



**Medical Board of Ohio Meeting Minutes
February 9, 2022**

Betty Montgomery, President, called the meeting to order at 10:05 a.m. in the Administrative Hearing Room, 3rd floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio 43215 with the following members present: Sherry Johnson, D.O., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael Gonidakis, Esq.; Amol Soin, M.D.; Robert Giacalone, R.Ph., J.D.; Michael Schottenstein, M.D.; Jonathan Feibel, M.D.; Harish Kakarala, M.D.; Yeshwant Reddy, M.D.; and Mark A. Bechtel, M.D.

MINUTES REVIEW

Dr. Johnson moved to approve the minutes of the January 12, 2022 Board Meeting. Dr. Saferin seconded the motion. All members voted aye. The motion carried.

REPORTS AND RECOMMENDATIONS

Ms. Montgomery asked the Board to consider the Reports and Recommendations appearing on the agenda. Ms. Montgomery asked if each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Jennifer N. Russell, R.C.P.; and Craig A. Stevens, M.D. A roll call was taken:

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

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

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

State Medical Board of Ohio Meeting Minutes – February 9, 2022

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

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

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

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

Jennifer N. Russell, R.C.P.

Ms. Montgomery directed the Board's attention to the matter of Jennifer N. Russell, R.C.P. No objections have been filed. Ms. Lee was the Hearing Examiner.

A request to address the Board has been filed on behalf of Ms. Russell. However, Ms. Russell is unable to attend today's meeting due to unforeseen circumstances that are not within her control. Ms. Russell has asked to present her thoughts in writing, and this request has been granted. A copy of Ms. Russell's written statement has been provided to Board members.

Dr. Reddy moved to accept Ms. Russell's written statement. Dr. Bechtel seconded the motion. All members voted aye, except Dr. Rothermel and Dr. Saferin, who abstained. The motion carried.

Ms. Anderson noted that Ms. Russell has requested that an additional exhibit be added to the hearing record. Ms. Montgomery stated that the document has not been presented to the Hearing Examiner, and therefore it would be inappropriate to add it to the record. Dr. Feibel requested a formal vote on this matter.

Dr. Feibel moved to accept the admission of the additional exhibit into the hearing record. Dr. Reddy seconded the motion. All members voted nay, except Dr. Rothermel and Dr. Saferin, who abstained. The motion did not carry.

Dr. Feibel stated that he made the motion because he felt it was a Board decision and the Board members should be on record that they agree with Ms. Montgomery. Ms. Montgomery questioned whether this matter is a Board decision, but appreciated the request to have a Board vote on the matter. Ms. Montgomery reiterated

State Medical Board of Ohio Meeting Minutes – February 9, 2022

that the Board should not supplement a hearing examiner's report and recommendation with a document that has not been reviewed by the hearing examiner.

The Board Parliamentarian, Mr. Taylor, will read Ms. Russell's written comments into the record. Five minutes will be allowed for the address.

Mr. Taylor read Ms. Russell's statement:

I cannot express enough how truly sorry I am for causing that horrible accident on November 16th, 2015.

I know my decision to drink and drive is inexcusable. I would give anything to go back and change my decision from that day.

I caused so much pain and suffering to my victims as well as my family.

After my car accident, I completed an inpatient program at Pocono Mountain Recovery Center. I focused on individual therapy, group and family therapy, as well as AA (Alcoholics Anonymous) and NA (Narcotics Anonymous) meetings.

During my year of incarceration I spent many hours reflecting on my mistakes. I participated in weekly AA and NA meetings. I have a better understanding of the tools I need to ensure I never make another mistake like this again.

Growing up I dreamed of helping people. One of my biggest accomplishments in life was graduating college.

I truly valued my career as a respiratory therapist. I worked for Select Specialty Hospital for over 13 years. I learned so much and grew as a therapist. It was such a rewarding job.

I would love the opportunity to continue my career and passion for helping and serving others. I would also love to help my family financially again.

Thank you so much for your time.

Jennifer Russell

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

Mr. Puckett stated that the Hearing Examiner had logically reasoned through what had been a difficult and emotional case. As part of her analysis, the Hearing Examiner had reviewed two other cases which had been previously considered by the Board which involved egregious moral actions; in one case the licensee did not take immediate responsibility for his actions while intoxicated, and in the other case the licensee did take responsibility. Based on that, Mr. Puckett believed the Hearing Examiner has outlined an order, including suspension of license and conditions for reinstatement, that closely resembles the history of a more similar case.

Dr. Bechtel moved to approve and confirm the Proposed Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Ms. Russell. Dr. Feibel seconded the motion.

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

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Dr. Schottenstein stated that this is a case of mitigation with clearly aggravating factors. Specifically, Ms. Russell's conduct resulted in severe injury and trauma to six people, including four children, and her behavior had been reckless. However, there are also mitigating factors present:

- Ms. Russell has no prior disciplinary record.
- There was no dishonest or selfish motive.
- Dr. Schottenstein believed this was an isolated incident that is unlikely to recur.
- Ms. Russell has made full and free disclosure to the Board.
- Ms. Russell has taken interim remedial measures such as self-reporting for chemical dependency treatment, even in the absence of a formal diagnosis.
- Dr. Schottenstein perceived genuine and heartfelt remorse from Ms. Russell.
- Witness testimony at the hearing painted a glowing picture of Ms. Russell.
- At Ms. Russell's criminal trial, the father of injured children testified on her behalf, which Dr. Schottenstein found compelling.
- Dr. Schottenstein believed that Ms. Russell takes full responsibility for her conduct.

Dr. Schottenstein agreed with the Hearing Examiner that the Board would be within its rights to order a demonstration of competency because Ms. Russell has been out of practice since 2018. However, Ms. Russell has an active license, so it is a different situation from someone is applying to reinstate or restore an expired license. Nevertheless, the citation issued to Ms. Russell includes the allegation that she has been out of practice for more than two years. The Board can require a demonstration of competency because Ms. Russell agreed to that requirement in the hearing. One option available to Ms. Russell to demonstrate competency under the Proposed Order is to earn the green zone for two consecutive quarters on the assessments from the National Board for Respiratory Care's Credential Maintenance Program. Ms. Russell testified at hearing that she is current with her maintenance of credential requirements, so hopefully this will not be too burdensome for her.

Dr. Schottenstein supported the Proposed Order, opining that it is appropriate given the balance of aggravating and mitigating factors in this tragic case.

Ms. Montgomery asked if the Board should consider adding monitoring and drug testing requirements to the Order. Dr. Schottenstein noted that Ms. Russell does not have a formal diagnosis of chemical dependency, chemical dependency is not alleged in her citation, and she has not authorized an Eastway waiver. Therefore, adding impairment-related conditions would create a due process procedural issue. Mr. Wilcox agreed, stating that even though Ms. Russell said in her hearing that she would agree to monitoring such as urine screens, she did not provide a precise waiver of Eastway.

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

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

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

Craig A. Stevens, M.D.

Ms. Montgomery directed the Board's attention to the matter of Craig A. Stevens, M.D. No objections have been filed. Ms. Lee was the Hearing Examiner.

Dr. Kakarala moved to approve and confirm the Proposed Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Dr. Stevens. Dr. Johnson seconded the motion.

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

Ms. Montgomery noted that the Hearing Examiner had commented in the Report and Recommendation about what the Board should do based on Dr. Stevens having been charged with crimes but not yet convicted. Ms. Montgomery stated, with all due respect to the Hearing Examiner, that the Board members understand the difference between guilt and innocence. Ms. Montgomery did not agree with the Hearing Examiner that the Board cannot impose a fine in this matter. Ms. Montgomery opined that there should be a fine attached to this order, noting that this is a bootstrap case from North Carolina involving six counts related to pedophilia.

Dr. Feibel agreed with Ms. Montgomery and stated that he would support a fine in this case. Dr. Feibel added that the Board should monitor this case closely so that as soon as there is a verdict in the criminal trial, it can be brought back to the Board as expeditiously as possible.

Dr. Soin appreciated Ms. Montgomery's comments and stated that he understood the implications of the rule of law in this matter. Noting the charges against Dr. Stevens of having taken indecent liberties with minors, Dr. Soin agreed with Dr. Feibel that this case should be monitored closely.

Dr. Schottenstein stated that he would not support a fine based on an allegation. Dr. Schottenstein speculated that at some point, depending on how the criminal case unfolds, there will be a resolution in North Carolina which will generate another Notice of Opportunity for Hearing from the Board. The likelihood is that the Order which eventuates from the Notice will include a fine. Dr. Schottenstein supported the Proposed Order. Mr. Giacalone agreed with Dr. Schottenstein.

Ms. Montgomery did not disagree with Dr. Schottenstein and Mr. Giacalone, as long as the Board closely monitors the case so it can act quickly once a resolution is reached in North Carolina. Dr. Feibel also did not disagree with Dr. Schottenstein and Mr. Giacalone, but stated that if Dr. Stevens is found guilty, this matter is likely to come back to the Board as a proposed permanent surrender and have no fine. So, it is not a foregone conclusion that a fine will be levied against Dr. Stevens. Mr. Giacalone agreed with Dr. Feibel, but also noted that Dr. Stevens could be found not guilty.

Dr. Soin stated that Mr. Giacalone makes a very good point, but noted that it is really about protecting the public rather than collecting money. Dr. Soin stated that he was very persuaded by Dr. Schottenstein's and Mr. Giacalone's comments about fining Dr. Stevens at this time. Ms. Montgomery also found the comments persuasive.

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

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

State Medical Board of Ohio Meeting Minutes – February 9, 2022

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

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

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

Mary Margaret Hudson, R.C.P.

Dr. Bechtel moved to find that the allegations as set forth in the September 8, 2021 Notice of Opportunity for Hearing in the matter of Ms. Hudson have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order. Dr. Reddy seconded the motion.

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

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

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

The motion carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Ms. Montgomery stated that in the following matters, the Board issued Notices of Opportunity for Hearing, and documentation of Service were 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.

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Zachary K. Brogan, R.C.P.

Ms. Montgomery stated that on December 8, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Zachary K. Brogan, R.C.P., informing him that the State Medical Board of Ohio proposed to approve his application for restoration of a license to practice as a respiratory care professional, provided that he take and pass the Clinical Simulation Examination (CSE) because he has not been engaged in the active practice of respiratory care for more than two years.

Dr. Bechtel moved to find that the facts set forth in the December 8, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Mr. Brogan’s application for restoration, provided that he takes and passes the CSE within six months of the date of mailing of this order. Dr. Reddy seconded the motion. A vote was taken:

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

The motion carried.

Jacob J. Franke

Ms. Montgomery stated that on December 8, 2021, the Board authorized issuance of a Notice of Opportunity for a Hearing to Jacob J. Franke informing him that the State Medical Board of Ohio proposed to deny his application for a license to practice respiratory care, because he has not successfully passed an examination approved by the Board. Specifically, Mr. Franke has not provided documentation that he has completed the required Clinical Simulation Examination (CSE) to obtain Registered Respiratory Therapist certification.

Dr. Reddy moved to find that the facts set forth in the December 8, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, denying Mr. Franke’s application for a license to practice respiratory care in Ohio. Dr. Bechtel seconded the motion. A vote was taken:

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

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Ms. Montgomery	Y
----------------	---

The motion carried.

Joseph A. Keller, M.D.

Ms. Montgomery stated that on December 8, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Joseph A. Keller, M.D., informing him that the State Medical Board of Ohio proposed to deny his application for a license to practice medicine and surgery due to the fact that Dr. Keller has not successfully completed at least 24 months of graduate medical education through the second-year level, or its equivalent as determined by the board, pursuant to Sections 4731.09, and 4731.04, Ohio Revised Code.

Dr. Schottenstein moved to find that the facts set forth in the December 8, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, denying Dr. Keller’s application for a license to practice medical and surgery in Ohio. Dr. Johnson seconded the motion. A vote was taken:

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

The motion carried.

Janine Kinney, M.T.

Ms. Montgomery stated that on November 10, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Janine Kinney, M.T., informing her that the State Medical Board of Ohio proposed to approve her application for a license to practice massage therapy provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Kinney has not engaged in the active practice of massage therapy for more than two years.

Dr. Johnson moved to find that the facts set forth in the November 10, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Kinney’s application for restoration, provided that she takes and passes the MBLEx within six months of the date of mailing of this order. Dr. Bechtel seconded the motion. A vote was taken:

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

State Medical Board of Ohio Meeting Minutes – February 9, 2022

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

The motion carried.

Justin R. McGill, M.T.

Ms. Montgomery stated that on December 8, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Justin R. McGill, 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. McGill has not engaged in the active practice of massage therapy for more than two years.

Dr. Johnson moved to find that the facts set forth in the December 8, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Mr. McGill's application for restoration, provided that he takes and passes the MBLEx within six months of the date of mailing of this order. Dr. Kakarala seconded the motion. A vote was taken:

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

The motion carried.

Joshua L. Montgomery, M.T.

Ms. Montgomery stated that on October 13, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Joshua L. Montgomery, 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. Montgomery has not engaged in the active practice of massage therapy for more than two years.

Dr. Johnson moved to find that the facts set forth in the October 13, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Mr. Montgomery's application for restoration, provided that he takes and passes the MBLEx within six months of the date of mailing of this order. Dr. Bechtel seconded the motion. A vote was taken:

Dr. Rothermel	Y
Dr. Saferin	Y

State Medical Board of Ohio Meeting Minutes – February 9, 2022

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

The motion carried.

Caleb D. McKenzie, M.T.

Ms. Montgomery stated that on October 13, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Caleb D. McKenzie, 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. McKenzie has not engaged in the active practice of massage therapy for more than two years.

Dr. Reddy moved to find that the facts set forth in the October 13, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Mr. McKenzie’s application for restoration, provided that he takes and passes the MBLEx within six months of the date of mailing of this order. Dr. Johnson seconded the motion. A vote was taken:

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

The motion carried.

Elizabeth L. Morton, M.T.

Ms. Montgomery stated that on December 8, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Elizabeth L. Morton, M.T., informing her that the State Medical Board of Ohio proposed to approve her application for restoration of her license to practice massage therapy provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Morton has not engaged in the active practice of massage therapy for more than two years.

Dr. Reddy moved to find that the facts set forth in the December 8, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Order, effective immediately upon mailing, approving Ms. Morton’s application for restoration, provided that she takes and passes the MBLEx within six months of the date of mailing of this order. Dr. Bechtel seconded the motion. A vote was taken:

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

The motion carried.

EXECUTIVE SESSION

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

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

The motion carried.

The Board went into Executive Session at 10:48 a.m. and returned to public session at 12:16 p.m.

SETTLEMENT AGREEMENTS

Mr. Roach briefly reviewed the settlement agreements for the Board’s consideration.

Mr. Giacalone commented that he does not support the proposed settlement for MDB, D.O. Mr. Giacalone opined that the agreement was not sufficient considering the egregious prescribing conduct from 2010 to 2019. Mr. Giacalone noted that one of the physician’s patients died from the physician’s drug regimens, as well as a litany of other prescribing events in the physician’s career.

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Jack Catlett Lunderman, M.D.

Dr. Johnson moved to ratify the proposed Consent Agreement with Dr. Lunderman. Dr. Feibel seconded the motion. A vote was taken:

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

The motion carried.

John Paul Robinson, D.O.

Dr. Bechtel moved to ratify the proposed Permanent Surrender with Dr. Robinson. Dr. Reddy seconded the motion. A vote was taken:

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

The motion carried.

MDB, D.O.

Dr. Soin moved to ratify the proposed Consent Agreement with MDB, D.O. Dr. Johnson seconded the motion.

In addition to his previous comments, Mr. Giacalone noted the following passage from the hearing record:

But a letter from the court noted that the patient had been convicted of substance abuse and was sentenced in March 2012. When you next saw the patient in or around February 2013, you refilled both opioids ... From 2011 to 2014, you increased the dosage of both OxyContin and Percocet.”

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Mr. Giacalone stated that this is an example, among many examples, of why he cannot support this proposed agreement.

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

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

The motion did not carry.

Benjamin R. Gibson, M.D.

Dr. Bechtel moved to ratify the proposed Step II Consent Agreement with Dr. Gibson. Dr. Johnson seconded the motion. A vote was taken:

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

The motion carried.

John Taylor, P.A.

Dr. Johnson moved to ratify the proposed Permanent Surrender with Mr. Taylor. Dr. Bechtel seconded the motion. A vote was taken:

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

State Medical Board of Ohio Meeting Minutes – February 9, 2022

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

The motion carried.

Anthony John Wolf, M.D.

Dr. Bechtel moved to ratify the proposed Permanent Withdrawal with Dr. Wolf. Dr. Johnson seconded the motion. A vote was taken:

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

The motion carried.

Edwin Robert Larson, M.D.

Dr. Johnson moved to ratify the proposed Permanent Surrender with Dr. Larson. Dr. Feibel seconded the motion. A vote was taken:

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

The motion carried.

Susan Kim Holland, M.D.

Dr. Johnson moved to ratify the proposed Permanent Surrender with Dr. Holland. Dr. Reddy seconded the motion. A vote was taken:

Dr. Rothermel	Abstain
---------------	---------

State Medical Board of Ohio Meeting Minutes – February 9, 2022

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

The motion carried.

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

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

1. Lisa Lynn Binkley, M.T.: To be issued to an applicant for license restoration, based on allegations of acts constituting a felony, MT practiced on an expired license.
2. Borko Djordjevic, M.D.: To be issued to an applicant for license restoration, based on bootstrap orders from California, New Jersey, and New York.
3. Arkadiusz Karol Grochowski, M.D.: Based on bootstrap, this physician received a sanction from Illinois largely involving rxing and minimal standards issues.
4. Beverly Hutton: To be issued to a massage therapist applicant, based on acts constituting a felony for thefts that occurred while in another position.
5. Jamal Lovette Jones, M.T.: Based on ... had a series of criminal convictions that had not been disclosed on an application or renewal.
6. Michael McSpadden, M.T.: Based on sexual improprieties occurring during massage and acts constituting felonies.
7. Cecily Snyder-Sandy: To be issued to a massage therapist applicant, based on failure to cooperate with a Board investigation.
8. Gary Nicholas Spirtos, M.D.: Based on bootstrap from Arizona.
9. Citation #9 was not considered by the Board.
10. Edward F. Tappel, D.O.: Based on allegation of sexual improprieties and failure to cooperate with an investigation.

Regarding proposed Citation #10, Dr. Feibel asked if any thought had been given to including a summary suspension of the license. Ms. Pokorny replied that a summary suspension was discussed. Ms. Pokorny stated that it would not be appropriate to comment on what had been discussed with the Secretary and Supervising Member, but noted that this case involved one patient in 2019.

Dr. Reddy moved to approve and issue proposed Citations #'s 1 through 8 and #10. Dr. Johnson seconded the motion. A vote was taken:

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

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain on #'s 3, 8, and 10; Yes on all others
Ms. Montgomery	Y

The motion carried.

The Board recessed at 12:31 p.m. The meeting resumed at 1:25 p.m.

OPERATIONS REPORT

Human Resources: Ms. Loucka stated that the Board's new legislative liaison and new hearing examiner will start next week. Interviews continue for a new enforcement attorney and additional administrative professionals. A position for an additional nurse reviewer will be posted soon.

Dr. Schottenstein noted that there had been previous discussions, based on a recommendation from the Federation of State Medical Boards, of hiring a medical director for the Board. Dr. Schottenstein asked if hiring a medical director would obviate the need for an additional nurse reviewer. Ms. Loucka responded that she and the staff have explored that question and concluded, based on data and the number of standards review cases that are received, that a new nurse reviewer is needed regardless of whether a medical director is hired.

Fiscal Summary: Ms. Loucka stated that the Board's cash balance remains healthy. Dr. Schottenstein will provide a more detailed summary as part of the Finance Committee report later in the meeting.

Compliance: Compliance statistics are steady compared to previous months. There are 177 probationers being actively monitored and about 100 participants in the One-Bite program. New initiatives that have been discussed in the Compliance Committee with respect to active probationers will be implemented in the near future.

Licensure: In January 2022 the Board issued 55% more licenses than it did in January 2021. Calls to Licensure have also increased. Staff continues to work through the delays with background checks, which is likely to continue until the Bureau of Criminal Investigation (BCI) implements new software in the Spring. The month-to-date and year-to-date statistics reflect the delays in the background check process.

Complaints: The number of complaints received by the Board remains high, outpacing the staff's increased efficiency to review and close them, indicating a need to look for efficiencies elsewhere to make headway on the Board's backlog. Using 2020 data as comparison, the Board has approved about 20 more settlements and about 30 more citations over a 12-month period.

Dr. Bechtel noted a significant spike in unprofessional conduct complaints in June and asked if that was related to the Richard Strauss report. Ms. Loucka stated that often when the Medical Board is in the media, there will be an influx of complaints about a licensee or a type of licensee, and the June spike generally reflects that timeline.

CTR Search Map: Ms. Loucka noted the new interactive search map on the Board's website for finding physicians who hold a certificate to recommend the medical use of marijuana (CTR).

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Communications: Ms. Loucka stated that the Board's Communications staff is as busy as ever managing the Board's social media, various videos, and creating presentations for associations as well as the Board's advisory councils.

Mr. Gonidakis opined that there is a correlation between the great work that the Communications staff is doing and the greater public engagement that has led to an increased number of complaints. Mr. Gonidakis stated that it is a good thing that the public understands the opportunity to reach out to the Board. Ms. Loucka agreed and briefly outlined the public information campaign being spearheaded by Ms. Stewart and Ms. Williams.

RULES & POLICIES

Rule Review Update

Ms. Anderson stated that the proposed massage therapy rules discussed at previous Board meetings were presented to the Board's Massage Therapy Advisory Council for its review. Also, proposed rules concerning the prescribing of controlled substances were presented to the Board's Physician Assistant Policy Committee for its review.

Controlled Substance Prescribing Rules

Ms. Anderson stated that these proposed rules are a re-write of the weight-loss prescribing rules in Sections 4731-11-03, 4731-11-04, and 4731-11-04.1, Ohio Administrative Code, as well as the stimulant prescribing rule. As directed by the Board, Ms. Anderson has presented the proposed rules to both the Medical Board's Physician Assistant Policy Committee (PAPC) and the Ohio Board of Pharmacy for their review. The Board of Pharmacy was particularly helpful with very specific comments, and the changes the Board of Pharmacy requested have been made in the current draft.

The PAPC did not recommend specific changes in the language of the draft rules, but it did provide general comments on being aware of any abuses or diversion, as well as having frequent touch-bases with the prescriber of the weight-loss medications.

Dr. Bechtel moved to circulate the draft rules for initial review by stakeholders to obtain comments. Dr. Saferin seconded the motion. All members voted aye. The motion carried.

Licensure Protocols

Mr. Turek stated that under the internal management rule, the Secretary and Supervising member have authorized protocols for the Licensure staff to use to make certain determinations regarding licensure applications. These protocols are being presented to the Board members for their review and feedback.

Responding to a question from Ms. Montgomery, Mr. Turek stated that Section C of the protocols applies mostly to foreign medical graduates. Statute permits the Board to find that a foreign medical graduate who has not completed two years of accredited training in the United States has equivalent training to obtain a license. These protocols would allow very limited authorization for staff to find equivalency for such an applicant if they meet this parameter.

In response to a question from Dr. Schottenstein, Mr. Turek stated that an example of an alternative method by which a massage therapist applicant could be found to fit the criteria for competency to practice, other than passing the Massage and Bodywork Licensing Examination (MBLEx), would be to hold current certification with the National Certification Board for Therapy and Massage Bodywork. For respiratory care professionals, an alternative method to do the same, other than passing the Clinical Simulation Examination (CSE), would be to show participation in the National Board of Respiratory Care's credential maintenance program and to hold a current Registered Respiratory Therapist credential.

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Mr. Turek stated that these protocols define what is within the staff's ability to determine. If an applicant does not meet the protocol, the Secretary and Supervising Member could still find that the applicant has shown fitness to practice in some other way.

Telehealth Discussion

Mr. Smith directed the Board's attention to revised proposed rules regarding general telehealth, prescribing controlled substances in the context of telehealth, and other rules which incorporate telehealth rules into the respective administrative codes of physician assistants, dietitians, respiratory care professionals, and genetic counselors. The proposed rules have been revised to reflect the Board's discussion of this topic at its January 2022 meeting.

Ms. Montgomery, noting the portions of the proposed rule that reference the consent of the patient or the patient's parent or guardian, suggested that those with power of attorney also be included. Mr. Smith stated that such references can be changed to say "parent, guardian, or holder of power of attorney." The Board members agreed.

Mr. Smith continued that the Board had several questions in January regarding the appropriate use of telephone calls as a mode of synchronous communication. In response, the following sentences have been added as a proposed revision to Rule 4731-37-01(B)(3):

Telephone calls as a synchronous communication technology may only be used for telehealth services when all elements of a bonafide health care visit meeting the standard of care are performed. Telephone calls that are routine or simply involve communication of information without patient interaction do not constitute a telehealth service.

Ms. Montgomery asked if the term "patient interaction" should be defined in the rule. Dr. Schottenstein noted that a physician simply speaking to a patient over the telephone could meet the definition of a patient interaction. Dr. Schottenstein recommended removing the phrase "without patient interaction" from the proposed language. Mr. Smith stated that the words "without patient interaction" can be stricken if that is the Board's preference.

Dr. Feibel recalled that the Board's *ad hoc* Telemedicine Committee had previously discussed the use of synchronous (real-time) and asynchronous technology in telemedicine. At that time, the Committee concluded that asynchronous technology should only be utilized if every effort had been made to use synchronous technology and had failed. Mr. Smith agreed that that was the *ad hoc* committee's conclusion, but stated that under House Bill 122, which has been passed and signed into law since the Committee's last meeting, a telehealth visit may be conducted by either synchronous or asynchronous communication. Therefore, a rule stating that asynchronous communication can only be used as a last resort if efforts at synchronous communication failed would not be in step with current law. Dr. Feibel thanked Mr. Smith for the clarification.

Mr. Smith stated that his memo to the Board outlines 10 additional proposed changes, which are based on comments and feedback received from more than 25 stakeholder groups.

In response to a question from Ms. Montgomery, Mr. Smith stated that under the proposed rules an initial in-person visit with the physician or physician assistant is required if a schedule II controlled substance is being prescribed, with the following exceptions: The patient is receiving hospice or palliative care; the patient is receiving medication-assisted treatment or any other medication for opioid-use disorder; the patient has a mental health condition; or the patient is in an emergency situation, as determined by the clinical judgment of a health care professional. Otherwise, the necessity for an in-person visit is determined by whether it is required in order to meet the standard of care for the patient and the patient's condition.

Dr. Feibel observed a provision in the proposed rule which stipulates that in the event that the patient requires an in-person visit, the physician is responsible for making sure an appointment is made with either themselves

State Medical Board of Ohio Meeting Minutes – February 9, 2022

or another provider. Dr. Feibel commented that if a patient in a physician's office needed to see a physician of another specialty, it would not be incumbent upon the physician to make that appointment for the patient. Dr. Johnson stated that making such an appointment would be the standard of care relative to telehealth. Mr. Smith noted that this is required by statute. Mr. Smith reiterated that if a patient is seen during telehealth visit and the telehealth technology selected does not adequately meet the standard care, then the provider must, in a timely manner, escalate the care to either an in-person visit or a referral to an appropriate provider who can provide the standard of care required by the patient's medical condition.

Dr. Feibel shared his opinion that good medicine requires an in-person visit. Dr. Feibel acknowledged that the statute allows physicians to not see the patient in person and still provide telehealth as long as schedule II controlled substances are not being prescribed, but he speculated that most of the physicians present in the meeting today feel it would still be better to see the patient in person when possible at least one time. Ms. Montgomery was grateful to Ms. Loucka, Mr. Smith, and the rest of the staff for working with the legislature to ensure that the standard of care for telehealth visits and in-person visits are the same. Dr. Feibel agreed. Mr. Smith thanked the Board, and particularly Dr. Feibel who chaired the *ad hoc* Telemedicine Committee, for providing the staff with good background to make rules that protect patients first and foremost.

Mr. Smith continued that House Bill 122 also allows the Medical Board to suspend enforcement of any rules the Board has in effect on March 23, the effective date of the statute, regarding provision of telehealth and in-person service by health care professionals which are under the board's jurisdiction, and requirements for prescribing controlled substances while the Board amends or proposes new rules that are consistent with the new law. Based on this and on substantial feedback from stakeholders, Mr. Smith requested that the Board approve a statement of intent regarding the board's utilization of this statutory language.

Dr. Schottenstein asked about the purpose of Paragraph 4731-11-09(G) of the proposed rule. Mr. Smith replied that the paragraph, which is also in the current rule, means that the performance of an in-person examination by a physician or physician assistant does not automatically indicate that the physician's or physician assistant's prescribing is appropriate.

Dr. Johnson moved to approve the revised proposed rules for circulation to interested parties, including referral for discussion to the Physician Assistant Policy Committee, the Dietetics Advisory Council, and the Respiratory Care Advisory Council. Dr. Bechtel seconded the motion. All members voted aye. The motion carried.

Dr. Schottenstein moved to utilize the statutory language in House Bill 122 to suspend its rules regarding telehealth and requirements for prescribing controlled substances while the Board amends or adopts new telehealth rules. Dr. Bechtel seconded the motion.

Dr. Feibel wished to clarify that this motion in no way obviates other prescribing rules. Ms. Loucka stated that that can be included in the Board's communications to outside parties. Ms. Anderson added that this motion, if approved, will simply continue the similar action the Board took in March 2020.

A vote was taken on Dr. Schottenstein's motion. All members voted aye. The motion carried.

Legislative Update

Ms. Loucka stated that the Board continues conversations regarding Senate Bill 261, which relates to medical marijuana. Due to the legislature's current focus on the redistricting issue, other initiatives are either on hold or moving slowly through committee.

Ms. Loucka stated that Aaron Mabe will join the Board's staff on Monday as the new legislative liaison. Mr. Mabe has recently worked in the office of Senator Hackett, who had chaired the Senate Health Committee, and he therefore has experience with some of the Board's stakeholders and with issues important to the Board.

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Dr. Schottenstein noted that House Bill 495 would require the establishment of mandatory reporting requirements for health care professionals. Dr. Schottenstein asked about the purpose of this bill, noting that mandatory reporting requirements already exist. Ms. Loucka stated that House Bill 495 had just been introduced and referred to committee, so it is very early in the process. Ms. Loucka opined that the bill is unlikely to proceed, but if it does the Board can monitor it and educate legislators as it progresses.

Dr. Schottenstein asked why the Ohio Hospital Association (OHA) is opposing House Bill 196 regarding the licensure of surgical assistants. Ms. Loucka could not speak on behalf of the OHA, but speculated that it is due to the creation of one more regulatory requirement for hospitals to manage.

Ms. Montgomery stated that there are a number of legislative changes the Board is seeking related to Board processes. These desired changes will continue to be identified when the Board's new legislative liaison joins the staff, and it will be determined whether some of these changes could be enacted in the current or the following legislative session.

COMMITTEE BUSINESS

Compliance Committee Report

Ms. Montgomery stated that the Compliance Committee is in the process of finalizing several initiatives related to return-to-work assessments, practice plans, physician monitoring, and chaperones. Ms. Montgomery commented that Ms. Dorcy and her staff have done a great job making the Board's probation more than just a checklist probation. Ms. Dorcy will report back to the Committee in the future on the progress of these initiatives.

Finance Committee Report

Fiscal Summary

Dr. Schottenstein reported a substantial increase in the Board's December 2021 revenue, which is a reflection of the January 1, 2022 renewal deadline for some licensees. Expenditures were also down substantially, reflecting the payment of the eLicense annual charge from the previous month. Revenue was \$1,166,474. Net revenue improved in December to \$408,619 and the Board's cash balance is once again over \$6 million at \$6,293,146. Expenditures are up by 16.1% year-to-date, but that is substantially a reflection of the eLicense expense and that figure should continue to generally trend downward. Dr. Schottenstein noted that the Board is substantially on-track with projections for this fiscal year for both revenue and expenditures.

The Board received \$28,500 in disciplinary fines. The Board has also began receiving non-disciplinary fines for continuing medical education (CME) fines after a hiatus from enforcing that provision. \$126,616 in non-disciplinary fines have been received year-to-date, which is on track to substantially exceed expectations.

Cash Balance

Dr. Schottenstein stated that there has been conversations in the recent past about ascertaining the appropriate cash balance that the Board should have given its revenue and expenses. In conversations with experts regarding best practices, it has been determined that the Board should maintain a cash balance equal to three to six months of operating expenses. Since the Board's expenditures is roughly \$1 million per month, an appropriate cash balance would be \$3,000,000 to \$6,000,000. As noted, the Board's current cash balance is about \$6.3 million. This figure is expected to reduce to about \$3.5 million by the end of Fiscal Year 2023 due to the filling of several staff positions. Dr. Schottenstein noted that expected additional revenue from the Interstate Medical Licensing Compact (IMLC) beginning in September 2022 may cushion the decrease in the cash balance.

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Federation of State Medical Boards Annual Meeting

Dr. Saferin moved to approve Yeshwant P. Reddy, M.D., and Executive Director Stephanie Loucka to attend the 2022 Annual Meeting of the Federation of State Medical Boards, as their attendance at the meeting is in connection with their responsibilities as a member and executive director, respectively, of the State Medical Board of Ohio. Dr. Soin seconded the motion. All members voted aye, except Dr. Reddy who abstained. The motion carried.

Dr. Saferin moved to approve David McCafferty and Jerica Stewart to attend the 2022 Annual Meeting of the Federation of State Medical Boards, as their attendance at the meeting is in connection with their responsibilities as, and is related to their positions as, Chief of Investigations and Communications Officer of The State Medical Board of Ohio. Dr. Kakarala seconded the motion. All members voted aye. The motion carried.

Administrators in Medicine Annual Meeting

Dr. Saferin moved to approve additional travel costs for lodging and *per diem* expenses for Ms. Loucka to attend the Administrator in Medicine annual meeting in New Orleans, Louisiana. Ms. Loucka's attendance at the meeting is in connection with her duties, and is related to her position, as Executive Director of the State Medical Board of Ohio. Dr. Soin seconded the motion. All members voted aye. The motion carried.

Licensure Application Reviews

Ioannis Apostolis, M.D.

Dr. Reddy moved to approve the Licensure staff recommendations for the requests of Ioannis Apostolis, M.D. Dr. Bechtel seconded the motion.

Dr. Kakarala expressed concern about this licensure application, stating that it contained many red flags. Dr. Kakarala noted that Dr. Apostolis took a prolonged time, six years, to complete medical school, including some failures and a repeated semester. Dr. Apostolis also had one failure on the United States Medical Licensing Examination (USMLE) and low passing scores. Dr. Kakarala stated that these things happened and not everyone will excel. However, Dr. Kakarala's biggest concern was Dr. Apostolis' very checkered training period.

Dr. Kakarala continued that Dr. Apostolis completed a Post Graduate Year (PGY)-1 year of an OB/GYN residency in Toledo, but he was not allowed to continue his training there, though a lack of documentation makes it somewhat unclear precisely what happened. Notably, Dr. Apostolis did not transfer at the end of the academic year and start a new academic year. Instead, Dr. Apostolis went to his PGY-2 year in West Virginia beginning on October 15, 2012. Dr. Kakarala commented that mid-year transfers in residency programs are extremely rare.

Dr. Apostolis was granted that he finished his PGY-2 year in OB/GYN, but he was not allowed to continue his training in that program. Dr. Kakarala again noted the off-cycle training period for the PGY-2 year, which was October 15, 2012, to August 6, 2013. Dr. Apostolis' program director in West Virginia indicated that he had issues with insufficient knowledge and professionalism, unprofessional language, and, mostly alarmingly, "Misrepresenting patient information in chart documentation and check-out." This means that Dr. Apostolis had been telling other physicians who are coming on to take care of his patients things that are not accurate.

Following PGY-2, Dr. Apostolis had a hiatus from training for multiple years, then re-emerged as an internal medicine resident PGY-1. Dr. Apostolis successfully completed PGY-1 and PGY-2, and then in September of his third year he exited the program; there is no documentation on whether Dr. Apostolis resigned or was dismissed from the program. Dr. Kakarala stated that as a former residency program director himself, he

State Medical Board of Ohio Meeting Minutes – February 9, 2022

knows it is very difficult to terminate a resident, and it is extraordinarily difficult to do so in their last year of training due to the many reviews the resident has in the first two years. Since September 2018, Dr. Apostolis has been working in various health-related jobs.

Dr. Kakarala did not see how it is in the public interest to allow a path towards licensure to Dr. Apostolis, who has not been able to complete one residency program and has not practiced medicine for over three years. Dr. Kakarala commented that as clinicians, the first few years following training are the most important years in which one develops a practice style and a growth of knowledge.

Dr. Kakarala stated that he cannot in good conscious vote to approve this application. Dr. Kakarala stated that Dr. Apostolis should have more training and be in an environment where he can be proctored. Dr. Kakarala opined that if Dr. Apostolis is granted licensure, he is likely to appear before the Board again and it will be difficult to justify having granted a license to an applicant with these issues simply because he could pass the Special Purpose Examination (SPEX).

Dr. Bechtel agreed with Dr. Kakarala. Dr. Bechtel stated that he works with residents every day and it is very concerning to see someone who is not finishing programs and going from one program to the next. Dr. Bechtel noted that the Board has few details on why Dr. Apostolis ended his training programs prematurely and he asked if it would be worthwhile for the Secretary and Supervising Member to have an office conference with him to sort out these concerns.

Dr. Saferin stated that the real issue before the Board today is whether Dr. Apostolis qualifies for licensure under the Board's rules. Dr. Saferin stated that he and Dr. Rothermel had the same concerns that have been expressed here. Dr. Saferin added that it would be his preference that every physician complete a three-year residency, but under Ohio law only one year of post-graduate education is required for American medical graduates and two years for foreign medical graduates.

Ms. Anderson recommended tabling this topic so that staff can research this issue further and gather more information. Dr. Kakarala agreed. Dr. Kakarala opined that the critical thing to understand is the circumstances of Dr. Apostolis' resignation or dismissal from his internal medicine residency. Dr. Kakarala stated that dismissing a resident is a very involved process with many attorneys involved, and the lack of documented details likely reflects an effort to avoid triggering a lawsuit. Dr. Feibel, as an assistant director of a residency program, agreed with Dr. Kakarala that it is exceedingly difficult to discipline or dismiss a resident.

In response to a question from Dr. Feibel, Ms. Anderson stated that any disciplinary issues regarding an applicant's past and allegations of falsifying patient records could come to the Board as a disciplinary case. Currently there are no disciplinary issues being presented to the Board; the matter before the Board now is a question of eligibility for licensure.

Dr. Bechtel moved to table this topic. Dr. Feibel seconded the motion. All members voted aye. The motion to table carried.

Dr. Schottenstein commented that oftentimes when a licensee comes to the Board with disciplinary matters, one can look back in hindsight to the licensee's medical school and residency and see the red flags. While the Board does not have purview over medical students, it does issue training certificates and, therefore, residents are under the Board's regulation. Dr. Schottenstein stated that the Board often receives reports regarding substance abuse among residents, but it is also incumbent upon medical professionals to report residents for concerns about character which could become serious issues when they leave residency and begin to practice. Dr. Schottenstein stated that it is better for the residents and for society for such things to be caught early.

State Medical Board of Ohio Meeting Minutes – February 9, 2022

Advisory Council Reports

Physician Assistant Policy Committee

Dr. Feibel stated that the Physician Assistant Policy Committee (PAPC) met virtually on February 4, 2022. A legislative update was provided. Ms. Anderson provided a general overview of pending rules and discussed the draft telehealth rules, draft light-based medical device rules, and draft weight-loss prescribing rules. Ms. Anderson answered questions and took comments from the Committee. The comments from the PAPC will be considered as the Board continues to work on the draft rules, and updates will be given to the PAPC as the rules progress through the promulgation process. Mitchell McDiffet, President of the Ohio Association of Physician Assistants, also provided an update from her organization.

Massage Therapy Advisory Council

Dr. Saferin stated that the Massage Therapy Advisory Council (MTAC) held its first meeting on February 7, 2022. The first topic of discussion was the role of MTAC and the role and responsibilities of the Board. A legislative update was provided, with emphasis on Senate Bill 55 which, if passed, will require licensure for anyone practicing massage in Ohio. Dr. Saferin noted that MTACC displayed 100% interest in that bill passing.

MTAC welcomed Laura Embleton, Government Relations Director for the Associated Bodywork and Massage Professionals, and James Specker, Senior Director for Industry and Government Relations at the American Massage Therapy Association (AMTA). Ms. Embleton and Mr. Specker each gave brief comments. Melissa Ryan, president of the Ohio chapter of the AMTA, gave a short update.

Ms. Anderson provided an overview of the administrative rule process. Ms. Anderson discussed several draft rules pertaining to massage therapy and solicited comments. MTAC engaged in a robust conversation about the draft rules. Mr. Turek answered questions regarding licensure. Dr. Saferin commented that Ms. Anderson and Mr. Turek did an excellent job.

Ms. Montgomery thanked Ms. Reardon and the rest of the staff for their work on the advisory councils.

PROBATIONARY REPORTS AND REQUESTS

Office Conference Reviews

Dr. Schottenstein noted that probationer Michele Walsh, M.D., has a fairly substantial record of non-compliance with her probationary requirements. According to Dr. Walsh, she is trying to get on-track on setting alarms on her phone regarding drug testing. Dr. Schottenstein asked about the procedure that is followed with this many tests have been missed. Ms. Dorcy answered that missed tests are addressed in a number of ways, including reaching out to the lab to discuss different ways of testing. This issue is also addressed in the new Compliance guidelines. Regarding Dr. Walsh specifically, Ms. Dorcy stated that she will look into that case and report back.

Dr. Soin moved to approve the Compliance staff's Reports of Conferences for January 3, 10, and 11, 2022. Dr. Johnson seconded the motion. All members voted aye, except Dr. Rothermel, Dr. Saferin, and Dr. Bechtel, who abstained. The motion carried.

Probationary Requests

Dr. Johnson moved to approve the Secretary and Supervising Member's recommendations for the following probationary requests:

- a) Michael H. Anikeev, M.D.: Request for reduction in frequency of psychiatric treatment to quarterly.

State Medical Board of Ohio Meeting Minutes – February 9, 2022

- b) Jennifer D. Bahner, M.D.: Request for approval of Timothy H. Warneka, M.Ed., to serve as the new mental health provider.
- c) Philicia S. Duncan, M.D.: Request for release from the terms of the January 11, 2017 Board Order.
- d) Andrew P. Feiner, M.D.: Request for release from the terms of the May 12, 2021 Consent Agreement.
- e) James George Lamphear, M.D.: Request for release from the terms of the February 8, 2017 Step II Consent Agreement.
- f) Adam N. Leid, D.O.: Request for approval of Michael W. Shore, M.D. to complete a return-to-work assessment, required for reinstatement; approval of David Steinman, M.D. to serve as the treating psychiatrist and to complete the psychiatric return-to-work assessment, required for reinstatement; and approval of weekly counseling sessions with Beverly Walton to complete the aftercare requirement.
- g) Muyuan Ma, M.D.: Request for release from the terms of the June 13, 2018 Board Order.
- h) James T. Murphy, M.D.: Request for approval of the course *Medical Record Keeping Seminar*, offered by the Center for Personalized Education for Physicians (CPEP), to fulfill the medical records course requirement.
- i) Marios D. Papachristou, M.D.: Request for Approval of George Lloyd, M.D., to complete a return to work assessment, required for license reinstatement; and approval of the Pennsylvania Physicians Health Program to conduct the drug screen monitoring.
- j) Jon B. Silk, Jr., M.D.: Request for discontinuance of the drug log requirement; and reduction in recovery meeting attendance to two per week with a minimum of 10 per month.
- k) Jared A. Warren, D.O.: Request for discontinuance of the drug log requirement; and discontinuance of the chart review requirement.
- l) Scott R. Welden, M.D.: Request for reduction in drug testing frequency to a minimum of two times per month; and reduction in weekly recovery meeting attendance to two meetings per week with a minimum of 10 meetings per month.
- m) Virginia F. Wright, M.D.: Release from the terms of the October 13, 2021 Consent Agreement.

Dr. Feibel seconded the motion. A vote was taken:

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

The motion carried.

ADJOURN

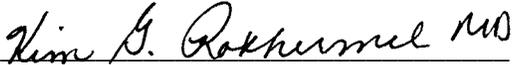
Dr. Saferin moved to adjourn the meeting. Dr. Feibel seconded the motion. All members voted aye. The motion carried.

State Medical Board of Ohio Meeting Minutes – February 9, 2022

The meeting adjourned at 2:57 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on February 9, 2022, as approved on March 9, 2022.


Betty Montgomery, President


Kim G. Rothermel, M.D., Secretary





State Medical Board of Ohio

COMPLIANCE COMMITTEE MEETING

February 9, 2022

30 E. Broad Street, 3rd Floor, Administrative Hearing Room, Columbus, OH 43215

<p>Members: Betty Montgomery, Chair Robert Giacalone, R.Ph., J.D. Michael Schottenstein, M.D. Harish Kakarala, M.D.</p> <p>Other Board Members present: Kim Rothermel, M.D. Bruce Saferin, D.P.M. Mark Bechtel, M.D. Jonathan Feibel, M.D. Yeshwant Reddy, M.D.</p>	<p>Staff: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Brandi Dorcy, Chief of Compliance Amy Pridday, Compliance Manager Rebecca Marshall, Chief of Quality Assurance Benton Taylor, Board Parliamentarian</p>
---	--

The meeting was called to order at 9:05 a.m.

Adjourn

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

Compliance Program Updates

Ms. Montgomery stated that Ms. Dorcy and her staff have worked very hard on the draft documents that the Committee reviewed last month. The memo in the meeting materials explains the updates to the documents, which reflect the Committee's discussion last month.

The document for return-to-work assessments now includes a licensee acknowledge statement to ensure the evaluation is impartial, and a template for the letter so there can be a similar form in all reports the Board receives.

The physician monitoring tool has been updated to eliminate the question on whether the monitor is being paid; that information can be obtained from conversation with the licensee during office conferences. The Compliance staff has also created a report template which makes those reports uniform. An additional edit has been made to the guideline document to clarify the requirements relating to the physician's' management of his or her practice or care.

The only update to the document on chaperones was to include the duty-to-report statement on the application, as well as the duty-to-report obligations required by other licensing board if there are any involved.

Ms. Montgomery commented that the Compliance staff has done a great job on these documents.

Ms. Dorcy stated that the next step is implementation. The guidelines will be sent to licensees in the Compliance program, as well as to monitors and chaperones, and confirmation of receipt will be obtained for each. There will be a 30-day window for implementation of the new guidelines.

Adjourn

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

The meeting was adjourned at 9:11 a.m.

bt



State Medical Board of Ohio

MEDICAL MARIJUANA COMMITTEE MEETING

February 9, 2022

via live-streamed video conference

<p>Members: Amol Soin, M.D., Chair Mark Bechtel, M.D. Robert Giacalone, R.Ph., J.D. Michael Schottenstein, M.D. Yeshwant Reddy, M.D.</p>	<p>Staff: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Brandi Dorcy, Communications Liaison Jerica Stewart, Communications & Outreach Administrator Rebecca Marshal, Chief of Quality Assurance Benton Taylor, Board Parliamentarian</p>
---	--

The meeting was called to order at 3:06 p.m.

Petitions for Additional Qualifying Conditions Review and Discussion

Dr. Soin stated that between November 1 and December 31, 2020, the Board received 30 petitions to add new qualifying conditions to the list of conditions that may be treated with medical marijuana. Dr. Soin stated that under the Board's rules, as outlined in 4731-31-05, Ohio Administrative Code, petitions must meet the following criteria:

- The name and contact information for the person submitting the petition.
- The specific disease or condition requested to be added as a qualifying condition.
- Information from experts who specialize in the study of the disease or condition.
- Relevant medical or scientific evidence pertaining to the disease or condition.
- Consideration of whether conventional medical therapies are insufficient to treat or alleviate the disease or condition.
- Evidence supporting the use of medical marijuana to treat or alleviate the disease or condition, including journal articles, peer-reviewed studies, and other types of medical or scientific documentation.
- Letters of support provided by physicians with knowledge of the disease or condition.

The petitions have been separated into three categories.

Category I: Does Not Appear to Meet

The Board received three petitions that do not appear to meet the requirements for a petition:

- **Gilbert’s Disease:** The petition lacked a physician letter of support.
- **Anxiety:** The petition lacked relevant scientific evidence and a physician letter of support.
- **Bipolar, Anxiety, Depression, Sleep Disorder:** The petition lacked relevant scientific evidence and a physician letter of support.

Category II: May Already Be Covered

The Board received one petition that does not appear to meet the requirements for a petition, but the conditions may be covered by statute. In previous years, after the Committee rejected the Category III [II] petitions, Board staff at the Committee’s direction sent correspondence to the petitioners to direct the petitioner to appropriate resources for their condition.

Degenerative Disk Disease, Chronic Pain, PTSD: Post-Traumatic Stress Disorder and pain that is either chronic and severe or intractable are currently recognized as a qualifying condition.

Category III:

The Board received five petitions for conditions that may meet the requirements to add a qualifying condition.

Pursuant to Ohio Administrative Code 4731-32-05, “any petition for a condition that has previously been reviewed by the board and rejected will not be considered by the board unless new scientific research that supports the request is offered.”

Dr. Soin noted that of the conditions in this category, opioid use disorder, insomnia, and autism spectrum disorder have been previously reviewed and rejected by the Board. Lupus has not been previously considered. Dr. Soin stated that part of the disease process for lupus is a chronic intractable pain syndrome, which may mean that it is already covered by statute and could be considered part of Category II.

Discussion of Petitions

Dr. Bechtel moved to reject the petitions that are in Category I and Category II. Dr. Reddy seconded the motion.

Dr. Soin stated that if the Category II petitions are rejected, the Board will send correspondence to the petitioners informing them that the condition may already be covered by current statute.

A vote was taken on Dr. Bechtel’s motion. All members voted aye. The motion carried.

Lupus

Regarding the petition for lupus, Dr. Schottenstein agreed with Dr. Soin’s comments. Dr. Schottenstein opined that the Committee would be correct to move that petition into Category II because chronic pain is a symptom of lupus.

Dr. Bechtel observed that one of the petitioner’s cited articles, “Medical Nonadherence, Cannabis Use, and Renal Outcome in Systemic Lupus Erythematosus,” showed a significant increase in mortality,

predominately due to non-adherence to therapy. In other words, patients with systemic lupus erythematosus (SLE) using concomitant cannabis had lower adherence to their prescribed medication, but had bad outcomes, specifically increased renal disease and mortality. This raises some concern about what the overall outcome of that might be.

Dr. Soin stated that as a pain management specialist, he knows that SLE is difficult to treat with current modalities, including opioids and narcotics, and there is not a good nerve block for it. Dr. Soin opined that in certain scenarios, medical marijuana could be beneficial from a pain standpoint.

Dr. Bechtel commented that there is a large spectrum of lupus. For those with cutaneous lupus, it is predominately a skin disease, and this accounts for a large percentage of patients with lupus. Those with cutaneous lupus have no pain and very few joint symptoms. Ongoing research suggests that cannabis may help cutaneous lupus, but solid conclusions are probably a year away. The more severe systemic lupus involves symptoms such as arthritis, renal disease, and significant joint pain.

The Committee discussed the lupus petition thoroughly. Dr. Soin suggested moving the petition into Category II due to the chronic pain associated with systemic lupus and correspond with the petitioner. Dr. Soin further suggested that the matter could be sent for expert review at a future date when there could be more data on the use of medical marijuana in treating non-painful cutaneous lupus. The Committee agreed.

Dr. Bechtel moved to move the petition for lupus into Category II for rejection and correspondence with the petitioner. Dr. Reddy seconded the motion. All members voted aye. The motion carried.

Opioid Use Disorder

Dr. Soin stated that the Committee has reviewed opioid use disorder in the past. The current petitions for opioid use disorder include evidence, but Dr. Soin was uncertain if the evidence was new or persuasive compared to what has already been reviewed. Dr. Soin acknowledged that cannabis could be useful for some people with opioid use disorder, but the last time the Committee reviewed this topic it seemed that the risks outweighed the benefits. Mr. Giacalone stated that he did not find the new evidence to be persuasive.

Insomnia

Dr. Soin stated that this condition has also been reviewed previously by the Committee, and that petition was rejected due to assessment of the risk/benefit ratio. While it had appeared that medical marijuana could be helpful for some with insomnia, approval did not seem to be in the best interest of the public. The new petition includes evidence, but Dr. Soin was not sure it was persuasive enough to overturn the Committee's previous arguments.

Dr. Bechtel noted the article "Marijuana for Insomnia?" By Gary Wenk, Ph.D., which showed that medical marijuana did not improve the quality of sleep or reduce severe insomnia, and that it increase lighter or non-REM sleep and decreased the about of time in REM sleep. Dr. Soin stated that he had the opportunity and privilege to serve with Dr. Wenk on the Ohio Marijuana Commission, and he knows that Dr. Wenk is a marijuana advocate who advocates for access and use. Dr. Soin found it very persuasive that Dr. Wenk does not feel that medical marijuana is helpful for insomnia.

Autism Spectrum Disorder

Dr. Soin stated that the Committee has reviewed this condition many times before and discussed it with experts. The Committee is aware of the issues that occur with autism and how difficult it can be for the patient and their parents. The Committee is sensitive to case reports and anecdotes of how medical marijuana has been helpful for some people.

On the Committee's last review, an expert persuasively expressed that medical marijuana could be harmful to the developing brain, particularly of a child with autism. The current petition contains new evidence.

Dr. Bechtel observed that one of the submitted articles, "Real Life Experience of Medical Cannabis Treatment in Autism: Analysis of Safety and Efficacy." The "Conflicts of Interest" section indicated that the lead author, Lihi Bar-Lev Schleider, is employed by Tikun-Olam Ltd., which is a major marijuana growing operation which dispenses marijuana throughout the world. Consequently, the lead author benefits directly for the selling of these products.

Dr. Bechtel stated that another article, "Medicinal Cannabis in Children and Adolescents with Autism Spectrum Disorder: A Scoping Review" by Sarah Fletcher, et. al., was published in 2021. The article made general comments about eight studies which they said showed substantial behavior and symptom improvement on medicinal cannabis with 61% to 93% showing improvement. Dr. Soin also found that article to be persuasive.

Mr. Giacalone asked if experts at Nationwide Children's Hospital could be asked to opine on this matter, noting that their comments in the past had been very helpful. Ms. Loucka stated that any petition the Committee moves forward on will be sent to stakeholders for comment, and the staff can specifically reach out to Nationwide Children's Hospital for their input. Dr. Schottenstein asked that Cincinnati Children's Hospital and the Ohio Psychiatric Physicians Association also be contacted for comment.

Ms. Loucka commented that the Board could choose to act as its own expert in this matter, especially since this condition has been discussed several times before. Dr. Soin commented that he personally does not feel he is qualified to be an expert on the subtle nuances of autism spectrum disorder. Dr. Schottenstein noted that it has been a while since the Committee has gotten expert review of autism spectrum disorder and felt that obtaining expert testimony again at this time would be appropriate.

Summary of Reviews

Dr. Schottenstein opined that expert opinion should be obtained for the petitions for autism spectrum disorder and opioid use disorder. Dr. Schottenstein further opined that there is not enough compelling evidence to support obtaining further review for the petition for insomnia.

Dr. Bechtel moved to reject the petition for insomnia. Dr. Reddy seconded the motion. All members voted aye. The motion carried.

Dr. Schottenstein moved to move forward with expert review for the petition for autism spectrum disorder. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

Mr. Giacalone moved to move forward with expert review for the petitions for opioid use disorder. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

Dr. Bechtel moved to accept written public comments from February 10, 2022 to February 25, 2022 to solicit input on the petitions under consideration; and that written comments can be submitted via email to MedicalMarijuana@med.ohio.gov. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

Adjourn

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

The meeting adjourned at 3:39 p.m.

bt