



**State Medical Board of Ohio Meeting Minutes
September 9, 2020**

Michael Schottenstein, M.D., President, called the video conference meeting to order at 11:02 a.m. with the following members present: Mark A. Bechtel, M.D., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael L. Gonidakis, Esq.; Amol Soin, M.D.; Robert Giacalone, R.Ph., J.D.; Betty Montgomery; Sherry Johnson, D.O.; Jonathan Feibel, M.D.; and Harish Kakarala, M.D.

MINUTES REVIEW

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

Motion	Dr. Johnson
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	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: Abdallah Al-Shahed, M.D.; William Louis Houser, M.D.; Douglas M. Shodd, L.M.T.; and Denise Woodrum. A roll call was taken:

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

Dr. Schottenstein further asked if each member of the Board understands that in each matter eligible for a fine, the Board's fining guidelines allow for imposition of the range of civil penalties, from no fine to the statutory maximum amount of \$20,000. A roll call was taken:

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

During these proceedings, no oral motions were allowed by either party. No respondent on today's agenda have requested to address the Board during this video conference meeting. The respondents and their attorneys are still viewing the meeting remotely and have a number to call in the event of an emergency or procedural concern.

Abdallah Al-Shahed, M.D

Dr. Schottenstein directed the Board's attention to the matter of Abdallah Al-Shahed, M.D. No objections have been filed. Mr. Porter was the Hearing Examiner.

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

Motion	Dr. Johnson
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2 nd

Dr. Kakarala

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

Dr. Schottenstein stated that by all accounts, Dr. Al-Shahed is a good physician, having been described as competent, well-respected, compassionate, and professional. When a physician engaged in behavior that is so inconsistent with that profile, it begs the question as to why. Dr. Schottenstein was uncertain if Dr. Al-Shahed himself knew the answer to that question. Dr. Schottenstein opined that Dr. Al-Shahed's behavior hinged on his pre-existing relationship with the nurse, whom he had known for years. The nurse had been Dr. Al-Shahed's contact person at the nursing facilities where he worked, he respected her as a professional, and he appreciated her help. Dr. Al-Shahed had come to trust the nurse, and Dr. Schottenstein speculated that this trust impaired Dr. Al-Shahed's judgment and caused Dr. Al-Shahed to rationalize behavior he otherwise would not have.

Dr. Schottenstein opined that when Dr. Al-Shahed received the call from the pharmacist, he experienced cognitive dissonance. Dr. Al-Shahed was faced with a clear forgery of a prescription made out by the nurse and signed by him. However, Dr. Al-Shahed also believed the nurse to be an honest, professional, and helpful person. These two beliefs are dissonant, and that provoked psychological stress. Dr. Al-Shahed therefore found a way to resolve the stress by resolving the contradiction, and he did so by conceptualizing the situation as some sort of mistake. Dr. Schottenstein recalled that Dr. Al-Shahed had told the pharmacist, "There must be some confusion because the nurse is the director of nursing at one of the nursing homes." Dr. Al-Shahed addressed this perceived mistake by doing what he thought was the right thing based on a feeling of sympathy for the nurse, knowing that she was coming to work despite her pain and fighting through it. Dr. Al-Shahed consequently allowed a smaller quantity of the medication to be dispensed.

Dr. Schottenstein continued that, to Dr. Al-Shahed's credit, once he realized his trust had been misplaced and his rationalizations broke down, he spoke up regarding his own behavior with the pharmacist and essentially blew the whistle on himself. Dr. Schottenstein stated that Dr. Al-Shahed could have kept this incident to himself, but his first priority was the safety of his patients.

Dr. Schottenstein opined that during his hearing, Dr. Al-Shahed showed remorse and humility and he took responsibility for his actions. Dr. Al-Shahed remediated his behavior by taking courses in controlled substance prescribing and medical ethics. Dr. Schottenstein further noted that Dr. Al-Shahed has no prior disciplinary history, had no dishonest or selfish motive, and has been cooperative throughout this process. Dr. Schottenstein also opined that this situation is very unlikely to recur. Dr. Schottenstein agreed with the Hearing Examiner's Proposed Order.

Ms. Montgomery noted that this case has been with the Board for about three years and there were at least three continuances during the hearing process. Ms. Montgomery stated that drawing out the process is not fair to the physician, the complainant, or the public. Ms. Montgomery asked what party or parties had asked for the continuances and what the reasons were. Ms. Snyder responded that she would have to look up that information and report back later. Ms. Snyder stated that the continuances could possibly have been requested if there were negotiations for a settlement of the case which did not come to fruition. Ms. Snyder noted that Dr. Al-Shahed had been represented by counsel.

Ms. Montgomery opined that the Board should consider a reduction of the proposed fine of \$18,000. Ms. Montgomery stated that Dr. Al-Shahed does not represent as someone who will be a danger going forward, for the reasons articulated by Dr. Schottenstein. Ms. Montgomery suggested that a \$2,500 fine would be more appropriate.

Motion to reduce the fine in the Proposed Order from \$18,000 to \$2,500:

Motion

Ms. Montgomery

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2 nd	Dr. Feibel
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Mr. Giacalone agreed that Dr. Al-Shahed exercised bad judgment, but opined that it was understandably so. Mr. Giacalone opined that the defense attorney’s attempt to shift blame in this matter to the pharmacist based on corresponding responsibility is not justifiable. Mr. Giacalone stated that the onus is on the physician to decide on the legitimacy of their own prescriptions. However, Mr. Giacalone stated that Dr. Al-Shahed is a good physician with a great track record, and he did not believe the Board should impose an unduly harsh sanction for what was essentially poor but well-intentioned judgment.

Dr. Soin agreed with what the other Board members have said about this case, but he did not support the proposed amendment to reduce the fine. Dr. Soin stated that Dr. Al-Shahed authorized a prescription to be filled despite knowing that it was fraudulent. Given that scenario, Dr. Soin agreed with the original proposed fine of \$18,000.

Vote on Ms. Montgomery’s motion to reduce the fine to \$2,500:

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

Having failed to achieve a majority, the motion to amend did not pass.

Mr. Giacalone suggested that a reduction of the fine to \$9,000 would be appropriate.

Motion to reduce the fine in the Proposed Order from \$18,000 to \$9,000:

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

Having failed to achieve a majority, the motion to amend did not pass.

Vote on Dr. Johnson’s motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Al-Shahed:

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

The motion carried.

William Louis Houser, M.D.

Dr. Schottenstein directed the Board’s attention to the matter of William Louis Houser, M.D. No objections were filed. Ms. Shamansky was the Hearing Examiner.

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

Motion	Dr. Johnson
2 nd	Dr. Bechtel

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

Dr. Schottenstein noted a small discrepancy in the Discussion of Proposed Order section of the Report and Recommendation. Dr. Schottenstein had previously brought this to Hearing Examiner Shamansky’s attention, and she asked Dr. Schottenstein to share this with the rest of the Board. Specifically, the Discussion of Proposed Order states that Dr. Houser failed to pay his taxes during quarters ending September 30, 2009 through December 31, 2015. The actual dates, stated correctly earlier in the Report and Recommendation, are September 30, 2009 through December 31, 2014. Dr. Schottenstein stated that the correction is important because if the timeframe truly ended on December 31, 2015, then the Board would have been authorized to impose a fine for the violations that occurred after September 29, 2015.

Dr. Schottenstein agreed with the Hearing Examiner that Dr. Houser committed a very serious offense by failing to pay income taxes over a period of several years. The Hearing Examiner also noted many mitigating factors, such as Dr. Houser being remorseful, cooperative with the Board’s investigation, and compliant with his criminal sentence. Dr. Schottenstein also agreed with the Hearing Examiner that Dr. Houser is a skilled and compassionate physician. However, Dr. Schottenstein also noted aggravating factors such as Dr. Houser having a selfish motive and that his failure to pay taxes over a period of years was a pattern of misconduct. Dr. Schottenstein opined that this behavior has an adverse impact on the public because it dilutes the shared sense of civic obligation and dilutes respect for the law. In addition, the behavior was reckless because Dr. Houser knew it was wrong and did it anyway.

Dr. Schottenstein stated that suspending Dr. Houser’s medical license would substantially impede his ability to pay restitution, both during his suspension and afterwards due to possible loss of business in his solo medical practice because many of his patients may seek care elsewhere during the suspension. Dr. Schottenstein recommended amending the order to include a 90-day suspension, but stay the suspension. Dr. Schottenstein opined that the amendment would be a greater sanction than just a reprimand, but will also preserve Dr. Houser’s ability to pay his restitution to the government.

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Motion to amend the Proposed Order to add a definite 90-day suspension of Dr. Houser’s Ohio medical license, and to stay that suspension:

Motion	Dr. Bechtel
2 nd	Mr. Giacalone

Dr. Soin stated that he is supportive of the Proposed Order of only a reprimand, but is also open to considering the proposed amendment. Dr. Soin stated that this matter has to do with a financial transgression and does not necessarily involve patient care. Dr. Soin agreed that Dr. Houser broke the law, but added that he can appreciate some of the mitigating circumstances such as Dr. Houser’s lack of formal training in financial matters while trying to run a small business. Dr. Soin also appreciated that Dr. Houser has provided nearly 40 years of service in an underserved community in Youngstown.

Dr. Feibel supported the Proposed Order of only a reprimand for reasons articulated by Dr. Soin. Dr. Feibel commented that the proposed stayed suspension seems like the same punishment from a logistical standpoint and he did wish to establish that precedent.

Mr. Giacalone noted that in previous years the Board has discussed whether financial wrongdoing constitutes physician wrongdoing. Mr. Giacalone stated that he is on the fence on this case and expressed uncertainty whether mismanaging one’s office and relying on one’s office manager equates to substandard practice of medicine or hurting one’s patients. Mr. Giacalone stated that Dr. Houser did not hurt his patients, though there is arguably a moral turpitude issue. Mr. Giacalone stated that he is struggling in determining the appropriate amount of punishment for something that conceivably does not fall into the practice of medicine.

Dr. Soin agreed with Mr. Giacalone and further noted that Dr. Houser has already been punished for his crime by the courts. Dr. Soin added that the Board should consider what is appropriate in terms of protecting the public, and this is why Dr. Soin supports the reprimand. Dr. Soin remarked that the reprimand will affect Dr. Houser substantially because it will be listed on the National Practitioner Data Bank and he will be required to report the reprimand when applying for hospital or insurance credentialing.

Mr. Giacalone commented that he could support a required course in ethics in addition to the reprimand. Dr. Feibel agreed. Dr. Schottenstein also agreed and suggested that the ethics course could be adopted instead of the stayed suspension.

Dr. Bechtel wished to change his motion to amend so that the Order included a reprimand and a requirement to complete an ethics course within one year of the effective date of the Order, and to remove the provision for a stayed 90-day suspension. No Board member objected to the change in the motion. The change to the motion was accepted.

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

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

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The motion carried.

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

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

The motion carried.

Douglas M. Shodd, L.M.T.

Dr. Schottenstein directed the Board's attention to the matter of Douglas M. Shodd, L.M.T. No objections were filed. Ms. Shamansky was the Hearing Examiner. This matter is non-disciplinary in nature, therefore all Board members may vote.

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

Mr. Shodd stated that he wanted to take this time before the Board to make three points. First, Mr. Shodd wanted to put a face on the name in this case. Second, Mr. Shodd stated that the Board is giving him an opportunity to bring something back in his life that he had cherished but could not do before due to back surgery. Third, Mr. Shodd commended the Board's staff for helping him navigate this process and making it very comfortable for him.

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

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

Motion	Ms. Montgomery
2 nd	Dr. Bechtel

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

Dr. Schottenstein opined that Mr. Shodd seems to have been a fine massage therapist and he was respectful of Mr. Shodd's statements that he has engaged in self-study and kept his skills sharp by providing massages without compensation. However, Dr. Schottenstein regrettably did not feel that those activities adequately address his concerns under Section 4731.222, Ohio Revised Code. Dr. Schottenstein commented that he has more faith than Mr. Shodd does that Mr. Shodd, with his experience and knowledge, would be able pass the Massage and Bodywork Licensing Examination (MBLEx).

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Dr. Schottenstein stated that it has been nearly seven years since Mr. Shodd had an active massage therapy license. Dr. Schottenstein further stated that he is not familiar with the materials that Dr. Shodd has been using for self-study and that his practice of massage appears to have been minimal during that time. Dr. Schottenstein stated that it is common to feel intimidated by a test, but it is likely that everyone who has to take the MBLEx is intimidated by it. Therefore, it would create a double-standard to simply grant Mr. Shodd's request for licensure.

Dr. Schottenstein continued that if Mr. Shodd truly feels that at 67-years-old he is, by definition, not cognitively sharp due to his age, that is concerning. Dr. Schottenstein felt that, if anything, Mr. Shodd should want to verify that his cognition is sharp if he is going to begin practicing massage therapy on the public, and passing the MBLEx would assure both the public and Mr. Shodd in that regard.

Dr. Schottenstein suggested amending the Proposed Order to require Mr. Shodd to take and pass the MBLEx as a condition of granting his license.

Motion to amend the Proposed Order to require Mr. Shodd to take and pass the MBLEx within one year of the effective date of the Order as a condition for restoring his Ohio massage therapy license:

Motion	Dr. Feibel
2 nd	Dr. Saferin

Dr. Feibel agreed with Dr. Schottenstein's suggestion because he felt it would set a dangerous precedent to restore a massage therapy license without requiring passage of the MBLEx, even if the Board feels that Dr. Shodd is competent.

Mr. Giacalone stated that he did not favor the proposed amendment. Mr. Giacalone noted that the statute gives the Board the ability to require a test before restoring a license if the licensee has been out of practice for more than two years, but it does not require a test and it is the Board's prerogative whether to impose that requirement. Mr. Giacalone further commented that massage therapy is not comparable to a more complex profession such as brain surgery. Lastly, Mr. Giacalone noted that Mr. Shodd had previously taught massage therapy for a number of years, which would require a very good understanding of that practice.

Mr. Giacalone stated that this situation is somewhat unique and merits a different look. Mr. Giacalone agreed with the Proposed Order to grant Mr. Shodd's license.

Vote on Dr. Feibel's motion to amend:

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

The motion carried.

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

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

The motion carried.

Denise Woodrum

Dr. Schottenstein directed the Board's attention to the matter of Denise Woodrum. Objections have been filed and were previously distributed to Board members. Mr. Porter was the Hearing Examiner.

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

Ms. Woodrum was represented by her attorney, Levi Tkach.

Mr. Tkach thanked the Hearing Examiner for his very thorough Report and Recommendation, to which he has filed objections. Mr. Tkach reiterated from his objections that without a finding of criminal intent, it is not appropriate to find that Ms. Woodrum committed a felony in this matter. Mr. Tkach stated that this case is unique in that, unlike other limited practitioners, Ms. Woodrum was not practicing on her own out of her house. Rather, Ms. Woodrum was part of a team working with a licensed dermatologist. Mr. Tkach asked the Board to consider that distinguishing factor as it reviews this case.

Mr. Tkach continued that when Ms. Woodrum learned that she did not have an active cosmetic therapist license, there was a period of time, out of a fear of abandoning patients, when she worked one day a week to address patients who were receiving electrolysis treatment. Ms. Woodrum now understands that she should not have done that and she should have stopped practicing. Mr. Tkach stated that Ms. Woodrum did not do this as an act of defiance, but out of an appreciation for her patients and a willingness to not discontinue care in a field that lacks adequate service. Mr. Tkach stated that Ms. Woodrum is truly sorry for her actions.

Ms. Woodrum apologized to the Board for causing this inconvenience. Ms. Woodrum stated that she is embarrassed and it has been disgraceful to her to end her career this way. Ms. Woodrum stated that she has been in health care for 40 years and has worked for dermatologists for 30 years without any problems. Ms. Woodrum stated that she loves her job and hopes to get her license back.

Ms. Woodrum continued that she has many clients in Cincinnati and there are not many electrologists in that area, so there is a need for her services. Ms. Woodrum stated that she would appreciate regaining her license so she can continue her practice. Ms. Woodrum added that she is 65 years old, single, and living on social security which is not enough. Ms. Woodrum stated that she realizes what she did was wrong, but did not realize it at the time. Ms. Woodrum commented that she has treated many in the transgender community and those with polycystic ovary syndrome (PCOS), and many doctors have referred patients to her.

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Ms. Woodrum stated that she will never practice without a license again and she would like to regain the respect she had. Ms. Woodrum stated that she would be happy to pay any fines or fees. Ms. Woodrum appreciated the Board's careful consideration and reiterated that she is truly sorry.

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

Ms. Pelphrey stated that Ms. Woodrum had been forthcoming in her hearing testimony. Ms. Pelphrey stated that the State only needed to prove that Ms. Woodrum practiced cosmetic therapy for a period of time without a license, which Ms. Woodrum has admitted to. The State does not need to show that there is a *mens rea* requirement when finding an act constituting a felony, as in this case.

Ms. Pelphrey stated that Ms. Woodrum was responsible for knowing the status of her license. Ms. Pelphrey commented that as an attorney, she is diligent in knowing that her license to practice law is up-to-date because that is the requirement and responsibility of the individual.

Ms. Pelphrey asked the Board to adopt the Hearing Examiner's Report and recommendation.

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

Motion	Dr. Johnson
2 nd	Dr. Bechtel

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

Mr. Giacalone wished to offer a prepared amendment, which had been suggested by Dr. Schottenstein, that would grant Ms. Woodrum's Ohio cosmetic therapy license, suspend that license for a definite period of 180 days, require an ethics course, and fine Ms. Woodrum \$1,700, among other provisions.

Motion to amend the Proposed Order to read as follows:

It is hereby ORDERED that:

- A. **GRANT OF RESTORATION OF COSMETIC THERAPY CERTIFICATE; SUSPENSION:**
The application of Denise Woodrum for restoration of her certificate to practice cosmetic therapy in Ohio is GRANTED, provided that she otherwise meets all statutory and regulatory requirements. Upon restoration, Ms. Woodrum's certificate shall be immediately SUSPENDED for a period of 180 days.
- B. **FINE:** Within thirty days of the effective date of this Order, Ms. Woodrum shall remit payment in full of a fine of one thousand seven hundred dollars (\$1,700.00). Such payment shall be made via credit card in the manner specified by the Board through its online portal, or by other manner as specified by the Board.
- C. **PROBATION:** Upon reinstatement or restoration, Ms. Woodrum's license shall be subject to the following PROBATIONARY terms, conditions, and limitations until she has completed a course on professional ethics, fulfilled her cosmetic therapy continuing education ("CTCE") requirements, and paid her fine, as set forth below:
 1. **Obey the Law:** Ms. Woodrum shall obey all federal, state, and local laws, and all rules governing the practice of cosmetic therapy in Ohio.

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2. **Declarations of Compliance:** Ms. Woodrum shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Ms. Woodrum's license is reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Personal Appearances:** Ms. Woodrum shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Ms. Woodrum's license is reinstated, or as otherwise directed by the Board. Subsequent personal appearances shall occur as directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Personal Ethics Course(s):** Within one year of the reinstatement of her license, or as otherwise approved by the Board, Ms. Woodrum shall submit acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the CTCE requirements for relicensure for the CTCE period(s) in which they are completed.

In addition, at the time Ms. Woodrum submits the documentation of successful completion of the course(s) dealing with personal ethics, she shall also submit to the Board a written report describing the course(s), setting forth what she learned from the course(s), and identifying with specificity how she will apply what she has learned to her practice of cosmetic therapy in the future.

5. **Completion and Documentation of CTCE:** Ms. Woodrum shall submit acceptable documentation of the completion of the requisite hours of CTCE to bring her into compliance with her continuing education requirement. The total number of hours that Ms. Woodrum must complete shall be determined in advance by the Board or its designee.
6. **Payment of Fine:** Prior to her release from probation, Ms. Woodrum shall have fully paid the fine as set forth in Paragraph B of this Order.
7. **Required Reporting of Change of Address:** Ms. Woodrum shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Woodrum's license will be fully restored.

E. **REQUIRED REPORTING TO THIRD PARTIES; VERIFICATION:**

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

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limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where she applies for or obtains privileges or appointments.

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

This requirement shall continue until Ms. Woodrum receives from the Board written notification of the successful completion of her probation.

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

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

This requirement shall continue until Ms. Woodrum receives from the Board written notification of the successful completion of her probation.

- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Ms. Woodrum violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her license.

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

Motion	Mr. Giacalone
2 nd	Mr. Gonidakis

Dr. Schottenstein observed that the defense counsel has objected that Ms. Woodrum could not be guilty of committing a felony because she lacked felonious criminal intent. Defense counsel's written objections also encouraged the Board to reject Conclusions of Law 2 and 2a from the Report and Recommendation. Dr. Schottenstein pointed out that Section 4731.41, Ohio Revised Code, is not a strict liability offense and does not specify a level of culpability. In such a case, the default required level of culpability is recklessness. In other words, if the Board believes that Ms. Woodrum's conduct that gave rise to the violation of Section 4731.41 was reckless, then the 4731.22(B)(10) violation is found.

Dr. Schottenstein opined that Ms. Woodrum's conduct was reckless. Dr. Schottenstein elaborated that it was reckless of Ms. Woodrum to take the word of a supervisor that her cosmetic therapy license was grandfathered and never bother to check the veracity of that statement over the following 24 years. Dr. Schottenstein further opined that Ms. Woodrum was heedlessly indifferent to the consequences of her failure to verify important aspects of her licensure. Dr. Schottenstein believed that Ms. Woodrum's behavior represents a gross deviation from what a reasonable law-abiding person would do. While Dr. Schottenstein was respectful of the defense counsel's argument, he opined that Conclusions of Law 2 and 2a apply in this case.

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Dr. Schottenstein appreciated the Hearing Examiner's Proposed Order to deny Ms. Woodrum's licensure. However, as the Hearing Examiner pointed out, there are limited branch licensees who from time to time fail to renew their licenses in a timely manner and the Board typically suspends those individuals for 90 or 180 days. The Proposed Order in this case is to deny licensure only because of the profound length of time that Ms. Woodrum practiced without a license. Dr. Schottenstein supported the amendment to restore Ms. Woodrum's licensure and then suspend that license for a definite period of 180 days. Dr. Schottenstein appreciated the defense counsel's suggestion to make any suspension retroactive because Ms. Woodrum has already been out of practice. However, by not making the suspension retroactive Ms. Woodrum will have been out of practice for about one year when the suspension is lifted. Dr. Schottenstein felt that that was an appropriate duration considering the length of time Ms. Woodrum was in violation of her licensure responsibilities.

Dr. Schottenstein continued that the amendment would also require Ms. Woodrum to complete a professional ethics course within a year of the completion of the suspension, fulfill her continuing education requirements, and observe interim monitoring terms during a probationary period. The probationary period will end when Ms. Woodrum completes the ethics course and continuing education requirements, and has paid her fine. As per her testimony, Ms. Woodrum is in arrears by \$1,200 for license renewal fees. Since the Proposed Order was to fine Ms. Woodrum \$500, it seemed fair to Dr. Schottenstein to amend the fine to \$1,700, which is reflected in the proposed amendment moved by Mr. Giacalone

Dr. Feibel stated that he is not in favor of the proposed amendment. Dr. Feibel was troubled because this is not a case of a practitioner simply forgetting to renew and missing the deadline by a few months or even a year. Rather, this was a long-standing lapse of Ms. Woodrum's license. When Ms. Woodrum reapplied for licensure, she answered "no" to the question, "Have you ever practiced, advertised, announced yourself as a practicing or conduct an office for practicing cosmetic therapy while not holding a valid license from the state Medical Board of Ohio or from any other licensing agency." Dr. Feibel stated that Ms. Woodrum must have known she had been practicing without a license if she was applying for re-licensure.

Mr. Giacalone observed that this case involves cosmetic therapy rather than a medical specialty. Mr. Giacalone agreed that Ms. Woodrum did not exercise the best judgment, but she relied on people in the office where she worked regarding her ability to practice. Mr. Giacalone stated that permanent revocation of license, as called for in the Proposed Order, seemed heavy-handed. Mr. Giacalone questioned whether the facts of this case warrant what would amount to a professional death sentence. Mr. Giacalone agreed that there should be punishment in this case, but he did not favor permanent revocation.

Ms. Montgomery agreed with Mr. Giacalone. Ms. Montgomery also appreciated Dr. Schottenstein's comments, but she was concerned about the effects of a 180-day suspension, a \$1,700 fine, and the cost of an ethics course on Ms. Woodrum. Ms. Montgomery stated that if this case involved a different specialty, she would agree with these provisions. Ms. Montgomery felt that the Board may seem heavy-handed imposing these costs on an individual who is retired and on social security.

Dr. Feibel responded that rules exist for a purpose and whether one is a cosmetic therapist, a neurosurgeon, or another profession regulated by the Board, the Board expects its licensees to follow the rules the same way. Dr. Feibel opined that the Board should send a message to its licensees that it expects them to comply with the rules of licensure regardless of their specialty. Dr. Feibel conjectured that if this case involved a physician who practiced without a license, the Board would not be considering a lesser penalty.

Ms. Montgomery agreed that this case would be different if it involved a physician rather than a cosmetic therapist. Ms. Montgomery stated that she is not as offended by the lapse of Ms. Woodrum's license for many years based on what Ms. Montgomery believes most office managers' responsibilities are. Ms. Montgomery agreed that it is the individual's responsibility to ensure that their license is active, but stated that in a practice there is a question of whether that is followed by the office or by the practitioner.

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Mr. Gonidakis stated that, regarding the proposed fine, the Proposed Order had included a fine of \$500. The proposed amendment adds \$1,200 to that in recognition of license renewal fees that Ms. Woodrum did not pay in the years when she practiced without an active license. Mr. Gonidakis stated that the proposed amended fine of \$1,700 can be conceptualized as a \$500 fine with the Board recouping an additional \$1,200 that should have been paid to the Board previously. Mr. Gonidakis stated that in that light, the \$1,700 fine seems less heavy-handed.

Mr. Giacalone asked if it would be more of a benefit to the public to make an example of Ms. Woodrum, or to get her back into practice doing something productive. Given the fact that this involves a cosmetic therapist and not a physician, Mr. Giacalone supported giving Ms. Woodrum an opportunity to return to practice with a penalty, as outlined in the proposed amendment. Mr. Giacalone saw no value in permanently barring Ms. Woodrum from the practice of cosmetic therapy, stating that such an action could deter others from self-reporting in order to avoid the same outcome.

Vote on Mr. Giacalone’s motion to amend:

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

The motion carried.

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

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

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Schottenstein stated that in the following matter, the Board issued a Notice of Opportunity for Hearing. No timely request for hearing was received. The matter was reviewed by a Hearing Examiner, who prepared

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Proposed Findings and Proposed Orders, and it is now before the Board for final disposition. This matter is disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In this matter, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

Curt Eliot Liebman, M.D.

Motion to find that the allegations as set forth in the November 13, 2019 Notice of Opportunity for Hearing in the matter of Dr. Liebman have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order:

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

The motion carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

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

Antonio S. Cruz, Jr., M.T.

Dr. Schottenstein stated that on February 18, 2020, the Board issued a Notice of Opportunity for Hearing to Antonio S. Cruz, Jr., 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 February 18, 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, denying Mr. Cruz's application:

Motion	Dr. Bechtel
2 nd	Dr. Johnson
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y

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

The motion carried.

Aaron M. Fletcher, M.T.

Dr. Schottenstein stated that on February 18, 2020, the Board issued a Notice of Opportunity for Hearing to Aaron M. Fletcher, M.T., informing him that the State Medical Board of Ohio proposed to approve his application for a license to practice massage therapy provided that he take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Mr. Fletcher 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 February 18, 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 Mr. Fletcher’s application, provided that he takes and passes the MBLEx within six months of the date of mailing of the Order:

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

The motion carried.

Jay A. Garnier, R.C.P.

Dr. Schottenstein stated that on February 18, 2020, the Board issued a Notice of Opportunity for Hearing to Jay A. Garnier, R.C.P., informing him that the State Medical Board of Ohio proposed to approve his application for a license to practice Respiratory Care provided that he take and pass the Clinical Simulation Examination (CSE) due to the fact that Mr. Garnier has not engaged in the active practice of Respiratory Care for more than two years.

Motion to find that the facts set forth in the February 18, 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 Mr. Garnier’s application, provided that he takes and passes the CSE within six months of the mailing of the Order:

Motion	Dr. Saferin
2 nd	Dr. Bechtel

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

The motion carried.

Francis M. Larocca, M.T.

Dr. Schottenstein stated that on February 18, 2020, the Board issued a Notice of Opportunity for Hearing to Francis M. Larocca, M.T., informing him that the State Medical Board of Ohio proposed to approve his application for restoration of his license to practice massage therapy provided that he take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Mr. Larocca 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 February 18, 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 Mr. Larocca's application, provided that he takes and passes the MBLEx within six months of the date of mailing of this Order:

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

The motion carried.

Lihua Anita Yang, M.T.

Dr. Schottenstein stated that on February 18, 2020, the Board issued a Notice of Opportunity for Hearing to Lihua Anita Yang, M.T., informing her that the State Medical Board of Ohio proposed to deny her application for a certificate to practice massage therapy because she does not hold a diploma or certificate from a school, college or institution in another state or jurisdiction that meets the Board's required course of 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.

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Motion to find that the facts set forth in the February 18, 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, denying Ms. Yang's application:

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

The motion carried.

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

The motion carried.

The Board went into Executive Session at 12:07 p.m. and returned to public session at 1 p.m.

AD HOC EXECUTIVE DIRECTOR REVIEW COMMITTEE

Dr. Schottenstein asked for a motion to form an *ad hoc* committee to assess the performance of the Executive Director. The committee, if approved, would consist of Dr. Schottenstein, Dr. Bechtel, Dr. Rothermel, and Dr. Saferin.

Motion to form the *ad hoc* Executive Director Review Committee as discussed:

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

The motion carried.

SETTLEMENT AGREEMENTS

Saad Al Sakkal, M.D.

Motion to ratify the proposed Permanent Surrender with Saad Al Sakkal, M.D.:

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

The motion carried.

Jared Race Colvin, M.T.

Motion to ratify the proposed Permanent Surrender with Jared Race Colvin, M.T.:

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

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Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

JMF, M.D.

Motion to ratify the proposed Consent Agreement with JMF, M.D.:

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

The motion did not carry.

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

Ms. Marshall commented that nearly all of today's proposed citations are based on federal convictions. Ms. Marshall stated that normally the Enforcement staff waits until final sentencing before such citations are brought to the Board. However, the courts are currently backed up due to the COVID-19 pandemic. Consequently, on most of today's proposed citations it is noted that final sentencing is pending. Hopefully, final sentencing will have occurred by the time of any hearings that result from these citations.

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

1. Joseph Betro, D.O.: Based on a federal conviction for Conspiracy to Commit Health Care Fraud.
2. Abdul Haq, M.D.: Based on a federal conviction for Conspiracy to Commit Health Care Fraud.
3. Spilios Pappas, M.D.: Based on a federal conviction for Conspiracy to Commit Health Care Fraud.
4. Thomas Ranieri, M.D.: Based on the physician's plea of guilty to 14 counts of Illegal Distribution of Controlled Substances. Ms. Marshall noted that this physician has been suspended since September 2018 under a Consent Agreement.
5. Paul Yang, M.D.: Based on a federal conviction for Conspiracy to Commit Health Care Fraud.
6. Mohammed Zahoor, M.D.: Based on a federal conviction for Conspiracy to Commit Health Care Fraud.

Regarding proposed Citation #2, Dr. Feibel noted that the physician pleaded guilty in 2017, yet it is only just now coming to the Board as a citation. Dr. Feibel acknowledged that the physician has not yet been sentenced, but he felt it is important that the Board not wait for sentencing once a guilty plea is made, especially if sentencing takes three years.

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Regarding proposed Citation #4, Dr. Feibel opined that it should include a Summary Suspension of the physician’s license. Dr. Feibel recognized that the physician is already under a suspension, but stated that the Board could technically reinstate the license. Dr. Feibel also stated that by statute, this citation should be a summary suspension.

Ms. Marshall stated that the Board can act on a guilty plea once it is accepted by the court. However, guilty pleas in the federal court system are normally not accepted until the time of sentencing. In some cases a defendant may enter into a plea to agree to plead guilty at a later time, and in such instances the Board cannot yet go forward.

Regarding the summary suspension issue for proposed Citation #4, Ms. Marshall stated that the Board cannot summarily suspend someone whose license is already suspended because there is no risk to patients, which is one of the requirements for a summary suspension. Ms. Marshall added that the Board cannot suspend a license that is already suspended because there is no active license to suspend. Dr. Feibel opined that the citation should include verbiage indicating that the practitioner is summarily suspended by statute while also acknowledging that the license is already suspended.

Responding to a question from Ms. Montgomery, Ms. Marshall stated that the Consent Agreement which suspended the license of the practitioner in proposed Citation #4 is not related to the conviction at issue today.

Ms. Montgomery asked if the co-defendants in proposed Citations #1, #3, and #6 have had action taken against their Michigan medical licenses. Ms. Marshall answered that she did not know if Michigan had taken action, but stated if such action had been taken and was significant or separate from these matters, that would have been included in the proposed Citations. Ms. Marshall stated that Michigan may not have taken action yet because most boards wait for the sentencing to be final. Ms. Marshall stated that it was decided to move forward with these citations because there is uncertainty as to when the federal courts will resume sentencing people.

Motion to approve and issue proposed Citations #1 through #3:

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

The motion carried.

Motion to approve and issue proposed Citations #4 through #6:

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

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

The motion carried.

OPERATIONS REPORT

Budget Request for Fiscal Years 2022/2023: Ms. Loucka stated that the staff's budget request for Fiscal Years 2022 and 2023 includes some staffing increases. There are also current vacancies that staff will attempt to fill in this Fiscal Year under the Board's current personnel ceiling and appropriation. These requests will be discussed in greater detail in the Finance Committee report.

Licensure: Ms. Loucka stated that many licensees are not renewing their licenses due to legislation that delayed renewal requirements through the COVID-19 pandemic. Those licensees who have delayed renewal will have to renew by December 1, 2020. Targeted communication has been sent to licensees who would normally have renewed during the pandemic but have not renewed. Those communications will be increased so that those licensees do not forget to renew due to the unusual date and inadvertently practice unlicensed. Following December 1, licensees' future renewal dates will revert to their normal schedule; education will be distributed to make certain that licensees understand that.

Communications: Ms. Loucka stated that most of the Board's communication in Licensure has been by email and licensees have adapted well to that while the Licensure staff has been outside the office. However, the staff is considering something like a virtual call center that would enable Licensure staff to take and receive calls from home.

Complaints: Ms. Loucka stated that the Operations Report continues to include data on open complaints and closed complaints, including a month-by-month comparison on a bar graph. Ms. Loucka noted that many complaints were closed in July 2020 and slightly fewer were closed in August 2020. Ms. Loucka commented that the Board takes in many more complaints than it closes each month by dint of the fact that some complaints take longer than others. Staff will continue to monitor timelines and staffing, and will address any issues that may arise.

In the event that discipline becomes necessary, enforcement activity will be timed so that the disciplinary action has merit relative to the violation. Ms. Loucka stated that the Board would rather work with its licensees on a timely basis instead of taking an action years after the violation is committed.

RULES & POLICIES

Adoption of Rules

Ms. Anderson stated that, as outlined in the memo to the Board, a number of physician assistant and respiratory care rules have been through the rule promulgation process are ready for final adoption.

Motion to adopt, amend, and rescind the rules as described in the August 27, 2020 memorandum from Ms. Anderson and to assign each rule action the effective date of September 30, 2020:

Motion	Dr. Bechtel
2 nd	Dr. Saferin

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

The motion carried.

Formal Actions on Medical Board Website

Ms. Anderson stated that a protocol has been drafted to address situations in which a disciplinary citation issued to a licensee was either dismissed by the Board or vacated by a court, and the licensee has no other disciplinary action. Currently, these licensees' entries on the eLicense website will say "Yes" under the heading "Board Action?" The "Yes" is a link which takes one to a dialogue box explaining the actions and the supporting documents. In the case of a dismissed or vacated citation, that dialogue box and documents will indicate that no formal disciplinary action resulted from the citation.

Under the new protocol, licensees with a dismissed or vacated citation will have "No" under "Board Action?" Since the original citation is still a public document, there will be a notation with information of how to contact the Board and obtain those documents through a public records request.

If the Board approved this protocol, staff will search Board records to find those individuals and make those changes to the website.

Dr. Schottenstein found the new protocol to be fair and he supported it.

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

The motion carried.

APPOINTMENT TO COMMITTEE ON PRESCRIPTIVE GOVERNANCE

Motion to appoint Michael Sevilla, M.D., to the Nursing Board's Committee on Prescriptive Governance:

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

The motion carried.

REPORTS BY ASSIGNED COMMITTEES

Ad Hoc Telehealth Committee Report

Dr. Feibel stated that the Telehealth Committee met last month following the Board meeting. It was reported that House Bill 679 had passed the House of Representatives in June, but the Senate had not yet assigned it to a Senate committee. The bill is likely to be assigned to either the Health and Human Services Committee or the Insurance Committee.

The Committee's proposed amendments to House Bill 679 are as follows:

- **Initial Visits:** For a patient's initial visit to a provider, a virtual visit should be the exception and not the rule. If the visit does occur via telehealth, the reason should be documented in the medical record. If at all possible, the initial visit should be in-person, and that includes seeing a different physician in the same practice for a different problem. After discussion, the Committee approved language, "The telehealth visit would be necessary to avoid significant compromise in patient care, or the health care professional determines that the patient's health conditions require telehealth services and a telehealth visit does not violate the standard of care."
- **Consistency in Standard of Care:** The Committee wanted to preserve the standard of care consistently between telehealth and in-person visits, but also wanted an exception for the current COVID-19 emergency. So during this emergency, the Committee supports the ability of providers to use telehealth liberally while acknowledging that the standard of care may not be as good as in-person visits. However, if a provider uses telehealth in a non-emergency, those visits should be held to the same standard of care as an in-person visit.
- **Medical Board Rule-Making Authority:** The Committee approved the draft language, with the exception of removing the word "fully" from the phrase "fully informed consent."
- **Synchronous Technology:** The Committee opined that providers must use synchronous audio/video technology for telehealth visits, except in the following situations:
 - The visit is strictly for verbal consultation or verbal counseling as allowed by CPT billing codes and the standard of care does not require a physical examination.
 - The individual had attempted in good faith to contact the provider via synchronous technology but something has gone wrong with the equipment.
 - The patient does not have access to the necessary equipment.

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Dr. Feibel stated that these changes have been drafted and will be discussed by the Committee this afternoon. Dr. Feibel encourage any interested Board member to attend the meeting.

Compliance Committee Report

Dr. Schottenstein stated that the Compliance Committee met on August 12, 2020. The substance of the meeting had to do with concerns of the Ohio Physicians Health Program (OPHP) regarding establishment of a reporting exception for the OPHP Medical Director, improvement of information sharing from the Medical Board to OPHP, and information on how other states handle licensing applicants who have had treatment with a physician health program in another state.

On the proposed reporting exception for the OPHP Medical Director, Dr. Schottenstein stated that 4731.251(D)(4), Ohio Revised Code, already indicates that OPHP should not disclose any information to the Board regarding a practitioner unless the practitioner presents an imminent danger to the public or to the practitioner as a result of the impairment. So, it appears that the language OPHP is asking for already exists. However, Dr. Schottenstein appreciates OPHP's desire for clarity because the Board wants to maintain a level of trust with the organization, so that discussion is ongoing. Dr. Schottenstein suggested a memorandum of understanding may clarify the matter.

Regarding sharing of information, the Board's staff is currently working with OPHP to determine what information can be shared legally with OPHP. Dr. Schottenstein understood that the Board has already agreed to share additional contact information on licensees, but staff is still researching whether it can share additional information of substance with OPHP. Dr. Schottenstein stated that additional substance would likely be helpful to OPHP in terms of disposition of these licensees. However, OPHP does not fall under 4731.22(F)(5), Ohio Revised Code, and so the Board cannot send records to them in the same way it could for a law enforcement agency.

Finally, the Committee touched on One-Bite eligibility for applicants who had received treatment with a physician health program of another state. Under Ohio statutes, the One-Bite program is only available to current Ohio licensees. This issue will be addressed at the Committee's next meeting this afternoon.

Physician Assistant Policy Committee Report

Ms. Reardon stated that the Physician Assistant Policy Committee (PAPC) met on August 21. The Committee welcomed Dr. Feibel as a new member. The Board's new External Affairs staff was introduced to the Committee. Ms. Wonski provided a legislative update. Ms. Anderson provided a rules update.

The next meeting of the PAPC will be October 9, 2020.

Respiratory Care Advisory Council Report

Ms. Reardon stated that the Respiratory Care Advisory Council (RCAC) met yesterday. Ms. Wonski provided a legislative update. The Council was informed that new administrative rules will become effective on September 30, 2020, that will amend the education verification form process. The form was given to the Council for comment. The Council was also informed that there will be a public hearing on September 24 on respiratory care law professional ethics course criteria. The Council was provided with geographic maps showing the locations of respiratory care professionals and L1 Certificate holders in counties across Ohio over a several year period.

The Ohio Society for Respiratory Care (OSRC) gave a presentation on the concept of a newly-created advanced practice respiratory care level. The OSRC is currently working on legislation and provided a copy of the draft legislation.

Unless needed sooner, the next meeting of the RCAC is scheduled for December 8, 2020.

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Sexual Misconduct Committee Report

Dr. Schottenstein stated that the Sexual Misconduct Committee met this morning. The Committee reviewed draft language that would add an enforcement mechanism to the 4731.22(F)(5) and 4731.99 statutes for improper disclosure of confidential investigatory information. The additional language for 4731.22(F)(5) reads as follows: No person shall knowingly access, use or disclose the confidential investigatory information in a manner prohibited by law.” The new language for 4731.99 reads as follows: “Whoever violates section 4731.22(F)(5) of the Revised Code is guilty of a misdemeanor of the first degree.”

The Committee reviewed the fact that this new language would not necessarily change the Board’s legal analysis as to disclosing information, but the presence of an enforcement mechanism may change the risk analysis. Mr. Smith stated that the new language, if approved, can be added to some of the Board’s standard correspondence to indicate that disclosing information could make one subject to penalty.

Dr. Schottenstein stated that the 4731.22(F)(5) matters discussed in a previous Committee meeting are on hold for now because the Committee has not yet come to a consensus and it may be more worthwhile to revisit those other topics in the context of overall Board Structure.

Dr. Schottenstein stated that Ms. Pollock provided an update on production of the duty-to-report video. The production was on hold due to the COVID-19 pandemic, but is now back on track. The Board is collaborating with the Department of Public Safety to produce the video, which will include interactive quizzes throughout the running time. Due to these interactive quizzes, the video cannot be put on the Board’s website or YouTube page, but links to the video can be provided on those sites and other sources. The first interview with a sexual misconduct expert has been recorded for the video, and clips from previous sexual misconduct videos will also be used. The Communications team is also contemplating survivor testimony as part of the video. In the near future, Board members will use draft scripts that they may comment on.

With regard to the sexual misconduct historical case review, 96% of reviews have been completed and 85% of all working group tasks have been completed. Substantially, the tasks remaining are the legislative items that the Committee is currently working through. All the cases have now been assigned to external reviewers and the Board expects that 100% of the historical case reviews will be done before its October meeting.

The Committee also reviewed the sexual misconduct protocol. The protocol was originally created in July 2019 and, among other things, instituted a committee to review all complaint closures. The substantial change in the protocol is that Ms. Canepa, as Deputy Director for Enforcement, Investigations, Compliance, and Standards Review, will review the closures instead of the committee. This is expected to bring more consistency to the process and give the Board the benefit of Ms. Canepa’s expertise. Dr. Schottenstein noted that this change in protocol is not specific to Ms. Canepa, but will be built into her position. Going forward, whoever fills that position will need to have this skill as part of the job description.

Policy Committee Report

Dr. Soin stated that the Policy Committee had a rule review update and also recommended adoption of the proposed physician assistant and respiratory care rules. A public rules hearing is scheduled for September 24 for proposed Rule 4761-9-04 because that rule had been amended by more than 50%.

Legislative Update

The Committee received a legislative update. Dr. Soin commented that the new design for the legislative update is excellent and thanked Ms. Wonski and Ms. Loucka for spearheading that change. Mr. Giacalone had suggested that a link to the actual bill be added to the update. Ms. Montgomery had suggested that the update be more clear on the Board’s positions and recommended stances on various bills. Dr. Soin stated that he connected the Ms. Wonski following the Committee meeting to discuss those changes.

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The Committee reviewed five bills closely:

- **Senate Bill 246:** The occupational licensing reciprocity bill.
- **House Bill 203:** The mobile dental services bill. This bill included a section granting pharmacists the ability to order laboratory and diagnostic tests in accordance with the terms of a consultation agreement. Ms. Wonski will ask for clarification on which diagnostic tests could be ordered by the pharmacist and what potential liability may attach to the physician.
- **House Bill 263:** This bill requires the Board to create a list of criminal offenses that would disqualify an applicant from licensure. Ms. Wonski will research what long-term affects this could have on the Board.
- **House Bill 341:** This bill would allow pharmacists to prescribe opioid addiction treatments.
- **House Bill 492:** This bill would enable physician assistants to perform rapid intubation, involuntarily commit patients, and offer procedural sedation. The bill would also change the verbiage of the physician's role from "supervisory" to "collaborative." Dr. Soin commented that he personally strongly opposes this bill, as did some other Board members who commented.

Board of Pharmacy Rules on Vaccinations

Mr. Smith provided the Committee with a report on the Board of Pharmacy's proposed rules on vaccinations. There are seven relevant changes, as outlined in the memo to the Committee. Among other things, the rules would emphasize the importance of following the standard of care, require the pharmacist to review the protocol annually with the physician, and renew the protocol on a biennial basis.

The seventh proposed rule change concerned the addition of COVID-19 immunization. The proposed rule states that the pharmacist may administer immunizations in accordance with 4721.41, Ohio Revised Code. The statute allows pharmacists to administer any immunization approved by the Food and Drug Administration (FDA), including any immunization for prevention of COVID-19.

Medical Associations Coalition Letter

Dr. Soin stated that the Committee reviewed a letter from the Medical Associations Coalition (MAC). The three main subjects of the letter are 1) understanding mental and physical conditions for impairment, 2) public disclosure of applicants' illnesses or diagnoses, and 3) outsourcing confidential monitoring program issues and items.

Dr. Soin stated that Ms. Loucka and staff will research these three topics and provide recommendations to help guide further discussion. Dr. Soin appreciated the spirit of the MAC and the opportunity to address these items.

Finance Committee Report

Fiscal Update

Dr. Schottenstein stated that the Board's revenue in July 2020 was \$914,818, which is an increase from the previous month but still substantially under the projected revenue due to the extension of the licensure renewal deadline. Dr. Schottenstein noted that many licensees are waiting to renew their licenses. The Board has started the process of sending reminders to those licensees.

Dr. Schottenstein continued that the Board is about \$1,000,000 under its projected revenue for Fiscal Year 2020. It is hoped that that shortfall will be made up in Fiscal Year 2021. The Board's cash balance is \$4,828,279, which is still a good number for the Board. Since July is the first month of the fiscal year, there is

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not much revenue for expenditure to report on at this time. About \$28,000 is left over from what had been previously encumbered in Fiscal Year 2020 for the historical case review; those funds were re-encumbered for Fiscal Year 2021 and should take the Board through the end of the historical case review.

In July, the Board received \$4,000 in disciplinary fines and \$82.17 in collections.

Proposed Budget Request for Fiscal Years 2022/2023

Dr. Schottenstein stated that the Board materials include a proposed budget request for the Fiscal Years 2022/2023 biennium. This is an expansion budget which proposes increased spending, including six additional positions resulting to a personnel ceiling of 90.5 full-time employees. The six additional positions would consist of three investigators, one enforcement attorney, and one victim advocate.

Dr. Schottenstein continued that the Board carries a large cash balance, but over the last five years the number of licensees have increased by 37% and complaints have increased by 50% with no corresponding increase in staff. Dr. Schottenstein opined that it seems to be an appropriate time to increase spending in a prudent way, especially given the Board's substantial cash balance. Dr. Schottenstein noted that the last time the Medical Board increased physician fees was 1999, and fees for physicians and physician assistants have actually decreased in the last five years. The earliest the Board would need to consider license fee increases for this increased spending is Fiscal Year 2025, but there may be additional operational savings that would forestall that.

Dr. Schottenstein stated that the current cash balance represents approximately five months of operating costs, and it would be six months of operating costs if not for the delay in licensure renewal. Public spending philosophy at this time recommends a more conservative cash balance of two to three months of operating costs.

Dr. Schottenstein stated that the Medical Board wants to be responsive to the recommendations of the Governor's Working Group and also the recommendations of the recent audit by the Federation of State Medical Boards (FSMB). This budget is largely consistent with those recommendations and the increased spending should allow the Board to implement them in an efficient way.

Dr. Schottenstein added that this proposed budget would give the Board the flexibility to hire either a part-time or a full-time medical director, if the Board is so inclined. The Board could also hire an IT staff member to fill a vacancy.

Dr. Schottenstein noted that even though the Medical Board is not funded from the General Revenue Fund, the Board still needs appropriation from the legislature. The Committee discussed the need for good metrics to know if the Board is getting good value for these additional hires. The Committee also contemplated moving some staff to home as a cost-saving measure. Dr. Schottenstein stated that it has been productive in some ways to have staff working from home, and doing so on an ongoing basis may free up some office space, which would result in cost savings. Ideally, all of the Board's offices would be on one floor.

Motion to support the Fiscal Year 2022/2023 budget as proposed by staff:

Motion	Dr. Bechtel
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Sojn	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y

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

The motion carried.

Licensure Committee Report

Licensure Application Reviews

Rebecca Billings, D.O.

Dr. Saferin stated that Dr. Rebecca Billings has applied for a medical license in Ohio. Dr. Billings has not practiced within the last two years. Dr. Billings has been extensively studying for her upcoming specialty board examination for American Board of Internal Medicine (ABIM) certification, scheduled in December 2020. Dr. Billings has been focused on becoming board-certified prior to searching for specific positions, with the goal of working in an ambulatory hospital setting.

Motion to approve Dr. Billings' application for Ohio licensure contingent on her successfully obtaining ABIM certification within 12 months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Bechtel
2 nd	Dr. Rothermel

Dr. Kakarala asked if Dr. Billings had had board certification and it had lapsed, or if this was Dr. Billing's initial attempt at certification. Dr. Rothermel answered that Dr. Billings had completed her residency, but due to the unexpected death of her husband she had been home for three years following her residency to get things settled for her children. Consequently, this is Dr. Billing's first attempt to take the examination.

Vote on Dr. Bechtel's motion:

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

The motion carried.

Kelly Druckemiller, R.C.P.

Dr. Saferin stated that Kelly Druckemiller has applied for restoration of her Ohio Respiratory Care Professional (RCP) license. Ms. Druckemiller has not practiced as a respiratory care professional within the last five years. However, Ms. Druckemiller passed the Therapist Multiple-Choice (TMC) Examination on June 10, 2020, and the Clinical Simulation Examination (CSE) on July 28, 2020, and holds current RRT registration.

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

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

The motion carried.

Carlos Andres Aravena Leon, M.D.

Dr. Saferin stated that Dr. Carlos Aravena Leon has applied for a medical license in Ohio. Dr. Leon is requesting that his experience and training in Chile, combined with his research fellowship and 12 months of training in the United States, be deemed equivalent to 24 months of graduate medical education through the second-year level of graduate medical education.

Motion to grant the graduate medical education equivalence, as outlined in 4731.09(A)(4)(b), so that Dr .Leon may be granted a license:

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

The motion carried.

Terakeith Lertsburapa, M.D.

Dr. Saferin stated that Dr. Terakeith Lertsburapa has applied for a medical license in Ohio. Dr. Lertsburapa has requested a waiver of the United States Medical Licensing Examination (USMLE) 10-year rule.

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

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

The motion carried.

Christina Lester, L.Ac.

Dr. Saferin stated that Christina Lester has applied for a license to practice acupuncture in Ohio. Ms. Lester has not practiced acupuncture within the last five years. However, Ms. Lester recently recertified with the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) on May 26, 2020.

Motion to approve Ms. Lester’s application for an Ohio license as presented:

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

The motion carried.

Marijana Oroz, M.T.

Dr. Saferin stated that Marijana Oroz has applied for restoration of her Ohio massage therapy license. Ms. Oroz has not practiced massage therapy within the last five years.

Motion to approve Ms. Oroz’s application for restoration of her Ohio license contingent on her passing of the Massage and Bodywork Licensing Examination (MBLEx) within 12 months from the date of mailing of the Notice of Opportunity for a Hearing:

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

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

The motion carried.

Saira Saad, M.D.

Dr. Saferin stated that Dr. Saira Saad has applied for a medical license in Ohio. Dr. Saad is requesting a waiver of the United States Medical Licensing Examination (USMLE) 10-year rule.

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

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

The motion carried.

Michael Schlewet, M.D.

Dr. Saferin stated that Dr. Michael Schlewet has applied for a medical license in Ohio. Dr. Schlewet is requesting that his experience and training in Syria, combined with his clinical fellowships in the United States, be deemed equivalent to 24 months of graduate medical education through the second-year level of graduate medical education.

Motion to grant the graduate medical education equivalence, as outlined in 4731.09(A)(4)(b), so that Dr. Schlewet may be granted a license:

Motion	Mr. Giacalone
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	Y

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

The motion carried.

Mr. Gonidakis exited the meeting at this time.

Rebecca Shook, R.C.P.

Dr. Saferin stated that Rebecca Shook has applied for an Ohio Respiratory Care Professional (RCP) license. Ms. Shook has not practiced clinically as an RCP for more than five years.

Motion to approve Ms. Shook’s application for an Ohio license contingent on successful completion of the Clinical Simulation Examination (CSE) within 12 months from the date of mailing of the Notice of Opportunity for a Hearing:

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

The motion carried.

Cheyenne Turner

Dr. Saferin stated that Cheyenne Turner has applied for a massage therapy license in Ohio. Ms. Turner has not practiced within the last five years. However, Ms. Turner passed the Massage and Bodywork Licensing Examination (MBLEx) on August 15, 2020.

Motion to approve Ms. Turner’s application for an Ohio license as presented:

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

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Dr. Schottenstein	Y
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The motion carried.

RESUMING IN-PERSON EVALUATIONS

Ms. Marshall stated that when the COVID-19 pandemic began, the Board put a temporary hold on sending people to in-person evaluations, largely because of the State's stay-at-home order at that time. Since that time, the stay-at-home order has been replaced by the Stay Safe Ohio order, which is more liberal. Ms. Marshall asked the Board to consider the resumption of in-person evaluations.

Mr. Giacalone asked if the resources are available for the resumption of in-person evaluations. Ms. Marshall replied that resources are available and the staff does not foresee any problems with that.

No Board member objected to the resumption of in-person evaluations.

COMPLIANCE

Office Conference Review

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

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

The motion carried.

Probationary Requests

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

- a) Asad S. Ali, M.D.: Request for approval of *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, offered by Case Western Reserve University, to fulfill the medical records course requirement.
- b) Jennifer C. Campbell, M.D.: Request for release from the terms of the May 13, 2015 Step II Consent Agreement.
- c) Thuan D. Dang, M.D.: Request for Release from the terms of the August 12, 2015 Board Order.
- d) Michael J. Howkins, D.O.: Request for approval of Sarah Aronson, M.D., to serve as an additional monitoring physician.
- e) John J. Kavlich, M.D.: Request for approval of Scott F. Martin, M.D. to serve as the treating psychiatrist.

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- f) Hyun B. Kim, D.O.: Request for approval of the personal and professional ethics course tailored by Donna Homenko, Ph.D. to fulfill the personal/professional ethics course requirement.
- g) James A. Marsh, Jr., D.O.: Request for reduction in psychotherapy from every three months to every six months.
- h) Munawar Siddiqi, M.D.: Request for release from the terms of the December 13, 2017 Board Order.
- i) Luke Simmons, M.D.: Request for approval of Carol Chung, M.D. to serve as the treating psychiatrist.
- j) Raymond G. Stolarski, D.P.M.: Request for release from the terms of the May 13, 2020 Consent Agreement.
- k) Suman C. Vellanki, M.D.: Request for release from the terms of the August 12, 2015 Step II Consent Agreement.

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

The motion carried.

The Board meeting was recessed at 1:30 p.m. The meeting resumed at 2:02 p.m.

ADJOURN

Motion to adjourn:

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

The motion carried.

The meeting adjourned at 2:06 p.m.

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We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on September 9, 2020, as approved on October 14, 2020.

(SEAL)



SEXUAL MISCONDUCT COMMITTEE MEETING
September 9, 2020 – via video conference

<p>Committee Members Present: Michael Schottenstein, MD, Chair Michael Gonidakis, Esq. Robert P. Giacalone, JD, RPh Betty Montgomery</p> <p>Other Board Members Present: Mark A. Bechtel, MD Kim Rothermel, MD Bruce R. Saferin, D.P.M. Jonathan Feibel, M.D.</p>	<p>Staff Present: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Angela Canepa, Deputy Director of Investigations, Enforcement, and Compliance Nathan Smith, Senior Legal Counsel Chelsea Wonski, Legislative Director Tessie Pollock, Chief of Communications Benton Taylor, Board Parliamentarian</p>
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Dr. Schottenstein called the meeting to order at 8:03 a.m.

MINUTES REVIEW

Mr. Giacalone moved to approve the draft minutes of the Committee's August 12, 2020 meeting. Ms. Montgomery seconded the motion. The motion carried.

LEGISLATIVE DISCUSSION

Ms. Anderson briefly reviewed changes to the draft proposed amendments to 4731.22(F)(5), Ohio Revised Code, based on the Committee's past discussion.

First, Ms. Anderson presented amended language regarding personal information systems confidentiality that adds an enforcement mechanism to the statute. The draft language would change both 4731.22(F)(5) and 4731.99, Ohio Revised Code, and would indicate that knowingly accessing, using, or disclosing confidential investigatory information would make the individual guilty of a misdemeanor in the first degree. This language is intended to address the Committee's concern that currently there is no enforcement mechanism for entities who may receive confidential information from the Board and then break that confidentiality.

Regarding the matter of Dr. Strauss, Dr. Schottenstein asked if this language would have given the Board greater comfort to release information to The Ohio State University's contracted law firm had it been in place at that time. Ms. Anderson replied that having an enforcement mechanism would probably not have changed the legal analysis of that issue. Ms. Loucka agreed, but added that an enforcement mechanism may change the risk analysis and provide additional protection when the legal analysis supports release of the information. Ms. Montgomery and Mr. Giacalone also agreed, stating that the language can act as a deterrent for the recipient of the information and would not alter the Board's legal analysis.

Mr. Smith commented that the Board's investigative Reports of Investigation (ROI) currently includes footer language briefly explaining 4731.22(F)(5). If this proposed language is adopted, the footer language can also explain to the recipient that disclosure of the confidential information would subject them to a penalty. Such language could also be included in cover letters that disclose information.

Dr. Schottenstein asked if this proposed language would be facilitative in providing information to the Ohio Physicians Health Program (OPHP) regarding participants of the One-Bite program. Ms. Montgomery responded that the Question of what the Board shares with OPHP will often be addressed by waivers.

Ms. Anderson noted that the Committee had discussed adding an exception for a potential “post-mortem” Board committee which would review closed cases. Ms. Anderson stated that such an exception could also be added for OPHP as a monitoring organization for the One-Bite program. Ms. Anderson opined that these questions would be better addressed in a future discussion the Board may have about the structure of the Board rather than in the confidentiality statute.

Following a brief discussion, the Committee agreed that the proposed language should be circulated to interested parties for comment.

Regarding other topics related to the confidentiality statute, the Committee agreed that the upcoming Board retreat would be a good forum for further discussion. Ms. Loucka added that this topic will also be discussed in relation to recommendations from the Federation of State Medical Boards that the Board institute more Board involvement in cases and real-time review of Board actions while still preserving fairness for licensees.

DUTY-TO-REPORT CME

Ms. Pollock updated the Committee on the production of a one-hour continuing medical education (CME) video on licensee’s duty to report violations to the Board. Production had been paused due to the beginning of the COVID-19 pandemic, but development has resumed and production is underway.

Ms. Pollock outlined plans to partner with the Department of Public Safety due to their high-quality studio facilities and tools. This would also represent a cost-savings over outsourcing the production of the video to an outside entity. Since the Department of Public Safety does not have the ability to produce a video that has interactive quizzes at certain stop points, Ms. Pollock is reaching out to another agency that has the software for that functionality.

Ms. Pollock stated that the first interview for the video has already been recorded. The subject of the interview is a subject matter expert who has been an expert witness across Ohio and nationally in sexual misconduct cases. Communications is also working with Enforcement, Investigations, and the Assistant Attorneys General to identify other individuals who may wish to participate in the video. Ms. Pollock commented that the Board has seen a number of cases over the years and sometimes survivors are willing to share their stories to ensure that it does not happen again to others. Ms. Pollock is working with the Board’s victim advocate to identify possible individuals who would be willing to participate. Ms. Pollock stated that when a draft of the video script is ready, it will be circulated to Board members for comments and input.

Other aspects of this communications plan, such as visiting health systems to share this information at meetings with providers, has been on hold due to the COVID-19 pandemic. If social distancing requirements remain in place, these meetings could be conducted virtually or could be postponed until next spring.

In response to a question from Dr. Schottenstein, Ms. Pollock stated that portions of the Board’s existing videos on sexual misconduct will be incorporated into the CME video. Ms. Pollock

further stated that since the interactive quizzes make the video unsuitable for the Board's website or YouTube channel, the Board can purchase the service of an FTP site that can host the video. Links to the video can be included on the Board's other outlets.

HISTORICAL CASE REVIEW

Ms. Loucka stated that as of yesterday, all 1,200 cases in the historical case review have been assigned to outside reviewers and 96% of those have been returned to the Board for further internal review. Ms. Montgomery noted that a large portion of the later cases have come back with a recommendation from the external review to keep closed, somewhat off-setting the trend earlier in the process that included more high-risk cases and a higher proportion of recommendations for further investigation or other action. A complete report on what the external reviewers' findings and next steps for cases will be presented to the Board at its October 2020 meeting.

Ms. Loucka thanked Dr. Rothermel and Dr. Saferin for adding to their duties as Board Secretary and Supervising Member and reviewing these cases through this process.

In response to a question from Ms. Montgomery, Ms. Loucka stated that there are fewer cases involving a failure to report than cases involving other violations. Ms. Loucka commented that the age of the cases has been a complicating factor and sometimes victims are not willing to testify. The Board has worked with its victim advocate on these issues.

Ms. Loucka stated that because the project has underspent its encumbrance for expert review, some overtime has been authorized to keep the internal review moving. The goal is to complete a great deal of this project, excluding any enforcement activities, by the end of this calendar year. Ms. Loucka also commented on how much has been learned in this process.

Responding to a question from Dr. Schottenstein, Ms. Loucka stated that the Board created a sexual misconduct protocol in July 2019 to formalize how those cases are handled. That protocol included a committee that reviews recommendations for closure of cases before it is sent to the Secretary and Supervising Member. The protocol is now being revised based on what has been learned since then. In the revised protocol the Deputy Director of Investigations, Enforcement, and Compliance, rather than a committee, will review the recommended closures before the Secretary and Supervising Member. Currently that position is held by Ms. Canepa, who is very qualified to perform this function. The position description will be amended to include an expectation of this qualification.

ADJOURN

Ms. Montgomery moved to adjourn. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

The meeting adjourned at 8:41 a.m.

Michael Schottenstein, MD
Chair

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State Medical Board of Ohio

POLICY COMMITTEE MEETING

September 9, 2020

via live-streamed video conference

Members:

Amol Soin, M.D., Chair
Robert Giacalone, R.Ph., J.D.
Mark Bechtel, M.D.
Betty Montgomery
Sherry Johnson, D.O.

Other Board Members present:

Michael Schottenstein, M.D.
Kim Rothermel, M.D.
Bruce Saferin, D.P.M.
Michael Gonidakis, Esq.
Jonathan Feibel, M.D.
Harish Kakarala, M.D.

Staff:

Stephanie Loucka, Executive Director
Kimberly Anderson, Chief Legal Counsel
Nathan Smith, Senior Legal and Policy Counsel
Angela Canepa, Deputy Director for Enforcement and
Investigations
Jill Reardon, Deputy Director of External Affairs
Chelsea Wonski, Legislative Director
Cierra Lynch, Stakeholder Liaison
Tessie Pollock, Chief Communications Officer
Benton Taylor, Board Parliamentarian

Dr. Soin called the meeting to order at 9:03 a.m.

Minutes Review

Dr. Bechtel moved to approve the draft minutes of the August 12, 2020 meeting of the Policy Committee. Mr. Giacalone seconded the motion. The motion carried.

Rule Review Update

Ms. Anderson stated that this afternoon the Board will vote on the adoption of the proposed rules on physician assistants and respiratory care. Proposed rules that were amended by the Board last month will come back for adoption at its October 2020 meeting. It was discovered that one of the proposed respiratory care rules, 4761-9-04, had been amended by more than 50%; therefore, that proposed rule was withdrawn and a public hearing on the amended proposed rule is scheduled for September 24, 2020.

Legislative Update

Senate Bill 246, Occupational Licensing Reciprocity: Ms. Wonski stated that at the Committee's last meeting, she had advised that the legislative affairs team was meeting with this bill's sponsors to request changes to allow the Board the ability to vet out-of-state applicants to the same standard as in-state applicants. Many of the team's requests were granted and will be included in the substitute bill, which is expected to be accepted at the next bill hearing.

While Ms. Wonski was extremely grateful for the sponsors' willingness to work those issues, there are still some aspects of the bill that are concerning. In its current form, the bill allows the Board to only look back five years when considering an applicant's background. Although this is a slight

improvement over the original two-year lookback provision, the legislative affairs team continues to advocate for unlimited lookback. Ms. Wonski also commented that the bill's fiscal impact is less than ideal.

House Bill 203, Pharmacy Consultation Agreements: Ms. Wonski stated that this bill, which passed the legislature last week, is primarily about mobile dental services. However, the final bill was amended before the floor vote to include language from Senate Bill 303 around pharmacy consultation agreements. The amendments authorize pharmacists to enter into consultation agreements with certain advanced practice nurses and physician assistants for the management of patient drug therapies. In addition, the amendments allow pharmacists to order and evaluate laboratory and diagnostic tests, rather than just blood and urine tests as under current law.

Dr. Feibel asked if this bill would allow pharmacists to enter into consultation agreements with advanced practice nurses and physician assistants without oversight of physicians. Ms. Anderson replied that physician assistants must still be under a valid supervision agreement and advanced practice nurses must still be authorized by the collaborating physician. Ms. Anderson stated that the Board will have rule-making authority and can require that the physician is aware of the consultation agreement.

Dr. Schottenstein noted that the bill makes reference to pharmacists ordering diagnostic tests. Dr. Feibel opined that if pharmacists have broad-based authority to order tests, potentially including MRI's, then they are practicing medicine at that point. Dr. Bechtel agreed with Dr. Feibel's concerns. Dr. Bechtel questioned who will receive and act on the results of diagnostic tests that are ordered by a pharmacist, asking if the pharmacist will take action on the results without physician involvement or adequate physician follow-up. Dr. Sojin agreed and further questioned whether the patient's physician would ultimately be responsible for an abnormality on a test the physician did not order.

Ms. Wonski stated that she will research these questions and report back to the Committee.

Mr. Giacalone opined that under the bill, the diagnostic tests would be ordered pursuant to the consultation agreement, and therefore would be limited by what the physician assistant or advanced practice nurse would deem appropriate. Ms. Anderson agreed that the diagnostic tests would be limited by the consultation agreements. Dr. Feibel felt there should be broader guardrails around these diagnostic tests, stating that there is no reason for a pharmacist to order tests such as MRI's and CT scans.

Dr. Sojin stated that Ms. Wonski will research these matters so that the Committee can respond appropriately to ensure the public is protected.

House Bill 263, Occupational Licensing: Ms. Wonski stated that this bill would require the Board to provide comprehensive lists of criminal offenses that would prevent someone from becoming licensed in Ohio. The Board would only be able to consider the listed offenses when determining the appropriateness of licensing an applicant, and would only be able to look back five years in the background check. The Board had worked with a consortium of state health care boards to present a package of amendments, but very few of the amendments were accepted. The consortium will continue to work together to attempt improvements in the bill's language with the goal of retaining the ability to vet applicants at the same standard that is currently used.

Responding to a question from Mr. Giacalone, Ms. Wonski stated that currently the legislature is interested in giving second chances, but unfortunately the one-size-fits-all approach is not the best for

every Board. Ms. Montgomery agreed that the Board should, if possible, avoid a list of criminal offenses. Ms. Montgomery stated that if the Board had such a list, it would then become very difficult to reject an applicant with an offense not specifically included on the list, even if the Board felt the applicant was not appropriate for licensure. Ms. Montgomery further suggested amendments to make violent or sexual offenses exceptions to the five-year lookback limitation. Ms. Wonski replied that that could be an option if the five-year limitation cannot be removed from the bill entirely.

Dr. Johnson asked if the bill's sponsor, Representative Koehler, is aware that most specialty board certifications require good moral character and absence of moral turpitude. Ms. Wonski was uncertain, but stated she could bring that to Representative Koehler to bolster the Board's request for amendments. Mr. Giacalone pointed out that the counter-argument to that is that the Board does not need to consider good character or moral turpitude because that is already addressed in the specialty board certification process. Dr. Rothermel observed that not all licensees are specialty board certified. Dr. Johnson agreed, but noted that most hospitals and insurance companies require certification.

Mr. Gonidakis stated that he shares everyone's concerns. In terms of context, Mr. Gonidakis stated that there is a groundswell of support in the legislature for regulatory reform and deregulation. Mr. Gonidakis noted that many members of the Senate leadership has been to Washington, DC, and met with Vice President Pence on this issue. Mr. Gonidakis opined that the Board should highlight and explain the impact of changing standards for medical regulation as compared to the regulation of other, non-medical professions.

House Bill 341, Addiction Treatment Drugs: Ms. Wonski stated that this bill authorizes pharmacists to administer any long-acting extended-release drug prescribed to treat drug addiction. An amendment was added to authorize certain advanced practice nurses or physician assistants to develop protocols to permit individuals and employees of service entities to personally furnish or administer naloxone. The bill has been passed by the legislature and delivered to the Governor for signature.

House Bill 492, Physician Assistants: Ms. Wonski stated that this bill would expand the ability to physician assistants to perform procedural sedation for the purpose of rapid intubation. The bill would also update the term "physician supervising agreement" to "collaborative agreement," which the Ohio Association of Physician Assistants believe better represents the relationship between physician and physician assistant. The legislative affairs teams is meeting with Board members and stakeholder to address the scope of practice concerns around this bill.

Dr. Soin stated that the provisions of this bill allowing physician assistants to perform rapid intubation, involuntarily commit patients, and provide procedural sedation, as well as changing from supervisory to collaborative agreements with physicians, are robust changes involving extremely vulnerable patients. Dr. Soin noted that rapid intubation involves patients on the brink of death, involuntarily committing someone deprives them of their constitutional rights, and providing sedation for even a minor procedure could potentially lead to patient death. Dr. Soin expressed extreme concerns about these provisions.

Dr. Schottenstein agreed with Dr. Soin, stating it is ironic that this legislation is being advanced at the same time as a proposal to decouple national accreditation from licensure. Dr. Schottenstein stated that these actions together will decrease the degree of accountability for one's competency while simultaneously substantially expanding the scope of practice. Dr. Schottenstein commented that he would not support this bill.

Dr. Kakarala agreed with the previous comments and also would not support the bill. Regarding rapid intubation, Dr. Kakarala stated that airways are difficult and rapid intubation is the only procedure that has a nearly 100% chance of death if it is not successfully completed. Dr. Kakarala stated that patients in this position and their family completely rely on the expertise of the professional performing the rapid intubation, and if it goes poorly there will be a catastrophic outcome, if not death then probably permanent disability.

Ms. Wonski stated that the legislative affairs team is working with lobbyists from the Ohio Association of Physician Assistants and having discussions with Board members to address the concerns around this bill.

House Bill 606, Immunity for Essential Workers Who Transmit COVID-19: Ms. Wonski stated that this bill, which passed the legislature last week and is awaiting the Governor’s signature, provides civil immunity for health care and emergency services provided during government-declared emergencies and disasters for exposure to, transmission of, or contraction of certain coronaviruses. The final bill included language to extend the protections through September 2021.

House Bill 679, Telehealth: Ms. Wonski stated that the Board’s legal team has drafted amendments addressing concerns around initial visits, consistency of the standard of care, Medical Board rule-making authority, and synchronous technology, based on the discussions of the Board’s *ad hoc* Telehealth Committee.

House Bill 673: Ms. Wonski stated that this bill would authorize pharmacists to administer COVID-19 vaccines and order COVID-19 diagnostic tests.

Legislative Tracker: Ms. Montgomery very much approved of the legislative tracker that has been developed, stating that it is a more robust approach for Policy Committee. Ms. Montgomery stated that the Committee should discuss many of the bills on the legislative tracker and change the Board position from “interesting party” to “oppose” or “support.” Dr. Soin agreed that the legislative tracker is very good. Dr. Soin agreed with Ms. Montgomery and stated that the Committee can start being more robust on the Board’s recommended position on legislation. Mr. Giacalone agreed that the legislative tracker is very good and asked if a link to the actual bills could be included. Ms. Wonski answered that a link to the bills can be included.

Board of Pharmacy Rules on Vaccination

Mr. Smith stated that the board recently received several communications from the Board of Pharmacy regarding immunizations. The Board of Pharmacy has proposed changes in their rule 4729:1-3-02. Chief among these changes is that it would allow a pharmacist to administer any immunization that has been approved by the Food and Drug Administration (FDA) for prevention of COVID-19, in accordance with limitations set forth in 4729.41, Ohio Revised Code.

In relation to this, the Board of Pharmacy has provided a communication from the State Board of Emergency, Medical, Fire, and Transportation Services, which states that that board passed a motion recognizing that EMS certificate holders are permitted to administer vaccination so long as the route of administration is within their scope of practice and the certificate holder administers the vaccination pursuant to medical direction and training on the specified vaccination which includes adherence to recommendations and instructions of the FDA. The communication states that this motion will allow EMS providers to administer a COVID-19 vaccination if one is developed. This communication was sent to provide context with what another board is doing in relation to the COVID-19 vaccination issue.

Mr. Smith continued that the Board of Pharmacy also sent a guidance document explaining that the U.S. Department of Health and Human Services has expanded access to childhood vaccinations. The document explains that the Public Readiness and Emergency Preparedness Act was amended for medical countermeasures against COVID-19. The amendment seeks to take steps to combat a decrease in the rate in childhood immunizations that has resulted from fewer visits to the doctor.

Mr. Smith stated that the Board of Pharmacy is required to consult with the Medical Board regarding any rule change on this subject matter. Mr. Smith stated that any questions or comments the Committee has will be conveyed directly to the Board of Pharmacy.

The Committee discussed this matter thoroughly, including the fact that a pharmacist can only administer a vaccine in accordance with a physician-established protocol; if COVID-19 vaccination is not included in the protocol, the pharmacist cannot administer it. The Committee also discussed the fact that if a patient does not have a physician, then there are no guidelines for the pharmacist to follow for that patient. Mr. Smith briefly expounded on the complexity of the rule and the statute, noting that different rules may apply based on the age of the patient. In many but not all cases, a prescription for the vaccination would be required. Mr. Smith agreed with Mr. Giacalone that a typical flu vaccine administered by a pharmacist is a good example of administering according to protocol and not by a prescription.

Mr. Smith explained that when the FDA approves a vaccination for COVID-19, the Advisory Committee on Immunizations of the Centers for Disease Control (CDC) will add the vaccine to the list of approved vaccines, but there will be a time delay, possibly of several months, between FDA approval and the addition to the vaccine to the list. The rule provides some leeway, due to the current pandemic, for administration of the vaccine after FDA approval but before the vaccine is officially added to the Advisory Committee's list.

Letter from the Medical Association Coalition

Ms. Loucka stated that last week the Board received a letter from the Medical Association Coalition (MAC). The letter includes three requests that the MAC is making of the Board. Ms. Loucka appreciated receiving the letter and opined that the topics involved are substantial and timely. Ms. Loucka stated that if the Committee approves, the staff can research these requests and report back to the Committee for next steps.

First, MAC had concerns about the questions asked on the Board's applications for initial licensure and license renewal regarding mental and physical conditions and impairments. Second, MAC wished to explore what the Board discloses publicly as part of its disciplinary process with regard to illness and diagnosis. Third, MAC wished to discuss the possibility of the Board outsourcing its confidential monitoring program in the same way it outsources the One-Bite program.

Dr. Bechtel opined that it is important to do more research on these significant recommendations from MAC. Dr. Bechtel commented that when he served as President of the Columbus Medical Association, there was a lot of concern that physicians with depression or other issues may not seek medical help due to fear of having to report that on their license renewal applications, which could be made public. Dr. Bechtel suggested that after the staff's research and recommendations, representatives from MAC could be invited to a Policy Committee meeting to discuss these matters further.

Dr. Schottenstein appreciated MAC for bring these issues to the Committee's attention and would be grateful for staff research on these matters. Regarding the application questions on conditions or impairments, MAC referenced the 2018 Federation of State Medical Boards' policy on wellness and burnout, which states:

Applications must not seek information about impairment that may have occurred in the distant past, and state medical boards should limit the time window for such historical questions to two years or less, though a focus on the presence or absence of current impairment is preferred.

Dr. Schottenstein noted that some of the application questions do not align with that policy. Dr. Schottenstein opined that the application questions should attempt to obtain the most minimal amount of health information from an applicant which still allows for the maximum amount of public protection. In other words, if there is something the Board does not need to know to achieve that goal, then Dr. Schottenstein does not want to know it and the Board has no business knowing it. Dr. Schottenstein felt that every application question should be justifiable from a public protection standpoint. Dr. Schottenstein further noted that when he recently spoke to residents at a local hospital, one resident pointed out that the Board's applications are public documents. Therefore, even applying means potentially revealing very private information about oneself.

Dr. Soin thanked the Committee for the feedback and looked forward to the staff's research and recommendations on these matters.

Adjourn

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

The meeting adjourned at 10:00 a.m.

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**FINANCE COMMITTEE MEETING MINUTES
September 9, 2020 – Via Teleconference**

<p>Members in attendance: Michael Schottenstein, MD, Chair Bruce R. Saferin, DPM Michael Gonidakis, Esq</p> <p>Other Board Members Present: Mark Bechtel, M.D. Kim Rothermel, M.D. Harish Kakarala, M.D. Jonathan Feibel, M.D.</p>	<p>Staff in attendance: Stephanie Loucka, Executive Director Susan Loe, Director of Fiscal & Human Resources Tessie Pollock, Chief of Communications Kimberly Anderson, Chief Legal Counsel Angela Canepa, Deputy Director for Enforcement and Investigations Jill Reardon, Deputy Director of Strategic Services Joel Whetstone, Deputy Director for Operations Benton Taylor, Board Parliamentarian</p>
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Dr. Schottenstein called the meeting to order at 10:05 a.m.

FISCAL UPDATE

Dr. Schottenstein stated that the Board’s revenue in July 2020 was \$914,818, which is an increase from the previous month but still substantially under the projected revenue due to the extension of the licensure renewal deadline. The staff has discussed sending an email reminder to renew to those licenses who have elected to wait until the deadline.

Dr. Schottenstein continued that the Board is about \$1,000,000 under its projected revenue for Fiscal Year 2020. It is hoped that that shortfall will be made up in Fiscal Year 2021. The cash balance is \$4,828,279, which is still a good number for the Board. Since July is the first month of the fiscal year, there is not much expenditure to report on at this time. About \$28,000 is left over from what had been previously encumbered in Fiscal Year 2020 for the historical case review; those funds were re-encumbered for Fiscal Year 2021 and should take the board through the end of the historical cases review.

In July, the Board received payments of \$4,000 in disciplinary fines and \$82.17 in fines from collections.

PROPOSED BUDGET REQUEST FOR FISCAL YEARS 2022/2023

Dr. Schottenstein noted that the Committee materials include a proposed budget request for the Fiscal Years 2022/2023 biennium. This is an expansion budget which proposes increased spending, including six additional positions resulting in a personnel ceiling of 90.5 positions. The six additional positions would consist of three investigators, one enforcement attorney, one victim advocate.

Dr. Schottenstein continued that the Board carries a large cash balance, but over the last five years the number of licensees has increased by 37% and complaints have increased by 50% with no corresponding increase in staff. Dr. Schottenstein opined that it seems to be an appropriate time to increase spending in a prudent way, especially given the Board’s substantial cash balance. Dr. Schottenstein noted that the last time the Medical Board increased physician fees was 1999, and fees for physicians and physician assistants have actually decreased in the last five years. The earliest the

Board would need to consider license fee increases for this increased spending is Fiscal Year 2025, but there may be additional operational savings that would forestall that.

Dr. Schottenstein stated that the current cash balance represents approximately five months of operating costs, and it would be six months of operating costs if not for the delay in licensure renewal. Public spending philosophy at this time recommends a more conservative cash balance of two to three months of operating costs.

Dr. Schottenstein stated that the Medical Board wants to be responsive to the recommendations of the Governor's Working Group and also the recommendations of the recent audit by the Federation of State Medical Boards (FSMB). This budget is largely consistent with those recommendations and the increased spending should allow the Board to implement them in an efficient manner.

Dr. Schottenstein added that this proposed budget would give the Board the flexibility to hire either a part-time or a full-time medical director, if the Board is so inclined. The Board could also hire an IT staff member to fill a vacancy.

Dr. Saferin moved to support the Fiscal Year 2022/2023 budget as proposed by staff, and recommend to the full Board that it support the Fiscal year 2022/2023 budget. Mr. Gonidakis seconded the motion.

Mr. Gonidakis asked when the Board anticipates filling the new positions, if the proposed budget is approved. Ms. Loucka replied that the hiring process for those positions can begin when the additional appropriation is received at the beginning of Fiscal Year 2022. Ms. Loucka stated that even though the Board will be spending funds it already has, legislative appropriation is still required to authorize the spending. Ms. Loucka stated that the proposed budget will enable the Board to have right-sized staffing and put the Board on a level similar to other boards of the same size.

Dr. Schottenstein asked if there will be metrics by which the Board can measure how productive the new positions are once they are filled. Ms. Loucka stated that a number of measures can be taken with regard to employee accountability, not only for new hires but also for current staff. Ms. Loucka stated that the Board has implemented a number of efficiencies over the last few years and more are envisioned for the future, such as the possibility of creating dashboards for individual employees so they can appropriately prioritize their workload.

Ms. Loucka added that it will also be necessary, though not from an efficiency point of view, to take what has been learned from sexual misconduct complaints and improve upon the process. Ms. Loucka opined that the State Medical Board of Ohio can become a national leader in protecting the public by giving administrative investigations the right focus on training and expertise in sexual misconduct complaints. Ms. Loucka stated that sexual misconduct complaints are very different from other complaints and it requires a level of specialty that could be provided to core staff members to develop that team. Ms. Loucka noted that the Board receives over 100 sexual misconduct complaints per year.

Dr. Bechtel asked if the review of past sexual misconduct investigations has tied up enough personnel that it has compromised the Board's ability to address the normal complaint load. Ms. Loucka replied that the historical case review has tied up staffing resources throughout this year, but the historical review is work of a temporary nature and can be accommodated.

Dr. Schottenstein asked if the proposed budget includes funding for training Board attorneys on settlement negotiation, as recommended by the FSMB report. Ms. Loucka replied that that is not specifically budgeted for, but it would be an operational cost that the Board would absorb.

Dr. Feibel stated that he very much favors the proposed budget, commenting that when he joined the Board he was surprised by the backlog of cases and the time required to adjudicate a case. Dr. Feibel opined that the Board's goal should be to receive a complaint and adjudicate it within one year. Dr. Feibel was uncertain if this is an attainable goal, but he felt it was a good goal.

Mr. Gonidakis asked if Ms. Loucka has contemplated the need for the Board's current footprint in the Rhodes State Office Building or if Ms. Loucka could foresee a certain percentage of the Board's staff working from home. Mr. Gonidakis noted that the Attorney General recently announced that he will only have 30% to 40% of his staff in the office, which will allow for significant cost savings due to the release a good deal of square footage. Ms. Loucka stated that this is a topic she thinks about daily, but that question has not been answered yet. Although there may be a small increase in expenditure at the beginning of such a move due to equipment costs, that amount could be offset by reduction in rent. Further analysis will be required to confirm long-term savings by such a move. Ms. Loucka stated that ideally, she would like all of the Board's offices to be on one floor instead of spread across two floors. Ms. Loucka stated that proposals will probably be brought to the Board in October or November for consideration, and it is hoped that a final decision could be made by January 2021.

A vote was taken on Dr. Saferin's motion. All Committee members vote aye. The motion carried.

ADJOURN

Dr. Saferin moved to adjourn meeting. Mr. Gonidakis seconded the motion. All Committee members vote aye. The motion carried.

The meeting adjourned at 10:22 a.m.

Michael Schottenstein, M.D.
Chair

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State Medical Board of Ohio

AD HOC TELEHEALTH COMMITTEE MEETING

September 9, 2020

via live-streamed video conference

<p>Members: Jonathan Feibel, M.D., Chair Michael Schottenstein, M.D. Mark Bechtel, M.D. Michael Gonidakis, Esq. Amol Soin, M.D.</p> <p>Other Board members present: Robert P. Giacalone, J.D., Ph.D. Harish Kakarala, M.D.</p>	<p>Staff: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Nathan Smith, Senior Legal and Policy Counsel Jill Reardon, Director of External Affairs Chelsea Wonski, Director of Legislative Affairs Tessie Pollock, Chief Communications Officer Benton Taylor, Board Parliamentarian</p>
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The meeting was called to order at 2:12 p.m.

Minutes Review

Dr. Schottenstein moved to approve the draft minutes of the Committee's August 12, 2020 meeting. Dr. Bechtel seconded the motion. The motion carried.

Medical Telehealth Rule

Mr. Smith informed the Committee that on August 31, 2020, the Ohio Department of Medicaid filed a proposed rule with the Joint Committee on Agency Rule Review (JCARR). The proposed rule expands and makes permanent an emergency rule filed in July regarding telehealth. The proposed rule allows for not only telehealth through synchronous technology, but also asynchronous technology. The proposed rule also allows an extensive list of health care practitioners to utilize telehealth.

Mr. Smith noted that Paragraph C of the proposed rule requires the health care provider to deliver telehealth services in accordance with the rules of their respective licensing boards. Mr. Smith also observed that the proposed rule would require some sort of in-person visit for what amounts to an annual visit. Mr. Smith also pointed out that Paragraph D of the proposed rule includes broad language that would allow many initial visits to be conducted by telehealth. Lastly, Mr. Smith stated that House Bill 679, if it becomes law, could supersede some or all of these provisions.

Mr. Gonidakis expressed concern that the Department of Medicaid may be overstepping its bounds in defining telemedicine, which is properly the function of the Medical Board and the legislature. Dr. Feibel echoed Mr. Gonidakis' statements and further commented that many practitioners mentioned in the Department of Medicaid's proposed rule, such as nurse practitioners, are not regulated by the Medical Board and would not be subject to Medical Board rules. Dr. Bechtel agreed and expressed concern about the potential for fraud and abuse resulting from so many practitioners being able to use telemedicine. Dr. Bechtel stated that many guardrails would be necessary to help protect the public.

Dr. Soin appreciated the previous comments, but stated that it is not the Medical Board's responsibility to regulate practitioners that it does not license. Dr. Schottenstein opined that the Department of Medicaid is not expanding the scope of telehealth *per se*, but is only saying what they would be agreeable to paying for.

Dr. Feibel stated that it may seem very appealing to the legislature to expand access to care for Medicaid patients, which is a vulnerable population. Dr. Feibel opined that the expansion of telehealth including in the Department of Medicaid's proposed rule would ultimately result in worse care than with in-person visits. Many practitioners who take care of this population could expand care to potentially garner more reimbursement. Dr. Feibel felt that the legislature should be warned that the long-term effects of this rule will not be positive for the Medicaid population.

Dr. Bechtel noted that the proposed rule seems to exclude prisoners from telemedicine. Dr. Bechtel commented that many prisoners are treated via telemedicine due to their confined status. Mr. Smith stated that he will research that issue, but he believed that the care of prisoners is provided by the Department of Rehabilitation and Corrections instead of the Department of Medicaid.

Mr. Smith continued that Ms. Wonski has had conversations with her counterpart at the Department of Medicaid, so there is opportunity to engage in informal communication regarding the proposed rule. Mr. Smith further pointed out that there will be a public comment period during the rule-making process. Mr. Smith asked the Committee members to email him if they have specific comments they would like included in the conversations. Ms. Loucka added that the Board can also summarize for the Department of Medicaid where the Medical Board is positionally on the issue of telehealth.

Updated Draft of Telehealth Amendment

Mr. Smith expressed appreciation for all the Committee members, particularly Dr. Feibel, in providing direction on the draft amendment language.

Regarding initial visits, the Committee had indicated at its last meeting that the initial draft language was too narrow. The revised language indicates that an initial visit can be conducted via telehealth if "The health care professional determines that the provision of telehealth services is in the best interests of the patient's health; to avoid a significant compromise in the patient's health; or due to the patient's lack of mobility." The practitioner would have to record this in the patient record. Also, notwithstanding division (C)(3)(a) which provides an exception to the synchronous requirement, these initial visits would be conducted in synchronous, interactive, real-time communication having both the audio and video components.

Dr. Feibel opined that this language establishes appropriate guardrails while also giving physician latitude to do what is best for their patients. Dr. Feibel further stated that it makes it difficult to abuse telehealth yet also makes sure people have the ability to get the care they need. Dr. Feibel stated that the Committee may want to consider adding an exception for prisoners due to their situation.

Dr. Schottenstein agreed with Dr. Feibel and also supported the language.

Mr. Smith continued that there is also language dealing with cross-coverage situations. The initial language on this subject was deemed to be too expansive. The revised language states that "A cross-covering health care professional provides telehealth services to the patient pursuant to a cross-coverage agreement with another health care professional with whom the patient has an active health care professional-patient relationship and the telehealth services are provided as a follow-up visit for

the same problem, condition, or illness for which the patient was previously seen by the patient's health care professional.”

Dr. Feibel commented the Mr. Smith did a very good job encompassing the intent of the Committee. Dr. Feibel stated that the wording of the language was exactly what he had envisioned, but he hoped the legislature would not find the wording too cumbersome. Dr. Schottenstein also approved of the draft language and opined that the wording is not too cumbersome.

Mr. Smith continued that there were three exceptions to the synchronous technology in (C)(3)(a). Regarding the third exception, the memo outlines that synchronous technology is not required if “the patient does not have access to synchronous technology and the provision of telehealth services through the use of the next best alternative technology is in the best interests of the patient's health; to avoid a significant compromise in the patient's health; or due to the patient's lack of mobility.”

Dr. Schottenstein opined that the language is very well-drafted. Dr. Feibel agreed.

Mr. Smith reminded the Committee that the Board already has some rules regarding telehealth that have evolved over time, as detailed on page 2 of the memo to the Committee. If House bill 679 becomes law, it could necessitate changes in these rule to comport with the statute.

Dr. Feibel asked if some of the guardrails that are currently in the Board's rules should be incorporated into the proposed amendment language so that they would become statutory. Mr. Smith stated that those guardrails could be included in the proposed amendment, or a wait-and-see approach could be adopted to see if the proposed amendment will be well-received. Dr. Soin recommended taking a wait-and-see approach, and also supported Ms. Loucka's suggestion to move forward with advocacy work with the legislature and other agencies in support of the amendment. The Committee agreed.

Mr. Smith stated that next month the Committee will review a draft frequently asked questions (FAQ) document, as well as consider a request to include respiratory health professionals in the list of practitioners that can provide telehealth services.

Adjourn

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

The meeting adjourned at 2:35 p.m.

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State Medical Board of Ohio

COMPLIANCE COMMITTEE MEETING
September 9, 2020, via Video Teleconference

<p>Members: Michael Schottenstein, MD, Chair Amol Soin, MD Robert Giacalone, JD RpH Harish Kakarala, M.D.</p> <p>Other Board Member Present: Betty Montgomery</p>	<p>Staff: Stephanie Loucka, Executive Director Alexandra Murray, Managing Attorney for Compliance Kimberly Anderson, Chief Legal Counsel Angela Canepa, Deputy Director for Enforcement and Investigations Chelsea Wonski, Legislative Director Jill Reardon, Deputy Director of Eternal Affairs Tessie Pollock, Chief of Communications Benton Taylor, Board Parliamentarian</p>
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Dr. Schottenstein called the meeting to order at 2:42 p.m.

STATISTICS AND REPORTING

Ms. Murray stated that the staff is in the process of building dashboards that will track data for Compliance. Ms. Murray stated that she would appreciate the Committee's feedback on what information would be most helpful to give them an overview of Compliance activities. Dr. Schottenstein stated that he would like to see metrics showing how many licensees are following their probationary terms and how many are non-compliant. Dr. Schottenstein also wished to know the relapse rate of those probationers who have chemical dependency issues.

Ms. Murray briefly outlined guidelines that had been approved by the Board in 2015. There are a number of options for minor compliance issues, including a caution letter or an extension of probation, depending on mitigating circumstances. Ms. Murray stated that for instances of violations resulting in referral to enforcement, the information could not be provided to the Board because that matter would come to them later as a disciplinary matter. Dr. Schottenstein asked if such information could be provided in a de-identified way. Ms. Murray agreed and stated that statistics on caution letters and tolling can also be included.

In response to questions from Ms. Montgomery, Ms. Murray stated that there is an internal tracking system that staff uses to follow probationers' progress. Ms. Murray will explore how to make that information available to the Board members, possibly in a de-identified way.

Referring to the number of probationers and the demands on staff, Dr. Schottenstein asked if Ms. Murray feels the Board is effectively monitoring the probationers. Ms. Murray stated that she has discussed with Ms. Loucka some things that could be done better, which may necessitate additional staff. Ms. Murray replied that this is something that may be discussed at

the October 13 Board Retreat, possibly as part of a larger discussion of the recommendations of the recent audit of the Federation of State Medical Boards. Ms. Loucka agreed that there is a lot of room for improvement in how the Board can systematically organize the probationers, track where they are in the process, and provide a more substantive process which would help individual probationers successfully complete the program.

Dr. Soin agreed with Dr. Schottenstein's comments that de-identified data would be helpful in providing a more global picture. Dr. Soin also agreed with Ms. Loucka's comments on the potential opportunity for individual cases to be improved.

Ms. Murray stated that a draft will be ready for review at the next Committee meeting.

Ohio Physicians Health Program

Dr. Schottenstein recalled that last month the Committee discussed One-Bite program eligibility of applicants who had had treatment with a physician health program in another state. Ms. Wonski has produced a table outlining the process of program referrals in several other states. Dr. Schottenstein noted that confidential transfers are permitted in all the states that were researched, though the methods of managing the process differed.

Dr. Schottenstein observed that in its 2018 policy on wellness and burnout, the Federation of State Medical Boards recommended that state boards consider offering the option of safe haven non-reporting to applicants who are receiving appropriate treatment for mental health or addiction. Dr. Schottenstein asked the Committee to discuss whether it is comfortable moving ahead with the recommendation that students who apply for training certificates and physicians who apply from out-of-state be eligible for the One-Bite program in Ohio.

Responding to a question from Ms. Loucka, Ms. Murray stated that the states included on the table are large states comparable to Ohio, states contiguous to Ohio, and states in which the physician health program has a good relationship with the Ohio Physician Health Program (OPHP). Ms. Murray thanked Kelley Long, Executive Director of the Ohio Physician Health Program, for helping gather the information for the table.

Mr. Giacalone stated that this comes down to how confident the Board is with another state's monitoring program. Mr. Giacalone stated that he struggles with this question, stating that he does not know enough about the monitoring programs of each of the other states.

Dr. Schottenstein stated that he had similar concerns. Dr. Schottenstein favored the idea of allowing licensees to transfer from another state's monitoring program into Ohio's, but would like to find a way to provide accountability in the process. Dr. Schottenstein stated that not having this process excludes many licensees who are otherwise qualified.

Ms. Loucka commented that if an applicant comes into Ohio and are participants in another state's monitoring, that constitutes their "one bite." Therefore, the question is how many applicants are truly being denied at the front end of the licensure process due to this. There is also the question of whether the applicant is being forthcoming when they apply or if they would be more forthcoming if they knew they could continue their monitoring process.

Mr. Giacalone asked if there is any way that the Board could rescind a license after it is granted if it is discovered that the applicant lied on their application. Ms. Loucka stated that that issue can be explored and research can be done on what other states do in such situations.

Dr. Schottenstein noted that there is a non-disciplinary track under 4731-28-03, Ohio Administrative Code, that allows the Board to confidentially monitor qualifying licensees for mental and physical impairment. Dr. Schottenstein asked if physicians in a similar program in another state can come to Ohio and seamlessly go into Ohio's non-disciplinary track. Ms. Loucka answered that such applicants are allowed into Ohio's non-disciplinary confidential monitoring program.

Ms. Loucka stated that for the October 13, 2020 Board Retreat, representatives from OPHP will give a one-hour presentation based on the concerns and questions of the Compliance Committee. In the meantime, research into these applicant issues will continue.

Dr. Soin commented that OPHP has always seemed like a physician advocacy group, which is a need service and a service OPHP does well. Of course, the Board's obligation is to protect the public as well. Dr. Soin expressed some concern that OPHP by have implicit bias in favor of the physician as opposed to public protection. At the Retreat, Dr. Soin's general question to OPHP will be, if they consider something in favor of a physician and there is a problem later, what mechanism exists to either undo that or impose a sanction.

Ms. Loucka stated that Ms. Long recently sent her a letter outlining OPHP's services. Ms. Loucka commented that if the Board continues to evolve its relationship with OPHP, the right contractual provisions must be in place to ensure appropriate guardrails, including out-clauses or penalties for failures to meet requirements. Ms. Loucka stated that OPHP understands that the Board is asking them to keep the public safe and opined that OPHP also wants to keep the public safe, but those reassurances and guardrails will need to be in place contractually.

Dr. Schottenstein opined that it would be helpful to have another discussion with Ms. Long about Mr. Giacalone's concerns. Dr. Schottenstein appreciated that OPHP appears to be making a good-faith effort to fulfill their dual roles of physician advocacy and helping the Board with the One-Bite Program.

Adjourn

Dr. Soin moved to adjourn the meeting. Mr. Giacalone seconded the motion. The motion carried.

The meeting adjourned at 3:13 p.m.

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