assaults.

Ms. Anderson stated that the Board has tools it can use, such as getting the practitioner to sign a consent agreement to take them out of practice in lieu of the Board conducting an investigation while the criminal case is pending. Ms. Anderson stated that the Board's Sexual Misconduct Committee has discussed pursuing statutory authority to suspend in such situations, though there are significant constitutional hurdles that would have to be worked through.

The Board continued to discuss summary suspensions and burdens of proof. Dr. Schottenstein thanked Ms. Anderson for her presentation.

REPORTS BY ASSIGNED COMMITTEES

Medical Marijuana Expert Review Committee Report

Dr. Bechtel stated that the Medical Marijuana Committee met on February 12, 2020 to review the petitions submitted to the Board to add qualifying conditions to Ohio's Medical Marijuana Control Program. Twenty-seven petitions were submitted to the Board during the November 1, 2019 to December 31, 2019 petition period, and those were posted publicly. Dr. Bechtel briefly reviewed the four categories that the petitions were sorted into:

- Category 1: The petition failed to meet the statutory and rule requirements. There were twelve petitions in this category.
- Category 2: The petition was very close to meeting the statutory rules and requirements, with minor details missing. There were no petitions in this category.
- Category 3: The petition was submitted for condition that is already covered. There were six petitions in this category.
- Category 4: The petition met the statutory and rule requirements. There were nine petitions in this category.

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Dr. Bechtel stated that one petition in Category 4 requested that cachexia be added as a qualifying condition, and the Committee recommended moving forward with expert review of that petition. Eight other petitions were submitted for conditions that had been previously considered and rejected by the Board last year: Anxiety, autism, depression, insomnia, and opioid use disorder. If there is new evidence presented in a petition for a condition previously rejected, the Committee can consider further expert review.

The Committee agreed that the petitions for anxiety and autism met the requirement, as outlined in Ohio Administrative Code 4731-32-05(G), on the basis of new scientific evidence that was submitted. The Committee recommended rejecting petitions for depression, insomnia, and opioid use disorder.

Motion to reject petitions in Category 1 and Category 3 as well as reject the petitions for depression, insomnia and opioid use disorder as they did not meet the requirements outlined in Ohio Administrative Code 4731-32-05:

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

The motion carried.

Respiratory Care Advisory Council Report.

Dr. Kakarala stated that the Respiratory Care Advisory Committee met on March 10. The Council discussed the progress of several respiratory care educational programs that had been instructed by the Commission on Accreditation for Respiratory Care to submit corrective action plans for program deficiencies. The Council will continue to follow up on that situation.

Dr. Kakarala continued that the Council was given a legislative update from Jonathan LaCross on the reciprocity bills pending in the legislature.

Dr. Kakarala stated that a representative from the Ohio Society of Respiratory Care presented the Society's workforce report for 2019. The Council discussed its findings on the present status of the respiratory care workforce in Ohio.

Finance Committee Report

Dr. Schottenstein stated that due to the small amount of material to discuss this month, the Finance Committee did not meet this morning. Instead, the Finance Committee items will be brought to the full Board at this time.

Minutes Review

Motion to approve the February 12, 2020 Finance Committee minutes as drafted:

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

The motion carried.

Fiscal Update

Dr. Schottenstein stated that the Board's revenue for January 2020 was \$1, 249, 619 and net fiscal revenue was \$498,510. The Board's cash balance increased to \$5,184,858. Dr. Schottenstein stated that the allied professional groups all renewed their licenses at the end of January, so these are very good numbers for the Board. Additional high revenue is anticipated for every month remaining in this Fiscal Year, especially for June when the respiratory therapists and dieticians renew their licenses. Dr. Schottenstein stated that expenditures are down by 5.7% year-to-date compared to a year ago. Dr. Schottenstein recapped that revenue is up, expenditures are down, and the Board is in a financially health place that is likely to continue.

Dr. Schottenstein stated that the Board will probably spend to the point of its budget allocation instead of under the allocation as has happened historically. This is substantially a function of the Board's sexual misconduct expenditures. Dr. Schottenstein commented that this may lead to future increases in the Board's allocated spending.

Dr. Schottenstein noted that a new category, Historical Case Review, is now included on the financial summary page. The Board paid \$4,610 to reviewers for January 2020, reflecting the slow rate of case review at that time. Dr. Schottenstein stated that thankfully, that rate has increased substantially and is much more on-track now.

The Board received a total of \$30,410.60 for January 2020. Year-to-date, the Board has received a total fo \$105,879 in fines out of a total amount of fines assessed of \$209,000.

Communications Update

Ms. Pollock stated that the winter edition of the Board's magazine was printed a couple of weeks ago and has been distributed to licensees.

The major focus of Communications continues to be to develop a duty-to-report statewide educational campaign. Communications is also working with the Ohio Department of Public Safety to record interviews to be included in the video, as well as other aspects of the campaign.

Digital communication continues to go well and the Board's website has been a great tool for many things, such as posting updates about coronavirus and other reporting duties. Dr. Schottenstein asked if the Board should send an email blast to license on subjects such as coronavirus. Ms. Pollock stated that emails have been sent to licensees whenever the Department of Health has provided an update or the Centers for Disease Control updates its guidance.

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New Business

Motion to approve out of state travel for Ms. Loucka to attend the FSMB Executive Director orientation in Eules, Texas; and to approve any expenses not covered by FSMB, in accordance with state travel policy; and that attendance at the orientation is in connection with Ms. Loucka's responsibilities as Executive Director of the State Medical Board of Ohio:

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

The motion carried.

Licensure Committee Report

Licensure Application Reviews

Hope Carrington, R.C.P.

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

Motion to approve Ms. Carrington'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. Kakarala
2 nd	Dr. Rothermel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

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Genevieve Crane, M.D., Ph.D.

Dr. Saferin stated that Dr. Crane has applied for a medical license and has requested a waiver of the United States Medical Licensing Examination (USMLE) ten-year rule. Dr. Crane successfully completed an approved MD/PhD program and holds current certification from the American Board of Pathology in anatomic pathology with subspecialty certification in hematopathology. The Committee has recommended approving Dr. Crane's request.

Approve the good cause exception of the 10-year rule as outlined in 4731-6-05(C)(1) and (2), and accept the examination sequence so that Dr. Crane may be granted a license:

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

The motion carried.

Erica Rice

Dr. Saferin stated that Ms. Rice has applied for a license to practice massage therapy. Ms. Rice has not practiced massage therapy in the last two years. However, Ms. Rice recently passed the Massage and Bodywork Licensing Examination (MBLEx) on December 27, 2019. The Committee has recommended granting Ms. Rice's application as presented.

Motion to approve Ms. Rice's application for an Ohio license as presented.

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

The motion carried.

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Douglas Shodd

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

Motion to approve Mr. Shodd'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 a Hearing:

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

The motion carried.

Respiratory Care Continuing Education Course Approval

Cleveland Clinic

Dr. Saferin stated that the Board received a request to approve the course "End of Life Care: Role of Respiratory Therapy" for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics. The Committee has recommended approval of the course.

Motion to approve the course for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics, pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code:

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

The motion carried.

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Sexual Misconduct Committee Report

Dr. Schottenstein stated that the Sexual Misconduct Committee met this morning. Following approval of the February 2020 minutes, Mr. Nealis provided a project update. Dr. Schottenstein reminded the Board members that the status of the project is available to everyone on the Board's website at med.ohio.gov/transparency. The online status update includes percentage of completion of each working group recommendation as well as a summary of the historical case review.

At this time, the staff is 100% complete with preparing the old paper documents for review. The actual review of the content of those cases stands at about 12%.

Dr. Schottenstein continued that Executive Director Stephanie Loucka and Chief Legal Counsel Kim Anderson provided the Committee with recommendations on possible statutory changes. Dr. Schottenstein stated that the Committee divided the proposed legislation into two groups and reviewed different legislative drafts, including the following:

- Create an affirmative duty for licensees to report suspected sexual misconduct within 30 days.
- Include the reporting of certain criminal acts by physicians, including things like sexual misconduct, to make it rise to the level of a felony.
- Replace the "knowing" standard that is in Section 2921.22, Ohio Revised Code, with a "reasonable" standard similar to that found in Section 2151.42 and would require reporting that which an average reasonable person would have cause to suspect based on facts.
- Amend the sexual boundary statutes and better define the physician code of conduct.
- Violation of the context of certain physician/patient relationships constitutes criminal conduct by the nature of that relationship, and that should be something that the sexual boundary statute reflects.
- Adopt the North Carolina statute language, to the effect that sexual conduct or penetration under pretext of medical treatment would be a felony. The Committee felt that this is substantially is under the umbrella of the current language.
- Transparency of investigation and closure of complaints where no action is taken.
- The possibility of proceeding to citation against a physician's license based solely on indictment.
- Require hospitals to provide the Board access to peer review information. The Committee discussed the fact that the Board has little enforcement capability when it comes to hospitals and that its enforcement power resides in its ability to direct certain behavior with the Board's licensees.

Responding to a question from Dr. Edgin, Dr. Schottenstein stated that the Board is now averaging about 30 to 40 case reviews per week, which is a good pace. The initial results of the reviews is that about two-thirds of them will require additional attention, either because of a duty-to-report issue that was missed, a referral to law enforcement that was missed, or some other concern. Dr. Schottenstein noted that the hardest cases are being reviewed first and they are more likely to require additional attention, so the two-thirds figure may come down as the project continues.

Regarding peer review information from hospitals, Dr. Schottenstein stated that it is a tricky subject because peer review is very valuable for the Board's licensees and it has been historically shielded from discovery. However, Dr. Schottenstein stated that peer review should not act as a shield for criminal sexual misconduct. The Committee does not want a situation in which someone could essentially out himself for herself in the context of a peer review and then, by definition, be protected from having that information come out. Dr. Schottenstein stated that the Committee will discuss these matters with interested parties and associations.

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Policy Committee Report

Mr. Giacalone stated that the Policy Committee reviewed coronavirus information to be provided to licensees, had a legislative update, and reviewed proposed rules for initial circulation to interested parties.

Motion to approve information for distribution to licensees regarding the coronavirus and posting it on the Board website:

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

The motion carried.

COMPLIANCE

Office Conference Review

Motion to approve the Compliance staff's Reports of Conferences for February 10 and 11, 2020:

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

The motion carried.

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 Glen Apseloff, M.D., to serve as the monitoring physician.
- b) Robert J. Brauer, D.O.: Request for approval of the Case Western Course and summary submitted to

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the Board.

- c) Chris Bjarke, M.D.: Request for release from the terms of the November 13, 2019 Consent Agreement.
- d) Robert R. Daiber, M.D.: Request for reduction in drug testing frequency to a minimum of 2 per month; and reduction in Board appearances to every six months.
- e) Brenden P. Jenks, M.D.: Request for approval of Kathleen Clegg, M.D., to serve as the new treating psychiatrist.
- f) Susan Donna Lawrence, D.O.: Request for approval of L. Todd Hawkins, M.D., to complete a psychiatric return to work assessment, required for reinstatement.
- g) Wayne J. Myles, D.O.: Request for release from the terms of the March 14, 2018 Consent Agreement, pending continued compliance.
- h) M. Salim Ratnani, M.D.: Request for reduction in counseling sessions to every six months.
- i) Leslie R. Swart, M.T.: Request for approval of release from the terms of the September 13, 2017 Consent Agreement.

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

The motion carried.

Treatment Provider Applications

Board-Approved Treatment Provider Applications

Motion to approve the Board-approved treatment provider applications of Bradford Health Services; the Center for Addiction Treatment; and the Farley Center:

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

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The motion carried.

One-Bite Approved Treatment Provider Applications

Motion to approve the One-Bite Approved Treatment Provider applications of Bradford Health Services; Caron Treatment Centers; Cleveland Clinic Lutheran Hospital; Lakeview Health; and the Woods at Parkside:

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

The motion carried.

Continuing Care Provider Applications

Motion to approve the Continuing Care Provider applications of Cleveland Clinic Lutheran Hospital; and the Woods at Parkside:

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

The motion carried.

The Board recessed at 12:22 pm. The meeting resumed at 12:45 pm in Room 336 for Disability Etiquette and Awareness Training.

DISABILITY ETIQUETTE AND AWARENESS TRAINING

Ms. Loe provided the Board members with training on disability etiquette and training through use of a video provided by the Ohio Department of Administrative Services. The video reviewed the topic in detail, discussed scenarios, and asked questions which the Board members answered.

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ADJOURN

Motion to adjourn:

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

The motion carried.

The meeting adjourned at 1:45 pm.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on March 11, 2020, as approved on April 8, 2020.


Michael Schottenstein, M.D., President


Kim G. Rothermel, M.D., Secretary

(SEAL)





**LICENSURE COMMITTEE MEETING
March 11, 2020 - Room 345**

Committee Members Present: Bruce R. Saferin, D.P.M, Chair Kim G. Rothermel, M.D. Richard Edgin, M.D.	Staff Present: Joseph Turek, Director of Licensure & Licensee Services Mitchell Alderson, Chief of Licensure Jerica Stewart, Communication & Outreach Administrator Collin Depew, Assistant Attorney
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Dr. Saferin called the meeting to order at 8:47 a.m.

MINUTES REVIEW

Dr. Edgin moved to approve the minutes from the February 12, 2020 meeting. Dr. Rothermel seconded the motion. All in favor, the motion carried.

LICENSURE APPLICATION REVIEWS

Hope Carrington

Hope Carrington has applied for a respiratory care license in Ohio. She has not practiced within the last two years.

Dr. Edgin moved to approve Ms. Carrington's application for an Ohio license contingent on successful completion of the Clinical Simulation Examination (CSE) within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Rothermel seconded the motion. All in favor, the motion carried.

Genevieve Crane, MD

Genevieve Crane has applied for a medical license in Ohio and has requested a waiver of the USMLE ten-year rule. Dr. Crane successfully completed an approved MD/PhD program and holds current certification from the American Board of Pathology in anatomic pathology with subspecialty certification in hematopathology.

Dr. Rothermel moved to approve the good cause exception of the 10-year rule as outlined in 4731-6-05(C)(1) and (2) and accept the examination sequence to be granted a license. Dr. Edgin seconded. All in favor, the motion carried.

Erica Rice

Erica Rice has applied for a massage therapy license in Ohio. She has not practiced within the last two years. However, Ms. Rice recently passed the MBLEx on December 27, 2019.

Dr. Edgin moved to approve Ms. Rice's application for an Ohio license as presented. Dr. Rothermel seconded the motion. All in favor, the motion carried.

Douglas Shodd

Douglas Shodd has applied to restore his massage therapy license in Ohio. He has not practiced within the last two years.

Dr. Rothermel moved to approve Mr. Shodd'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 a Hearing. Dr. Edgin seconded the motion. All in favor, the motion carried.

OTHER ITEMS

The board received a request to approve the course "End of Life Care: Role of Respiratory Therapy" for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics

Dr. Edgin moved that the course be approved for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics, pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code. Dr. Rothermel seconded the motion. All in favor, the motion carried.

Dr. Rothermel pointed out the course was 27 minutes long and counted as one credit hour. She referred the committee to the one-hour duty to report video the board is creating.

Mr. Turek stated there is also a journal article included and that since this course is for respiratory care, there is no category 1 classification.

ADJOURN

Dr. Rothermel moved to adjourn. Dr. Edgin seconded the motion. All in favor, the motion carried.

The meeting adjourned at 8:52 a.m.

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

js



SEXUAL MISCONDUCT COMMITTEE MEETING
March 11, 2020 - Room 336

<p>Committee Members Present: Michael Schottenstein, MD, Chair Robert P. Giacalone, JD Michael L. Gonidakis, JD Jonathan Feibel, MD (temporary appointment)</p> <p>Other Board Members Present: Kim Rothermel, MD Richard Edgin, MD Bruce Saferin, DPM</p>	<p>Staff Present: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Stuart Nealis, Project Manager Tessie Pollock, Chief Communications Officer Nate Smith, Senior Legal and Policy Counsel Cierra Lynch, Administrative Professional Jonithon LaCross, Director of Public Policy and Government Affairs Jerica Stewart, Communications & Outreach Administrator</p>
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Dr. Schottenstein called the meeting to order at 7:59 a.m.

Dr. Bechtel stated he reviewed the minutes and noticed he was not listed as an “other board member present” for last month’s meeting.

MINUTES REVIEW

Mr. Giacalone moved to approve the minutes from the February 12, 2020 meeting. Mr. Gonidakis seconded the motion. All in favor, the motion carried.

WORKING GROUP RECOMMENDATIONS PROGRESS REPORT

Project Update

Mr. Nealis stated in terms of the overall progress, the board is 60 percent complete with all of the tasks and subtasks recommended by the Working Group. He speculated there would be another significant increase due to the committee discussing legislative changes during the meeting. As of the previous Friday, he has tracked approximately 1,400 hours, a low estimation because there is staff who has not yet reported their hours.

Board staff is about 14 percent through the historical case review, and they are being reviewed at a faster pace now. The average is approximately 5 hours per review, and he anticipates that will decrease. To date, the board has been invoiced for a little less than \$40,000 by the contractors.

Dr. Schottenstein asked about the roughly two-thirds of the cases that have been reviewed and need additional attention.

Mr. Nealis confirmed but stated it is starting to trend down.

Dr. Schottenstein clarified the percentage previously mentioned refers to the initial screening of all cases, but the cases that are flagged will need additional attention.

Statutory Recommendations

Ms. Loucka stated the Working Group report came back with legislative changes to explore along with Medical Board staff's recommendations. An internal group decided to start drafting changes to get feedback from the committee. The next step would be working with interested parties and getting stakeholder feedback.

Mr. Gonidakis asked if there is a timeline on these items. He wanted to make sure there were realistic expectations of changes occurring likely in 2021 or 2022 because of the nature of the legislature.

Ms. Loucka stated everyone she has spoken with has been realistic about the timeline. The board will need to develop a strategy to develop a legislative vehicle, possibly the budget next year.

Statutory Recommendations

Ms. Anderson started with statutory drafts that deal with raising certain criminal acts by physicians to a felony level, which would make them subject to mandatory reporting under criminal law. First, she referred the committee to the amendments the board is making to the sexual battery and sexual imposition statutes. This would include adding language that elevates a physician or physician assistant engaging in sexual conduct with a patient while the offender is providing medical care. That would fall under the definition of sexual battery and be a felony. Other types of individuals also that fall into this area: a peace officer, cleric, etc.

Dr. Saferin pointed out that podiatrists were not included.

Dr. Feibel asked if "medical care" is defined. He suggested changing the language to "while engaging in the doctor-patient relationship."

Dr. Schottenstein agreed and stated the way it is written now, implies the licensee would have to be in the exam room and sometimes a licensee can be inappropriate outside of the clinical setting. He suggested "occurs in the course of providing medical care."

Ms. Anderson reiterated this statute is intended for physical contact during an examination.

Mr. Smith explained the board has a group of rules in 4731-26 that covers a variety of situations including if someone initiated a romantic relationship with a patient outside of the office. There was an effort in drafting these criminal statutes to match them to similar situations for other trusted professionals, for instance police officers, coaches, etc. He posed elevating the crime to a felony should involve a coercive environment, such as an exam room. He considered the difference between the rule and the felony and believes it is more consistent with the way that offenses are defined in sexual battery and sexual imposition statute.

Dr. Feibel asked what happens if a physician is aware of a colleague sexually abusing a patient outside of the exam room.

Ms. Anderson confirmed the scenario above would be a violation of Medical Board rules and could be a crime. She explained with the current statutory recommendation, the board wants to address a physician who during an examination of a patient, engages in sexual conduct. That act is automatically a felony and sexual battery because of the relationship of the parties. In other situations, the behavior may be another crime and likely a rule violation, but all reportable. Mr. Giacalone asked where sexting fits into this conversation.

Mr. Smith responded as currently written; he would not say it would fall within the criminal statute for a felony but that it would be covered by the 4731-26 rules. He also informed Dr. Feibel if a physician was meeting with a patient outside of the office, there are a variety of other criminal statutes in ORC 2907 that could cover the situation. This statute is taking a set of circumstances and making it, by definition, a felony.

Dr. Rothermel asked if the Nursing Board has also looking at making this legislative change for nurse practitioners.

Ms. Anderson responded the Nursing Board is not proposing the change at this time but that she assumes it will be discussed when the statute goes out to interested parties.

Ms. Loucka added the Governor's Working Group has asked for more data from all the health care boards and the conversation is more inclusive. She suspects that other boards will take notice of what the Medical Board is doing and discuss following suit.

Ms. Anderson stated on page 14 of the committee packet, the legal team has made the same proposal for sexual imposition. Sexual conduct and sexual contact were defined on page 12 of the packet.

Dr. Feibel asked for a definition of "privilege" in the language.

Mr. Smith replied the definitions were applied to sexual offenses general throughout ORC 2907. It is an attempt to define what sexual conduct is in a criminal way, considering situations that don't include consensual relationship.

Dr. Feibel stated that the doctor-patient relationship is always without privilege. He suggested if it was consensual, a licensee could use it to his advantage. He expressed concern that the legislation will not accomplish what it is intended to do.

Mr. Smith referred the committee to the sexual battery statute number 8, which addresses the offender as a teacher, administrator or coach and the victim as a student. By definition, there can be no consent. It is sexual battery because of the role and statuses of the parties and in some places where it takes place. It is a felony.

Dr. Schottenstein stated on some level unless the activity between the licensee and the patient is for legitimate medical purposes, it is without privilege.

Mr. Smith clarified because of the way sexual conduct and sexual contact are defined, it would never be for a legitimate medical purpose.

Mr. Giacalone agreed that the language met the board's intent.

Mr. Smith stated the way sexual contact is defined; it includes "for the purpose of sexual arousing." By definition, they can never be for legitimate medical practice. If there is sexual conduct or contact between a patient and physician in the course of care, it will be a crime. There cannot be consent or privilege to do so. He confirmed the intent is to criminalize egregious behavior.

Ms. Anderson stated there was a recommendation to amend the sexual battery statute, to better define physician criminal conduct, and to extend the statutes of limitations. For sexual battery

that occurs after July 16, 2015 the statute of limitations is 25 years. For sexual imposition, it is 2 years. She did not draft anything but asked for the committee's thoughts.

Dr. Edgin shared there was a high-profile case in Columbus involving a teacher who abused numerous people, but it was not discovered until the students were adults. He suggested the limitation should be a fairly lengthy period when considering minors may not reveal the information until adulthood.

Mr. Giacalone pointed to the cases involving the Catholic church and the victims who shared the information in their 30s and 40s, even though they were abused as children.

Dr. Feibel asked if the language could read "25 years after the victim was 18."

Ms. Anderson asked if the committee agreed to the same language for the misdemeanor which would be "2 years after the victim was 18."

The committee agreed.

Ms. Anderson asked the committee to review and consider recent changes to the North Carolina law enacted in August 2018. She believed that the changes to the sexual battery and sexual imposition statutes satisfy it.

Dr. Schottenstein stated it probably did satisfy it but asked if there was a benefit to adding specific language. He shared there was a licensee who came before the board a couple years ago for performing breast exams on teenage patients as a gastroenterologist. He was charged with something similar.

Ms. Anderson replied there is no medical context for this because of the definitions sexual conduct and contact.

Ms. Anderson referred the committee to pages 16-19 of the memo which addressed amending section 2921.22 failure to report a crime and adding certain criminal acts by physicians practicing in Ohio whether they rise to the level of a felony. Board staff added language to page 17 of the statute replacing the knowing standard to one like the standard to child abuse reporting. Board staff used that language and added it to the duty to report in the criminal statute. The new (F) says, "any person who knows or has a reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect that a physician or physician's assistant (adding podiatrist) has committed a violation of law within chapter 2907 against a patient shall report such knowledge or belief to local law enforcement."

Board staff also added language to allow for immunity for the reporter.

Dr. Schottenstein asked if the language should instead say anyone making the reports "in good faith."

Ms. Anderson wanted to think about the change.

Mr. Giacalone agreed with Dr. Schottenstein and stated the board wouldn't want it to be used as something nefarious.

Mr. Smith stated it would be fine to buttress the language and add it, but the idea of reasonable cause to suspect would in some ways assume the reporter had good faith.

Ms. Anderson shared that board staff would like to encourage anyone coming forward and not instill fear.

Dr. Feibel questioned the language and stated it could be understood as the licensee not having to report to the Medical Board.

Ms. Anderson shared the board has its own reporting statute and the board is proposing numerous changes to the statute as well. This statute addresses that sex crimes between physicians and patients is a crime that needs to be reported to law enforcement and there's an affirmative duty which carries criminal penalties. The board's statute also addresses it and would carry penalties for a license if reports were not made.

Ms. Anderson shared the Working Group recommended an affirmative duty for licensees to report suspected sexual misconduct within 30 days including sexual impropriety that a licensee reasonably believes to have occurred with the patient. Licensees who fail to report would be subject to discipline. Individuals who made reports in good faith would be immune from civil liability. Ms. Anderson believed the language "civil liability" already exists and does not need to be added. In paragraph *A*, board staff changed the requirement for hospital staff to report within 60 days to 30 days. This applies to any type of disciplinary action, not just sexual imposition. Board staff also added a second paragraph indicating that health care facilities "shall report to the Medical Board any investigation regarding an individual holding a valid license or certificate for criminal acts or for sexual misconduct as defined the rule." This is for broader sexual misconduct, not the criminal sexual battery or sexual imposition discussed earlier. In section *B*, board staff added a requirement that within 30 days any individual authorized to practice, or any professional association or society must report sexual misconduct which is defined by 4731-26-01. Ms. Anderson borrowed language from North Carolina which also requires reporting of fraudulent prescribing, drug diversion or theft of controlled substances, including controlled substances to family members that would need reporting.

Mr. Giacalone asked what happens in a situation where a physician is also an attorney and has to represent another physician.

Ms. Anderson speculates the board would look at which role they were fulfilling.

Ms. Anderson assured Dr. Feibel that the "investigation" is not new to the rule.

Dr. Feibel expressed concern with the board being informed of every hospital investigation. He emphasized there are many hospital investigations closed without merit.

Mr. Giacalone agreed with Dr. Feibel and stated it almost takes away from the language mentioned earlier, "reasonably believes."

Ms. Anderson reminded the committee that the earlier discussion was regarding criminal actions. The rule is directing hospitals to report information to the board in a civil or administrative capacity. The board is limiting the reports to criminal acts or sexual misconduct.

Mr. Giacalone was concerned about receiving complaints with no traction, creating more work for the board. He asked if there was an option based on the investigation, that could trigger a report to the board.

Dr. Feibel and Mr. Giacalone offered alternative language.

Dr. Feibel reminded the committee it would need to report in a timely manner.

Ms. Anderson and Dr. Schottenstein both stated they'd rather receive the information and let the board decide.

Dr. Schottenstein stated the majority of complaints that come into the board right now are closed. If it is a frivolous complaint, it would be closed too.

Mr. Giacalone speculated the amount of complaints the board will receive will significantly increase.

Ms. Loucka stated this may be a topic to discuss with interested parties. She expressed concern about the volume as well and if the board is well-suited to take on the additional work.

Ms. Anderson expressed there is a concern from the Working Group to make sure the board is getting the information at an early point. It is difficult to figure out the appropriate point and it is an area to have more discussion. If the board is only receiving investigations that hospitals deem founded, it may miss things.

Mr. Giacalone clarified hospitals should report with reasonable suspicion. He agreed there should be a raised timeframe.

Dr. Saferin excused himself from the meeting and asked for a correction of the minutes, changing his degree from MD to DPM.

Dr. Schottenstein asked who enforces the hospital or health care system providing the information.

Ms. Anderson replied, the way that it is enforced is through Medical Board licensees who are in leadership. The board cannot take an action against hospitals, but it can take action against its licensees.

Dr. Feibel stated voice reports are protected by peer review and it will now be taken out of the process. Licensees will be less likely to utilize the peer review process if it is discoverable.

Dr. Schottenstein asked if there is a way to tighten the language. He wondered if it would be productive to add language tying individual licensees as representatives of the health care facilities to give the board purview.

Ms. Anderson stated the board already takes action against individuals for failure to report. It just has to identify the licensee who is responsible.

Mr. Giacalone asked how the board could take action if a Chief Administrative Officer or President of a health care system isn't a licensee.

Ms. Anderson responded that it would be investigated, and the board would have to find the licensee responsible for it. Her understanding is that hospitals are attuned to these issues, ever since the Geiger case. They generally have a medical officer sign a report to the board.

Dr. Schottenstein explained the scenario of a previous case involving the gastroenterologist. If an institution attempts to shield misconduct from public view, he wondered if the board would have recourse in taking action.

Dr. Feibel asked if the legislature could add something or give the board authority to fine a facility.

Ms. Anderson stated there would have to be a statutory change and the legislature would have to give the board jurisdiction.

Dr. Feibel suggested the board should ask for it.

The committee discussed.

Dr. Schottenstein noticed Mr. Gonidakis left the room and appointed Dr. Feibel as a temporary committee member to have a quorum.

Ms. Anderson introduced the board staff's statutory recommendation regarding peer review. She stated it was to amend chapter 23 to require hospitals to provide the Medical Board access to peer review information. The draft says that "health care entities shall provide information, documents or records produced or presented during proceedings of a peer review committee or committed or created to document them to the State Medical Board pursuant to a subpoena issued under section 4731-22 (F)(3)." Right now, subpoenas are needed for patient record information and it carries additional protections. In addition to being approved by the Secretary and Supervising Member, it is approved by the Attorney General. The information cannot be accessed by an investigator directly, must get a subpoena. (3)(a) outlines the required steps for obtaining a subpoena. The board needs to change (F)(4); it is the reason the board cannot obtain peer review information. It needs to eliminate the language that says all investigations and inspections by the board are considered civil actions for purposes of the peer review statutes.

Ms. Anderson did not know if law enforcement could get peer reviewed information right now. She clarified that this would cover any topic, not just sexual misconduct.

Dr. Schottenstein recommended only including sexual and criminal misconduct to address anticipated association concerns.

Mr. Giacalone agreed with Dr. Schottenstein.

Dr. Schottenstein explained the peer reviewed process should act not as a shield where a licensee can reveal bad behavior with the understanding that once it is there, it's protected.

Ms. Anderson opined Ohio's peer review statute is one of the strictest in the country. If the board is getting the information pursuant to a subpoena, it is confidential. She didn't think it completely opens peer review and it doesn't make it public. She believed there are other medical boards in the country that can get this information, but she did agree there will be pushback from hospitals.

Mr. Giacalone argued lawyers will advise their clients to remove their information from it and licensees will be reluctant to use it. He stated since the subpoena process is internal, there will

be a perceived bias that any investigator that brings something for subpoena will get it. He was convinced this change will dismantle the peer review process.

Dr. Schottenstein agreed.

Mr. Giacalone stated peer review serves an invaluable purpose. It identifies problems and even the FDA allows for it in a quality assurance program. Chipping away at this process creates more patient health risk than the benefit the board is trying to achieve.

Dr. Feibel agreed that it should only be applied to criminal and sexual conduct. He also believed there would be pushback.

Board staff recommended permission for the board to cite against a physician's license based solely on an indictment. Ms. Anderson reached out to other states to see if any do this and found Kentucky commonly takes this course of action. She reviewed their laws and had a discussion with the legal counsel from their board. Kentucky uses a combination of statutes and rules to achieve it and issues an emergency order based on an indictment. It looks like the Medical Board's (B)(34) consent agreements. If the licensee agrees to suspend their practice the board does not continue investigation and the licensee continues their criminal trial. The difference between this and the proposed rule is that the board imposes the action. The burden of proof is different from the board's summary suspension. If a licensee is charged in any state or federal court with a crime classified as felony and the conduct charge would be a violation of the Medical Practices Act, then the licensee shall be considered an immediate and serious harm to the public. If the board receives information about the charge, the Secretary and Supervising Member may recommend the board issue an emergency order suspending or restricting the license to practice until a further order following the final resolution of the criminal charge. The order would remain in effect until the criminal charges are resolved and the board resolves the matter after receipt of the court documents, or the board issues an order revoking or modifying the emergency order after an adjudicatory hearing. The licensee can request an adjudicatory hearing to determine the findings of fact providing the basis for emergency order are supported by substantial evidence.

After a question from Dr. Schottenstein, Ms. Anderson stated she can add language to make it clear the matter should go before the full board, not just the Secretary and Supervising Member. She then clarified "substantial evidence."

The committee discussed altering the verbiage and removing the Secretary and Supervising Member from the language in the statute.

Ms. Anderson shared board staff recommended changes to the public information shared about closed complaints. They asked to add whether witnesses are interviewed and whether there are open complaints pending against the licensee. This information would be deidentified.

ADJOURN

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

The meeting adjourned at 9:16 a.m.

Michael Schottenstein, MD
Chair

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State Medical Board of Ohio

POLICY COMMITTEE MEETING

March 11, 2020

30 East Broad Street, Columbus, OH 43215, Hearing Room

<p>Members: Robert Giacalone Mark Bechtel, MD Sherry Johnson, DO</p> <p>Other Board Members present: Michael Schottenstein, MD Jonathan Feibel, MD Bruce Saferin, DPM Richard Edgin, MD Kim Rothermel, MD Harish Kakarala, MD</p>	<p>Staff: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Nathan Smith, Senior Legal and Policy Counsel Rebecca Marshall, Chief Enforcement Attorney James Roach, Chief of Investigations Joe Turek, Deputy Director David Fais, Deputy Director Cierra Lynch, Administrative Professional Jerica Stewart, Communications and Outreach Administrator Benton Taylor, Jonithon LaCross</p>
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Mr. Giacalone called the meeting to order at 9:23 a.m.

Meeting Minutes Review

Dr. Bechtel moved to approve the draft minutes of the February 12, 2020 Policy Committee meeting. Dr. Johnson seconded the motion. All in favor, the motion carried.

Telemedicine Update

Ms. Anderson shared a statement regarding coronavirus and educational information about telemedicine. The statement for licensees explains where information can be found in Ohio, nationally and internationally. It also includes CDC guidelines regarding social distancing and personal hygiene. The telemedicine sheet will refer licensees to the FAQs for 4731-11-09 and the chronic pain rule. The board has received questions about follow-up assessments being completed via telemedicine. Ms. Anderson clarified, if the licensee is following the requirements in the rule, telemedicine is not prohibited for assessments. The rule only applies to the initial visit in establishing care, not follow-up visits.

The FAQs will be added to the website once the policy committee gives approval.

Dr. Bechtel moved to post the FAQs to the Medical Board website. Dr. Johnson seconded the motion. All in favor, the motion carried.

Rules Review Update

Ms. Anderson referred the committee to the list of rules that are being brought forward and a couple of rule packages. There was no action needed.

Legislative Update

Mr. LaCross provided updates.

HB224 CRNA Legislation

This bill is in its third hearing in the Senate. It has been compromised by the associations and the members.

HB455 Surgical Assistant Bill

There was an interested party meeting regarding this bill. The surgical assistants are providing clarity on what the other states define as scope of practice and the difference between surgical techs and surgical assistants. They are also evaluating the differences between rural hospitals and large hospital systems. The discussion is moving toward licensure instead of registration because it allows the board to regulate and take action.

HB492 Physician Assistants Bill

It is still in preliminary stages. There will be an interested party meeting.

SB 246/HB432 Reciprocity Bill

The Medical Board has attended multiple meetings regarding this bill. The House has said it will try to match the decision of the Senate. Board staff have met with multiple senators and the bill sponsors to provide insight. There are two sides to the bill: education and licensure standards and enforcement. Mr. LaCross stated the bill sponsors were open to changes. They would still like for active license holders in other states to be able to renew their license in Ohio. Board staff pushed back to have certain verbiage included. That verbiage would allow the board to maintain the same licensure checks and standards that are currently performed, permit a vetting process of the applicant (119) and offer denial.

Mr. Giacalone asked about previous sentiments from the bill sponsors.

Mr. LaCross explained they were resistant more for the licensure standards aspect for education. Regarding physicians, there weren't many differences other than foreign medical graduates. Allied practitioners have more differences.

Dr. Bechtel moved for Mr. LaCross to proceed with the current legislative direction from the board. Dr. Johnson seconded the motion. All in favor, the motion carried.

Rules for Initial Circulation

Radiologist Assistant Rules

Ms. Anderson referred the committee to the recommendations in the packet for radiologist assistant rules. There were no changes in the definition rule. Rule 4774-1-02 has proposed changes to align with the licensure rules for other license types. For the military provisions, the rule is pending at CSI for rescission because all military provisions are being moved to their own chapter. Rule 4774-1-03 renewal is also proposed to be rescinded because most of the provisions are repetitive. There were no changes proposed for the Miscellaneous provisions.

Dr. Bechtel moved to circulate the radiologist assistant rules for initial review. Dr. Johnson seconded the motion. All in favor, the motion carried.

Personal Information Systems

It will be up for a 5-year rule review in approximately one year. Ms. Anderson proposed a small change to rule 4731-8-05 which lists the confidentiality statutes the board follows. There were changes to the Public Records Act, section 149.43, that residential and familial information for licensees working in prisons, youth services or EMS entities are exempt from public record. She proposed adding it to rule 4781-8-05 and then circulating it.

Dr. Johnson moved to circulate the personal information system rules with the proposed change. Dr. Bechtel seconded the motion. All in favor, the motion carried.

Additional Comments

Dr. Bechtel pointed out that many CME programs are being unexpectedly cancelled due to the corona virus outbreak and it is affecting many physicians.

Dr. Schottenstein added there is a lot to consider. If it becomes an ongoing issue, the Licensure committee should review and address it to ensure licensees are not being unfairly penalized.

Dr. Bechtel emphasized CME is being impacted on a national level and a local level.

Mr. Giacalone proposed being proactive and extending the CME deadlines.

Ms. Anderson stated that she would need to review statute.

Mr. Giacalone suggested the board use its enforcement discretion.

Dr. Saferin agreed the issue should be addressed.

ADJOURN

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

The meeting adjourned at 9:44 a.m.

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**MEDICAL MARIJUANA EXPERT REVIEW COMMITTEE MEETING
March 11, 2020 - Administrative Hearing Room**

Committee Members Present:

Mark A. Bechtel, M.D., Chair

Michael Schottenstein, M.D.

Robert Giacalone, R.Ph, J.D.

Dr. Bechtel called the meeting to order at 1:40 p.m.

EXPERT REVIEW OF QUALIFYING CONDITION PETITIONS

Cachexia

Dr. Bechtel recalled that last month the Committee approved moving forward with expert review of the petition to add cachexia to the list of qualifying conditions for treatment with medical marijuana. Ms. Murray stated that the staff is working on identifying an internal medicine expert to review the petition. Ms. Murray stated that an ideal expert will be able to opine on current treatments for cachexia, evaluate the scientific evidence that was submitted, and discuss whether medical marijuana could potentially be helpful. Ms. Murray felt that the search for an expert need not be as broad in scope as last year's search, nor would it need to necessarily include out-of-state physicians.

Ms. Murray anticipated having identified experts for the Committee to consider at the next meeting.

Anxiety and Autism

Dr. Bechtel stated that petitions to add anxiety and autism to the list of qualifying conditions were rejected by the Board last year. However, at last month's meeting the Committee recommended re-evaluating those conditions based on new articles or scientific evidence.

Dr. Bechtel continued that last year's opposition to adding these conditions came from a variety of sources, including Cincinnati Children's Hospital and Nationwide Children's Hospital in letters from the Director of the Center for Autism Spectrum Disorder, the Director of Neurology, and the Director of Developmental Behavioral Pediatrics. The addition of the conditions was also opposed by the Ohio Children's Hospital Association, the Ohio Department of Health, and Dr. Justin Trevino, Director of the Ohio Department of Mental Health. This significant opposition was based on the potential of onset and worsening of several psychiatric disorders due to medical marijuana and the negative impact on cognitive function, short-term memory, and concentration. Dr. Bechtel stated that one aspect brought up by everyone was whether autistic children, who have difficulty expressing themselves, would be able to communicate any side-effects they may be having.

Dr. Bechtel noted that the Committee's decision to go forward with re-evaluation of autism was based on an article by Dr. Schleider, *et al.* Dr. Bechtel stated that the validity of that article had been previously criticized in a letter from Cincinnati Children's Hospital. Dr. Bechtel further noted that at least one vetted expert witness, Dr. Wenk, supported the use of medical marijuana for treatment of autism and anxiety.

Dr. Bechtel invited the Committee to opine on whether the Board should consider getting additional expert opinion on this matter, perhaps from Dr. Wenk, or if it should consider rejecting the petition.

Dr. Schottenstein stated that the record on this matter is already pretty robust, including the material and expert testimony from last year and the new material this year. Dr. Schottenstein opined that the material is not generationally different from what was reviewed last year and he did not feel it was necessary to repeat the expert review on anxiety and autism petitions based on the new material.

Dr. Bechtel commented that one article cited for treatment of autism involved a relatively small number of patients. Also, the response to medical marijuana was based on the perceptions of the patients' parents and did not have good vetted scientific markers that were objective. Dr. Bechtel further noted that Dr. Wenk is a Ph.D. studying the pharmacokinetics of marijuana; he is not a clinician involved in clinical care of patients. Dr. Bechtel agreed with Dr. Schottenstein's comments. Mr. Giacalone also agreed, saying that he did not see much value in the article that was criticized by Cincinnati Children's Hospital.

Dr. Bechtel stated that there was very compelling evidence to not accept anxiety and autism for treatment with medical marijuana. That evidence came from sources that Dr. Bechtel considered reliable, such as Cincinnati Children's Hospital, Nationwide Children's Hospital, the Ohio Department of Health, and the Director of the Ohio Department of Mental Health.

Motion to forego expert testimony for consideration of autism and anxiety to be added to the list of qualifying conditions for treatment with medical marijuana:

Motion	Dr. Schottenstein
2 nd	Mr. Giacalone
Mr. Giacalone	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

Ms. Murray stated that she will continue the search for experts to review the petition on cachexia. Ms. Murray recommended taking the Committee's recommendations regarding anxiety, autism, and cachexia to the full Board at one time. Dr. Bechtel agreed.

MINUTES REVIEW

Motion to approve the minutes of the Committee's February 12, 2020 meeting as drafted:

Motion	Dr. Schottenstein
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2 nd	Mr. Giacalone
Mr. Giacalone	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

ADJOURN

Motion to adjourn:

Motion	Mr. Giacalone
2 nd	Dr. Schottenstein
Mr. Giacalone	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

The meeting adjourned at 1:53 p.m.

Mark A. Bechtel, M.D.
Chair

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