

May 14, 2014

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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

MAY 14, 2014

Krishnamurthi Ramprasad, M.D., President, called the meeting to order at 9:55 a.m. in the Administrative Hearing Room, 3<sup>rd</sup> Floor, the James A. Rhodes Office Tower, 30 E. Broad Street, Columbus, Ohio 43215, with the following members present: Lance A. Talmage, M.D., Vice-President and Secretary; Mark A. Bechtel, M.D., Supervising Member; Anita M. Steinbergh, D.O.; Bruce R. Saferin, D.P.M.; Amol Soin, M.D.; Sushil M. Sethi, M.D.; Michael L. Gonidakis; and Robert P. Giacalone. The following member arrived at a later time: Donald R. Kenney, Sr.

Also present were: Jonathan Blanton, Interim Executive Director and Deputy Director, Investigations and Enforcement; Kimberly Anderson, Chief Legal Counsel; Michael Miller, Deputy Director, Licensure and Operations; Mary Courtney Ore, Deputy Director of Communications; Sallie Debolt, Senior Counsel; David Katko, Assistant Legal Counsel; William Schmidt, Senior Counsel for Investigations, Compliance and Enforcement; Susan Loe, Assistant Executive Director, HR and Fiscal; Joan Wehrle, Education and Outreach Program Manager; K. Randy Beck, Chief of Investigations; Michelle Richards, Amy Myers, and Mike Staples, Enforcement Investigators; Rebecca Marshall, Chief Enforcement Attorney; Mark Blackmer, Andrew Lenobel, Karen Mortland, Angela McNair, Marcie Pastrick, Cheryl Pokorny, and Greg Tapocsi, Enforcement Attorneys; Jonithon LaCross, Director, Public Policy and Governmental Affairs; Bonnie Ristow, QIP Secretary; Henry Appel, Senior Assistant Attorney General; Kyle Wilcox, Melinda Snyder, James Wakley, and Charissa Payer, Assistant Attorneys General; Sana Ahmed, Attorney General Law Clerk; Monica O'Keefe, Attorney General Paralegal; Gregory Porter, Chief Hearing Examiner; Danielle Blue, Hearing Examiner; Gary Holben, Operations Administrator; Danielle Bickers, Compliance Supervisor; Kay Rieve, Administrative Officer; Barbara Jacobs, Senior Staff Attorney; Sue Bigham, Public Inquiries Supervisor; Jacqueline A. Moore, Legal/Public Inquiries Assistant; Judy Rodriguez, Legal Department Secretary; Cathy Hacker, P.A. Program Administrator; Gina Bouldware, Licensure Assistant; Robyn Daughtry, Temporary Receptionist; Benton Taylor, Business Office Assistant; and Paula Farrell, Executive Assistant to the Executive Director.

#### MINUTES REVIEW

**Dr. Steinbergh moved to approve the draft minutes of the April 9, 2014, Board meeting and the May 1, 2014 Special Board Meeting, as written. Dr. Sethi seconded the motion.** All members voted aye. The motion carried.

#### ADMINISTRATIVE REPORT

Mr. Blanton began his administrative report by saying that Dr. Steinbergh was appointed to serve as Chair of the Federation of State Medical Boards (FSMB) Bylaws Committee; Dr. Bechtel was appointed to serve on the FSMB Editorial Committee; Dr. Saferin was appointed to serve as a Director on the Federation of Podiatric Medical Boards' Executive Board, and Dr. Talmage was selected as Clinical Professor and Interim Chair, Department of Obstetrics and Gynecology at the University of Toledo College of Medicine.

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The attendees applauded the announcement, congratulating all Board members on their appointments and service.

**Dr. Talmage moved to approve that Dr. Steinbergh's service as Chair of the Federation of State Medical Boards Bylaws Committee; Dr. Bechtel's service on the FSMB Editorial Committee; and Dr. Saferin's service as Director of the Federation of Podiatric Medical Boards' Executive Board, are in connection with his/her duties and in relation to his/her position as members of the State Medical Board of Ohio. Dr. Sethi seconded the motion.** All members voted aye. The motion carried.

Mr. Blanton announced that Ms. Bigham and Ms. Mortland are retiring at the end of May and thanked them for their many decades of service to the State Medical Board and the citizens of Ohio. The attendees applauded the employees for their dedication and commitment.

Mr. Blanton also announced that Ms. Loe is now a certified Ohio fiscal professional, after completing training at the Ohio Fiscal Academy. The attendees applauded for Ms. Loe's accomplishment.

Mr. Blanton informed the Board members that office reorganization/relocation is complete and thanked Mr. Holben and Mr. Barr for their diligence and hard work.

Mr. Blanton highlighted some of the meetings that staff attended, which are included in the Administrative Report that distributed to the Board members. Those meetings included the Administrators in Medicine (AIM) annual meeting, which he attended and the National Rx Drug Abuse Summit that Ms. Anderson and Mr. Beck attended.

Ms. Anderson indicated that the National Rx Drug Abuse Summit was worthwhile and both she and Mr. Beck gained valuable and helpful information. Mr. Beck attended the law enforcement track meetings and Ms. Anderson attended meetings with regard to pharmacy and policy issues. Ms. Anderson stated there were approximately 1,200 to 1,500 attendees with presentations on a variety of perspectives.

Mr. Blanton noted that he also attended the FSMB Annual Meeting and that it was his first time to attend. He indicated that he found it interesting to see the licensure and the technical aspects of operation from a national perspective.

Dr. Steinbergh said that she did not find the FSMB program as invigorating as she had in the past. Dr. Steinbergh stated that the FSMB does a fine job in putting on the program, but she feels there should be more education in the basics, such as sexual boundary issues, impairment and matters that Boards are discussing monthly. The State Medical Board of Ohio and the FSMB and other medical boards are constantly training new medical board members and Dr. Steinbergh said she believes those particular subjects would be beneficial to the new members. Dr. Steinbergh said she would also like to see basic education for board members be included.

Dr. Steinbergh mentioned that she served on the Program Committee and wanted regional medical board forums/discussions to occur. In 1994, the Midwest Regional Boards began and they met to discuss similar concerns. They developed their vocabularies so they would

understand what revocation, suspension, and other actions meant to each state. These discussions helped develop a greater understanding of how each medical board functioned.

Dr. Steinbergh concluded by saying, there is much hard work that goes into producing the national symposium and the Federation is consistently looking forward and stimulating boards to think forward into the future.

Mr. Giacalone stated that the regional breakout session was extremely helpful because they get to the heart of the issues. Mr. Giacalone suggested that more of those occur at the FSMB Annual Meetings.

Dr. Sethi said there was much emphasis on making examinations harder and he wondered if the age and experience of the licensees are being considered as factors in FSMB's decisions. Dr. Sethi indicated there were many topics covered, but he would have preferred more discussion on policy and boundary issues.

Mr. Blanton indicated that several investigators participated in Pickaway County Drug Take Back Day and Hancock County Medication Collection Program.

A discussion between the Board members regarding drug drop off locations and the importance of them occurred. Mr. Giacalone explained Drug Enforcement Administration (DEA) rules/regulations and the issue of how Ohio can get permanent prescription drop off locations was discussed.

Dr. Talmage noted that education and information should be provided and shared with Ohioans, so they would know the proper disposal methods for medication, since pharmacies cannot take the medicine back.

Dr. Sethi proposed having drop off boxes at all of the courthouses in Ohio.

Dr. Soin said, statutory changes would be necessary for pharmacies to be able to take the medications back. Dr. Soin noted that drop off boxes were successful in his area of the state and agreed that increased awareness was needed.

Dr. Steinbergh noted that some of her patients, occasionally, would bring back what medications they did not use. Dr. Steinbergh said her office kept a log of the medication returned and would destroy it through their medical waste system.

Dr. Soin noted, his office utilizes a witnessed destruction program and has a form that is signed by two members of his staff and the patient returning the medication. On the form is a list of the type of drug and the number of pills returned. If a large amount of pills are returned, then the patient is referred to a drop off box or the physician's staff members take the medication to the drop box.

Mr. Blanton stated that he and Ms. Anderson met with representatives from the Ohio Attorney General's (AG) office to discuss the coordination of training. Reservations for three staff members have been made for deposition training this year. Mr. Blanton has

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participated in the training and verified how beneficial it would be for the Board's enforcement attorneys.

Mr. Blanton stated, in April, Investigators were assigned 128 complaints for investigations, nine subpoenas for service, submitted 73 reports on investigations and served many Ohio Automated Rx Reporting System (OARRS) letters personally to licensees who have not yet signed up for OARRS.

Mr. Blanton reviewed the fiscal report briefly, saying that March 2014 revenue was \$894,040 and expenditures were \$917,513.

Ms. Ore gave a brief statement saying that a group from the office met with Strategic Public Partners (SPP) to discuss office rebranding.

Ms. Loe spoke about the rent increase, stating that the Department of Administrative Services (DAS) notified agencies in mid-April of an approximate increase of 30% (going from \$6.68 per square foot to \$8.70 per square foot) and noted the charges would be retroactive from the beginning of the fiscal year (July 1, 2013 – June 30, 2014). This increase means additional costs to our agency of approximately \$67,000 this fiscal year. The increase resulted from a Health & Human Services Federal Audit of agency programs who receive Federal funding. Although the Medical Board does not receive Federal funds, the agency is affected by the state-wide change. The methodology of allocation for rent that had been used for many years was disallowed, resulting in this increase. DAS offset some of the increase by utilizing excess funds, or the costs to the agencies would have even been higher this year.

Ms. Loe noted that next fiscal year, the agency would see an increase of rent of approximately \$130,000 with prices moving upwards to \$11 to \$11.50 per square foot. Ms. Loe indicated that the Rhodes Tower prices are still lower than most downtown office spaces. Ms. Loe stated that DAS did look at the water damage in the office and will be giving the agency credit for the cost of the room that is unusable because of leaks, until the problems are remedied.

Mr. Gonidakis voiced his concerns about the increase in view of the agency's financial situation and inability to increase fees, and suggested the agency explore location options.

## RULES AND POLICIES

### **Reports and Recommendation from the April 23, 2014 Public Hearing on Rules**

Ms. Debolt stated the agency received no public comments for the Rules Hearing, but did receive comments from the Joint Committee on Agency Rule Review (JCARR) on the proposed rules. Four rules were removed from the process for revision because JCARR had technical concerns. The remainder of the rules will be before JCARR on Monday, May 19, 2014, and barring any unforeseen problems, the rules will be in front of the Board for official adoption at the June Board meeting.

**Consideration of Position Statement Regarding Capital Punishment and Physicians**

Mr. Blanton began by saying the Board has a long history of issuing position statements on matters of significant interest to the public and its licensees. These statements have been used to announce Medical Board policy, promote minimum guidelines, highlight safety concerns, and provide the public and professionals with information on what the Board considers the appropriate standard of care.

Mr. Blanton informed the Board that a letter was received from the Ohio Attorney General's Office (AG), on behalf of the Ohio Department of Rehabilitation and Corrections (DRC), asking for guidance regarding expert testimony in legal proceedings arising out of or leading to execution by lethal injection. The letter was seeking direction as to whether licensees who testify as a witness about the following issues, would be subject to discipline: 1) the general nature and effects of the authorized dosages of the two drugs used at a recent execution; 2) the physical mechanisms by which the offender died from the intravenous injection of those drugs; 3) whether the offender was conscious when irregular bodily movement were observed; 4) an explanation of those movements, and; 5) whether the condemned person experienced any pain or distress after receiving the IV injection of drugs.

Mr. Blanton noted that this is an area of great public interest nationally and an area where a physician's unique education and expertise could contribute to the greater good through a factual and scientific examination of past events. The Ohio Medical Practices Act does not have a sub-section speaking to physician involvement in executions by lethal injection. However, that does not mean the Board does not have authority to discipline physicians based on their involvement in that process. Mr. Blanton continued by saying, Section 4731.22(B)(18), Ohio Revised Code, states that the State Medical Board has jurisdiction to impose discipline upon a physician for violations of the code of ethics of the applicable national professional association to which that physician belongs, including the American Medical Association (AMA) and the American Osteopathic Association (AOA). Mr. Blanton noted that both of these agencies have issued opinions regarding physicians involved in executions. The AMA states it is unethical for an osteopathic physician to deliver or be required to deliver a lethal injection for the purpose of execution in capital crimes. In the scenario being presented by the AG, the physician would not, clearly, be violating the AOA's policy, as he/she would not be delivering the lethal injection.

Mr. Blanton stated the AMA says a physician should not be a participant in a legally authorized execution and defines a participant as: 1) an action which would directly cause the death of the condemned; (2) an action which would assist, supervise, or contribute to the ability of another individual to directly cause the death of the condemned; (3) an action which could automatically cause an execution to be carried out on a condemned prisoner.

Mr. Blanton continued by saying that the AMA also specifies certain activities that would not constitute participation in a legally authorized execution. All the prohibitions related to the activities include the planning/preparing for or physically facilitating the execution itself. Mr. Blanton indicated that the issues presented in the AG's letter do not fall into any of those prohibitions, specifically, as they relate to a retrospective review of an execution

that has already taken place and are not directly related to formulating protocols for future executions.

Mr. Blanton said that after reviewing the MPA, the request from the AG's office and the relevant codes of ethics, a draft statement was prepared and shared with Board members for review and possible approval.

Dr. Ramprasad made a statement saying that this issue is a very small piece of larger national conversations. He said that physicians have a unique role in society and are healers, experts, leaders and citizens, with varying views on capital punishment. This matter is not what the Board was gathered to discuss, said Dr. Ramprasad. The issues before the Board include a question as to whether a physician can testify as an expert witness on and give opinions about the effects of drugs on human bodies, in a case in which the physician had no involvement in developing, supervising, or performing the processes or protocols leading up to the execution or in the execution itself. It would be looking back on what has already happened, not planning for the future.

Dr. Ramprasad said that a position statement from the Board would provide the licensees with an important guide to allow them to determine, on a case-by-case basis, whether he or she could ethically provide an opinion in a matter related to a capital punishment. This position statement should serve as a guideline for physicians to consider before providing expert testimony or opinion. However, the licensees must still understand the ethical codes themselves and make decisions, based on what they were asked to opine on, whether that subject would or would not violate applicable ethical guidelines. Dr. Ramprasad indicated that the Board received a copy of the proposed position statement and asked if all members reviewed it and affirmative answers were received from Board members.

**Dr. Bechtel moved to adopt the proposed position statement regarding capital punishment and physicians. Dr. Sethi seconded the motion.**

Dr. Steinbergh noted, the statement was well developed by Mr. Blanton, Ms. Anderson and Mr. Schmidt and indicated the Board should support the final draft. Dr. Steinbergh stated that the Board should provide a notice to physicians that this position statement is only a guideline, should not be interpreted as being all-inclusive or exclusive, and that the Board will review possible violations of the MPA and/or rules promulgated thereunder on a case-by-case basis. There is no way the Board can predict what will happen in a courtroom situation and the Board has narrowly defined what a physician should be able to do with regards to the ethical testimony. Dr. Steinbergh stated that the AG's office should understand they have to stay on task and the not lead the physician into giving testimony that is outside of the position statement they have asked the Board to address.

Mr. Giacalone said he is supportive of the statement, but believes that this event brings to question whether there should be a bigger change to the statute. The statute says that the Board "shall" defer or take into account the ethics/positions of the associations. Mr. Giacalone said that the associations serve the greater good of the profession, while the Board serves the greater good of the public health. With this event, the Board realizes these items are not in harmony, said Mr. Giacalone. He recommends that the statute be modified

to say the Board “can consider” the information and take it into account when making decisions, but need not be a slave to the positions, as other issues will arise.

Dr. Steinbergh stated the AMA and its Council on Ethical and Judicial Affairs has commented on this matter. Dr. Steinbergh said that physicians have a code of ethics that is codified through the AMA. Dr. Steinbergh said this is not just a position. All Osteopathic Physicians (DO) are board certified through the AOA. It is a linear alignment of DO’s to the board certifying bodies to the AOA. You cannot practice as a board certified physician unless you align to the AOA and subscribe to all of its rules. The AOA itself can take action on the unethical behavior of a DO through their body of ethics committees. The AMA is a bit different, as one joins the AMA and it has no authority over the board certification process. The linear integration of DOs through the AOA is a very powerful thing.

Mr. Giacalone commented that he would like the language of “shall consider” not just “shall” because the AMA is a perfect example. The AMA has their own agenda and should not be a public regulator’s agenda because they may not be in sync.

Dr. Steinbergh stated, in this particular case and past cases, the Board had used the standards and helped to drive the development of positions on key third parties.

Mr. Giacalone said that ethics can be subjective and may not necessarily align exactly. Mr. Giacalone indicated that he does not want the Board to be a slave to organizations and their own agendas, but to have the flexibility to consider their positions and then make a decision based upon the facts of each case.

Dr. Sethi stated, when physicians receive their diploma, they take the Hippocratic Oath and have to follow that Oath when they get their degree. He acknowledged that physicians are in the healing business and not the business of causing death and he, personally, would not participate in that process.

Mr. Giacalone stated that ethics are not strictly a black and white issue. When discussing ethics and moral issues, the lines get cloudy. Mr. Giacalone stated he is reluctant to be required to defer to any association’s policies, guidelines, decisions or rules.

Dr. Ramprasad said the point was well-taken and the Board should discuss it further. He said the Board does not have to be wedded to it all the time. Dr. Ramprasad noted that the rules are made by people who have pondered the matter, not just on a political basis, but for an extended period of time. Dr. Ramprasad noted that he realizes the AMA is a political organization, swayed by politics, but he does not believe that ethics are developed strictly on politics.

A roll call was taken on the motion to adopt the position statement:

ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Gonidakis :	- aye
	Mr. Giacalone:	- aye

The motion carried.

## REPORTS BY ASSIGNED COMMITTEES

### Physician Assistant/Scope of Practice Committee

#### Physician Assistant Matters

#### Formulary Review

Dr. Steinbergh stated that the Physician Assistant Policy Committee (PAPC) had recommended a formulary change to Naloxone.

Ms. Debolt said there is legislation authorizing Physician Assistants (PA) to administer Naloxone to people they have never examined or diagnosed. In order to ensure that PAs may prescribe Naloxone according to the legislation, it needs to be appropriately placed on the formulary. The PAPC and the PA Committee decided the way Naloxone was listed on the formulary, as "may prescribe," is actually appropriate and the Board need only add the limitations that surround this new ability to prescribe without having examined the patient. The Committee is asking for approval to add the specific language from the statute stating the criteria to the formulary.

**Dr. Steinbergh moved to approve the formulary change to the information for Naloxone to add the criteria for prescribing it for a patient the physician assistant has not examined. Dr. Soin seconded the motion.** All members voted aye. The motion carried.

#### Review of Special Services Plan

Dr. Steinbergh indicated that the Physician Assistant Policy Committee (PAPC) reviewed a Special Services Plan for Family Medical Group for Cryotherapy and tabled the matter due to lack of voting quorum. Therefore, the matter is not before the Board.

Dr. Steinbergh indicated that the Physician Assistant Policy Committee (PAPC) reviewed a Special Services Plan for Vein Care Center. Dr. Steinbergh noted that the PAPC, as well as the Physician Assistant (PA) Committee had recommended the special services plan for Sclerotherapy, utilizing 100% onsite supervision and 25/25 procedures. Dr. Steinbergh

noted the physician would see, evaluate and make the decision what treatment was appropriate for each patient prior to the PA performing the procedure.

Dr. Steinbergh also noted that the Committee made a correction of removing the PA's name as supervision agreements are not PA specific.

**Dr. Steinbergh moved to approve the Special Services Plan for Vein Care Center Group for Sclerotherapy, with the stipulation that the name of a specific physician assistant be deleted. Dr. Bechtel seconded the motion.** All members voted aye. The motion carried.

Dr. Steinbergh indicated that the Vein Care Center also requested a Special Services Plan for Ambulatory Phlebectomy. Dr. Steinbergh noted that this was the first time this type of plan had been reviewed and, therefore, the matter was tabled both at the PAPC and the PA Committees to gain additional understanding of the procedure. Dr. Steinbergh said, generally, the Committees have felt that the procedure is too invasive with too many complications and should not be performed by a PA. The PAPC had tabled the matter to gain further information. The PA Committee discussed it in order to provide further information and the staff will continue to research this matter and take it back to the PAPC in June. Dr. Steinbergh thanked Dr. Sethi for his valuable vascular surgical opinion.

#### **Review Changes to the Model Orthopaedic Plan**

Ms. Debolt stated that a model plan, which includes supervision and training requirements, is more efficient administratively for the physician, physician assistant and for the Board. As long as a submission meets the model plan, staff can make the approval and it will not have to go through the PAPC and the Board, but could be approved at the administrator level. The members of the PAPC and the Ohio Association of Physician Assistants (OAPA) recognized a need for a model plan related to injections and aspirations in orthopedic practice. The OAPA worked with members of the Ohio Orthopedic Society (OOS) and drew up a model plan. The PAPC has reviewed and modified that plan, approved it the day prior and the Committee discussed the plan prior to the meeting. Ms. Debolt said that the plan sets out specific procedures that can be done, specific drugs that can be administered, sets out the supervision requirements of the PA, as well as the training requirements. Ms. Debolt noted, in the supervision requirements, generally, the Board had approached supervision of PAs as a percentage of time. In this model plan, they have gone away from percentages of time, to say that in reality, the physicians had to put together a plan of treatment for the patient then the PA may administer the injections or aspirations. Pursuant to that plan of treatment, the physician has to review the charts of every patient that the PA treats. Ms. Debolt stated, at the conclusion of the treatment plan, it is the physician that has to document that the treatment plan had been completed.

Ms. Debolt said that there were visitors in the Committee meeting. One being an orthopedic surgeon who suggested, as part of the requirements, that a log of training be included and submitted to the Board for review and approval prior to the PA being able to administer the injections or aspirations. The Committee did adopt that suggestion.

Dr. Steinbergh noted that the Committee was asking for a log of procedures, saying it is basically, credentialing and that a number of procedures would have to be logged in a clinical setting. Dr. Steinbergh said that members of the Board will assist in the development of the logs and she was pleased with the suggestion.

Ms. Debolt said procedurally model plan changes have to be approved by the PAPC. Therefore, if the Board agrees to change the plan by adding the requirement of a log, she would need a consensus. With the consensus, the suggestion would go back to the PAPC for approval of the language for the requirement.

The Board members answered affirmatively, in agreement of adding the requirement of the log.

Dr. Talmage noted that this requirement had been requested for the last 15 years. He noted that dermatology did something similar for skin biopsies and now orthopedics is acting on it. Dr. Talmage applauded the action and encouraged other societies to submit such plans.

#### **Review Changes to the PA Rules**

Ms. Debolt said when rules are filed with the Joint Committee on Agency Rule Review (JCARR), they review a variety of issues, including whether the rule is under the agency's authority, whether it conflicts with other rules of other agencies, and if the agency has incorporated, by reference, any outside documents or statutes referred to in the rule. These four rules deal with applications for Physician Assistants (PA) to practice, special services applications, and the two types of applications for the certificates to prescribe. JCARR did not like the way the Board had referenced where to find the application on the Board's website, saying it was not complete. This decision gives the Board the opportunity to change the rules and simplify them, by removing the language "on a form prescribed by the Board," which was the particular phrase of concern for JCARR. The Board was asked to remove that specific language and replace it with language that states in effect, "file the application in the manner provided in the specific section of the Ohio Revised Code that authorizes the process." With the Board's approval, the Committee can file the revised rules to continue the process moving forward.

**Dr. Steinbergh moved to revise proposed rules 4730-1-06, 4730-1-08, 4730-2-03, and 4730-2-05 by removing the phrase, "on a form prescribed by the board," and substituting language requiring the application to be filed in the manner provided in the specified authorizing statute. Dr. Bechtel seconded the motion. All members voted aye. The motion carried.**

#### **Licensure Committee**

##### **Licensure Application Reviews**

##### **Tammy L. Kinser, L.M.T.**

Dr. Saferin stated that Tammy L. Kinser, L.M.T., had submitted a Restoration Application.

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Dr. Saferin noted that Ms. Kinser has been out of practice since October of 2010.

**Dr. Saferin moved to grant Ms. Kinser's request for a Restoration Application upon successful completion of the Massage and Bodywork Licensing Examination (MBLEx). Dr. Steinbergh seconded the motion.** A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Gonidakis :	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Amy Lynn Kahl, L.M.T.**

Dr. Saferin stated that Amy Lynn Kahl, L.M.T., had submitted a Restoration Application. Dr. Saferin noted that Ms. Kahl has been out of practice since August of 2009.

**Dr. Saferin moved to grant Ms. Kahl's request for a Restoration Application upon successful completion of the Massage and Bodywork Licensing Examination (MBLEx). Dr. Steinbergh seconded the motion.** A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Gonidakis :	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Linda D. Clossman, C.T.**

Dr. Saferin stated that Linda D. Clossman, C.T., had submitted a Restoration Application. Dr. Saferin noted that Ms. Clossman has been out of practice since June of 2009.

**Dr. Saferin moved to grant Ms. Clossman's request for a Restoration Application upon successful completion of the Cosmetic Therapy Practical Exam. Dr. Steinbergh seconded the motion.** A roll call was taken:

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ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Gonidakis :	- aye
	Mr. Giacalone:	- aye

The motion carried.

### **Non-Clinical Medicine License**

Dr. Saferin stated that a copy of the Non-Clinical Medicine License was distributed to the Board members for review, noting the Board had been contemplating a way to license individuals who are not in active clinical practice. Dr. Talmage applauded Mr. Miller and his staff for their work on this matter, which would be utilized for licensees who are in administrative positions and not practicing positions. Dr. Saferin noted that the holder of the application would be required to pay the same fees and meet all other requirements for issuance and renewal of the license as a person holding a certificate to practice medicine and surgery, osteopathic medicine and surgery or podiatric medicine and surgery, as applicable. The Committee is requesting approval, so the language could be approved and the Board could move forward to request it be added to the statute.

**Dr. Saferin moved to approve the language for the Non-Clinical Medicine License. Dr. Steinbergh seconded the motion.**

Dr. Steinbergh asked if the Continuing Medical Education (CME) needed for the license would focus on clinical rather than administrative issues.

Dr. Talmage noted he had requested the license title be changed to Non-Clinical because the white paper from the FSMB that discusses Maintenance of Licensure (MOL) for the non-clinically active physicians. That document asks that physicians who are in administrative positions be allowed to take MOL. No states have an official MOL. This license would allow the licensee to take administrative CME, which is pertinent to their function. If one were a medical director, their CME would be focused in functions that are within medical directors' duties. If one were a researcher, the function focus would be such. Dr. Talmage continued by saying the American College of Physician Executives (ACPE) has CME that have a certification process and those individuals would not necessarily have to take clinical CME that is not pertinent to their duties. If the American Medical Association (AMA) approves the CME, which is what Ohio's statute dictates, then the education could be for either clinical or administrative purposes. Until the Board has a better definition or decides whether or not to adopt MOL, per se, the Committee is utilizing the regulation as it currently exists.

Dr. Bechtel said that his concerns are not with respect to licensure, but that some physicians that are not actively seeing patients make critical decisions as to whether or not members maintain standards of care. The physicians are weighing in on whether or not a physician in their healthcare network, insurance company, or even a hospital system has met the standard of care and are ruling on whether or not the individual should have privileges and should be doing procedures. Therefore, the physician's knowledge of standards of care is important and excellent clinical knowledge was warranted.

Dr. Sethi said there are similar examples in the Board of Occupational Medicine with distinct separation between clinical and administrative.

All members voted aye. The motion carried.

### **Policy Committee**

Mr. Gonidakis noted that a typical robust meeting occurred with representatives from Zogenix, the manufacturer and marketer of Zohydro, as well as representatives from weight loss drug companies. Mr. Gonidakis said many questions were asked and the representatives were getting answers on the questions they were unable to answer.

Mr. Gonidakis asked Dr. Soin to comment on how he thought the Zohydro portion of the meeting went and asked for his overall opinion of the presentation.

Dr. Soin indicated the meeting went well and he believes that the Board members have formulated various opinions on the drug. Dr. Soin indicated that he did not believe the meeting would necessarily change those opinions. Dr. Soin stated that, most importantly, he wanted to understand what the company is planning to do per the risk evaluation and mitigation strategy (REMS). When he has interacted with Zogenix, they have talked about how they have an aggressive REMS policy, but Dr. Soin has asked for specifics and has not received answers that satisfy his concerns.

Mr. Gonidakis noted that Dr. Soin gave a good analysis of the meeting and he thanked the Board members for their participation in it.

Mr. Giacalone added that he, also, did not get a clear answer from Zogenix on his question regarding benefits to the patients versus the risk to the public and potential abuse.

Mr. Gonidakis also stated that Dr. Sethi did not get answers from Zogenix on his questions, either. Therefore, the company is going to follow up with a memorandum, which will be disseminated to the Board.

Dr. Talmage asked if there was potential for the sale of the drug on the streets or diversion of the drug, noting that is often times a criteria with opioids.

Mr. Gonidakis stated that there was much conversation about safety and education, but that particular subject was not discussed.

Dr. Steinbergh noted that Zohydro does have high diversion potential, as many opioids do. As a clinician, Dr. Steinbergh saw the value of Zohydro if used appropriately with the extended release, oxycodone, and for patients who need chronic pain control, which is a very narrow population. Dr. Steinbergh said she hates to see these types of drugs not be available to appropriate physicians for appropriate use. Dr. Steinbergh noted that acetaminophen can adversely affect the liver, and it is known in patients with chronic pain, that the use of the combinations of hydrocodone and oxycodone with acetaminophen can adversely affect the liver. However, Dr. Steinbergh said, just to have a drug without acetaminophen for appropriate physicians to use appropriately for chronic pain control in that limited number of patients, is a valid reason for Zohydro.

Dr. Steinbergh concluded by saying that Zohydro should be narrowly used and she is not 100% opposed to the use of it. However, because of the potential for abuse, that must be considered. Dr. Steinbergh also noted that the Board must consider patient care in regards to appropriate pain relief.

Dr. Soin said, if there were an unmet medical need, he would be supportive of Zohydro. However, there are plenty of drug options for pain on the market currently. Dr. Soin stated there could be a narrow indication for use for end of life patients or a palliative care situation that is a responder to hydrocodone and nothing else, where liver toxicity is an issue. Dr. Soin noted because the drug is time release and is easily tampered with, there will be an incredibly high desire to obtain Zohydro on the street. Dr. Soin concluded by saying if Ohio allows this drug in our state, people will die of overdose from it.

Dr. Ramprasad stated that from the pain management individuals that he has spoken to, they all say the same thing. Physicians would like to have it and don't want it to be Schedule II, but to be restricted to palliative care and for pain certified physicians to use it under appropriate circumstances, rather than making the drug available for everyone. Dr. Ramprasad noted if there was Tylenol toxicity, physicians like himself, should be seeing it. Dr. Ramprasad said that he has seen individuals overdosing on Tylenol purposefully for suicides, but has not seen a patient who has overdosed on Vicodin with Tylenol toxicity.

Dr. Steinbergh stated that some people do have the potential of acetaminophen toxicity and she has seen maybe two cases. Dr. Steinbergh noted in one case, a young man suddenly died of liver failure after taking Tylenol for pain.

Dr. Soin said that he has been following the Zohydro issue very closely and he thought the letter the Medical Board wrote was the best and most balanced appraisal of the drug.

Dr. Bechtel made a comment about Tylenol induced toxicity and the national statistics.

Dr. Ramprasad said, when toxicity was noted, liver failure is not what is being referred to, rather the possible side effects, such as abnormal liver profile, which may or may not be related to Tylenol. Dr. Ramprasad said many with the failure, drink alcohol, which potentiates the problem with Tylenol.

Mr. Gonidakis stated that the Board has the great opportunity to demonstrate leadership with the General Assembly on this issue and the legislation regarding it. Mr. Gonidakis has asked Mr. LaCross to ensure that the right Board and/or staff members are available to testify as the Ohio Legislature continues to debate this issue.

Mr. Gonidakis said that Mr. LaCross and Mr. Kenney were currently at the Statehouse testifying on the Board's legislation for fining authority. The Committee's goal, within the next three weeks or so, is to get the legislation finalized and before the Governor for signature. The Committee is confident that favorable action will occur.

Mr. LaCross entered the meeting and noted that Mr. Kenney testified. Mr. LaCross said there were a few questions that he would be addressing and clarifications that he would be making.

A discussion among Board members, Mr. Blanton, and Mr. LaCross regarding the Board's message on fining authority ensued.

Ms. Anderson spoke about weight loss rules saying that Ms. Debolt prepared draft rules to address the issues discussed at the February Board meeting and outlined the changes. As the Committee discussed the rules, there was concern on relaxing restriction on short-term anorexiant and the impact to Ohioans. The Committee granted additional time to gather more input from law enforcement and the pharmacy communities about abuse potential for them. Ms. Anderson stated the Committee recommends the Board make the changes, but ensure that due diligence is done regarding abuse potential.

Ms. Anderson continued by saying long-term anorexiant were not a concern and the Committee wanted to move forward with them. She indicated that Ms. Debolt drafted a rule that only addresses those drugs and the Committee will begin the process of sending the rules to interested parties, getting their comments, and then will bring the matter back to the Committee for review. Therefore, there may be two different rules for the Board to review in the near future.

Ms. Anderson gave an update on the OARRS letters that were sent to 2,400 physicians. She noted that the Board's investigators were hand-delivering letters, signed by Drs. Talmage and Bechtel. Ms. Anderson stated that she had received 134 telephone calls with positive feedback from physicians. Ms. Anderson noted that the information received had been shared with the Pharmacy Board and that many individuals said they were not aware that OARRS was a requirement. Ms. Anderson also said the hand-delivering process has been beneficial, as office managers are calling and asking about the other physicians in the practices and whether or not they need to sign up for OARRS. Ms. Anderson thanked the investigators for their efforts to get the letters delivered timely.

Mr. Bechtel stated that he received a telephone call from a physician and noted that the process was effective, but the physician that called him felt intimidated.

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Ms. Anderson noted that the physicians received a letter in January and had not yet, in May, signed up. Ms. Anderson stated that adequate time had passed and she was pleased to know that the hand-delivery method was effective.

Dr. Ramprasad noted he had received similar information.

Ms. Anderson and Mr. Schmidt both indicated that the investigators had been trained on how to present in physicians' offices and understand discretion. It was noted that the investigators would be reminded of the procedures and policies with regard to this matter.

## Compliance Committee

Dr. Ramprasad stated the Compliance Committee accepted Compliance staff's report of conferences on April 7 and 8, 2014. Dr. Ramprasad also noted that the Committee met with John S. Henry, M.D., David Brian Levy, D.O., and Sharon L. McRae, M.D., and moved to continue them under the terms of their respective Board actions.

Dr. Steinbergh stated that she was unhappy with the Skype meeting with the licensee and felt the resolution was very poor, felt it was a waste of time, and could not accept that the Compliance Committee actually had an appropriate meeting with the licensee. Dr. Steinbergh noted that she would never vote to continue the licensee under the terms without addressing the Skype issue, as the communication was not effective.

Ms. Bickers stated that she agreed the resolution was not great, the situation was not perfect, but was done as a trial. However, Ms. Bickers noted that the meeting should be counted towards his requirements. Ms. Bickers said, before another Skype session occurred, the Board should review better technology options for these types of meetings.

Dr. Steinbergh stated that she believed this type of meeting should never occur again with licensees. She indicated that she did not think the Board should have agreed to the Skype meeting in the first place and did not consider it to be a meeting. Dr. Steinbergh stated that she would be voting against the option of further Skype meetings.

Dr. Ramprasad agreed that the resolution was not good, but the Board should look at technological options, should the Board wish to have future meetings in this manner.

Mr. Gonidakis exited the meeting at this time.

## Applicants for Licensure

**Dr. Steinbergh moved to approve licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the acupuncturist applicants, listed in Exhibit "A," the genetic counselor applicants, listed in Exhibit "B," massage therapist applicants, listed in Exhibit "C," oriental medicine practitioner applicants, listed in Exhibit "D," physician assistant applicants listed in Exhibit "E," and the physician applicants listed in Exhibit "F." Dr. Bechtel seconded the motion. A roll call was taken.**

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ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Giacalone:	- aye

The motion carried.

The Board recessed at 12:00 p.m. for lunch and resumed at 1:00 p.m., returning to public session.

Mr. Kenney joined the meeting at this time.

Mr. Gonidakis returned to the meeting at this time.

#### EXECUTIVE SESSION

**Dr. Steinbergh 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. Dr. Saferin seconded the motion. A roll call was taken:**

ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Kenney:	- aye
	Mr. Gonidakis :	- aye
	Mr. Giacalone:	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session with Mr. Blanton, Ms. Ore, Mr. Beck, Ms. Anderson, Mr. Miller, Ms. Marshall, Mr. Schmidt, Ms. Loe, Ms. Myers, Mr. Staples, Ms. Pokorny, Ms. Mortland, Ms. Pastrick, Mr. Blackmer, Mr. Taposci, Ms. Wehrle, Mr. Katko, Ms. Bickers, Ms. Jones, Ms. Debolt, Ms. Rieve, Ms. Jacobs, Ms. Jackie Moore, Ms. Angela Moore, Ms. Hacker, Mr. Appel, Mr. Wilcox, Mr. Wakley, Ms. Snyder, Ms. Payer, Ms. O'Keefe, Ms. Ahmed, Mr. Taylor and Ms. Farrell.

The Board returned to public session.

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RATIFICATION OF SETTLEMENT AGREEMENTS**Edwin F. Bath, M.D. – Voluntary Permanent Surrender of Certificate to Practice Medicine and Surgery**

**Dr. Steinbergh moved to ratify the Voluntary Permanent Surrender of Certificate to Practice Medicine and Surgery in Ohio for Dr. Bath. Dr. Sethi seconded the motion. A roll call was taken:**

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Mary V. Mustain, M.D. – Voluntary Permanent Withdrawal of Application to Practice Medicine and Surgery**

**Dr. Steinbergh moved to ratify the Voluntary Permanent Withdrawal of Application to Practice Medicine and Surgery in Ohio for Dr. Mustain. Dr. Saferin seconded the motion. A roll call was taken:**

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Emmart Y. Hoy, D.O. – Voluntary Permanent Surrender/Permanent Revocation of Certificate to Practice Medicine and Surgery**

**Dr. Steinbergh moved to ratify the Voluntary Permanent Surrender/Permanent Revocation of Certificate to Practice Medicine and Surgery in Ohio for Dr. Hoy. Dr.**

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**Soin seconded the motion.** A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Joseph Sirkin, M.D. - Voluntary Permanent Surrender of Certificate to Practice Medicine and Surgery**

**Dr. Steinbergh moved to ratify the Voluntary Permanent Surrender of Certificate to Practice Medicine and Surgery for Dr. Sirkin. Dr. Soin seconded the motion.** A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Lillian F. Lewis, M.D. – Step I Consent Agreement**

**Dr. Steinbergh moved to ratify the Step I Consent Agreement for Dr. Lewis. Dr. Soin seconded the motion.** A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye

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Mr. Gonidakis: - aye  
Mr. Giacalone: - aye

The motion carried.

**Jeffrey C. Maludy, M.D. – Consent Agreement**

**Dr. Steinbergh moved to ratify the Consent Agreement for Dr. Maludy. Dr. Soin seconded the motion.** A roll call was taken:

ROLL CALL:

Dr. Bechtel:	- abstain
Dr. Saferin:	- aye
Dr. Soin:	- aye
Dr. Steinbergh:	- aye
Dr. Ramprasad:	- aye
Dr. Sethi:	- aye
Dr. Talmage:	- abstain
Mr. Kenney:	- aye
Mr. Gonidakis:	- aye
Mr. Giacalone:	- aye

The motion carried.

**Haidee I. Pidor, M.D. – Non-Permanent Withdrawal of Application for Medical Licensure**

**Dr. Steinbergh moved to ratify the Non-Permanent Withdrawal of Application for Medical Licensure in Ohio for Dr. Pidor. Dr. Soin seconded the motion.** A roll call was taken:

ROLL CALL:

Dr. Bechtel:	- abstain
Dr. Saferin:	- aye
Dr. Soin:	- aye
Dr. Steinbergh:	- aye
Dr. Ramprasad:	- aye
Dr. Sethi:	- aye
Dr. Talmage:	- abstain
Mr. Kenney:	- aye
Mr. Gonidakis:	- aye
Mr. Giacalone:	- aye

The motion carried.

**Shannon L. Swanson, D.O. – Consent Agreement**

**Dr. Steinbergh moved to ratify the Consent Agreement with Dr. Swanson. Dr. Soin seconded the motion.** A roll call was taken:

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ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Michael J. Palma, M.D. – Step II Consent Agreement**

**Dr. Steinbergh moved to ratify the Step II Consent Agreement with Dr. Palma. Dr. Soin seconded the motion. A roll call was taken:**

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

**PROBATIONIONARY REQUESTS**

Dr. Ramprasad advised that at this time the Board would consider the probationary requests on the consent agenda. Dr. Ramprasad asked if any Board member wished to discuss a probationary report or probationary request separately.

**Dr. Saferin moved to accept the Compliance staff's Reports of Conferences and the Secretary and Supervising Member's recommendations as follows:**

- **To grant Mohammad A. Adas, M.D.'s request for approval of Christine D. Ellis, M.D., to serve as the new monitoring physician at Lutheran Services;**
- **To grant Joseph E. Baus, M.D.'s request for reduction in appearances from every three months to every six months, the reduction of drug and alcohol rehabilitation meetings to two per week with a minimum of 10 per month, Daniel**

**W. Johnson, M.D., to serve as monitoring physician, monitoring all charts during residency;**

- **To grant Sean A. F. Buturla, M.D.’s request for continuance of the terms of the February 13, 2013 Step II Consent Agreement while residing in New Hampshire, approval of the New Hampshire Professionals Health Program (NHPHP) to conduct the monitoring, and discontinuance of the chart review requirement;**
- **To grant David R. Gotham, Jr., D.O.’s request for release from the terms of the January 10, 2007 Consent Agreement;**
- **To grant John S. Henry, M.D.’s request for approval of Jesse Ramirez Ada, M.D., to serve as the monitoring physician, with the review of 10 charts per month, the approval of Catherine Matisi, D.O., to serve as the treating psychiatrist, with the review of 10 charts per month;**
- **To grant Martin R. Hobowsky, D.O.’s request for reduction in appearances from every six months to annually;**
- **To grant John R. Kerns, D.O.’s request for approval of a new breathalyzer administration plan;**
- **To grant Tina Marie D. Nelson, M.D.’s request for approval of Raymond G. Mason, M.D., as monitoring physician, with the monitoring of 10 charts per month;**
- **To grant Sheila S. Paul, D.O.’s request for reduction in appearances from every three months to every six months, discontinuance of the chart review requirement, and discontinuance of the controlled substances log requirement;**
- **To grant Gerald K. Perelman, D.P. M.’s request for reduction in appearances from every three months to every six months;**
- **To grant Carol G. Ryan, M.D.’s request for approval of *Intensive Course In Controlled Substance Prescribing* and *Intensive Course in Medical Records Keeping*, administered by Case Western Reserve University;**
- **To grant Donald Ray Savage, Jr., M.D.’s request for approval of *Professional Boundaries Course*, administered by Professional Boundaries, Inc., required for reinstatement;**
- **To grant David James Shaffer, M.D.’s request for approval of a modified practice plan;**
- **To grant Ronald G. Verrilla, D.P.M.’s request for approval of a one year podiatric preceptorship plan.**

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**Dr. Soin seconded the motion.** A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

REINSTATEMENT REQUESTS

**Gary A. Dunlap, D.O.**

Dr. Ramprasad stated that Gary A. Dunlap, D.O., is requesting reinstatement from his license to practice osteopathic medicine in Ohio. Dr. Ramprasad reviewed Dr. Dunlap's history with the Board.

**Dr. Steinbergh moved to approve the request for reinstatement of the license of Gary A. Dunlap, D.O., subject to the probationary terms and conditions as outlined in the May 8, 2013 Board Order for a minimum of five years, to include weekly psychiatric treatment until otherwise directed by the Board, and periodic reviews by an agent of the Board to ensure that Dr. Dunlap maintains a practice environment that is healthy and safe for patients and appropriate for a medical office. Further, to approve John C. Sefton, D.O., to serve as the monitoring physician with the review of 10 charts per week. Dr. Saferin seconded the motion.** A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

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REPORTS AND RECOMMENDATIONS

Dr. Ramprasad announced that the Board would now consider the Reports and Recommendations appearing on its agenda.

Dr. Ramprasad asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Abdulrahim Al-Awashez, M.D.; Steven Francis Brezny, M.D.; Joseph Claude Carver, M.D.; Ronald Alan Greeno, M.D.; Joseph Todd Joyner, M.D.; Ramandham Kilaru, M.D.; David Edward Noonan, Jr.; and Bradley Joseph Vargo, D.O.

A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

Dr. Ramprasad asked whether each member of the Board understands that the 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:

ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

Dr. Ramprasad noted 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. Talmage served as Secretary and Dr. Bechtel served as Supervising Member. In the matter of Steven Francis

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Brezny, M.D., Dr. Steinbergh served as Acting Secretary.

Dr. Ramprasad reminded all parties that no oral motions may be made during these proceedings.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

**Abdulrahim Al-Awashez, M.D.**

Dr. Ramprasad directed the Board's attention to the matter of Abdulrahim Al-Awashez, M.D., and stated that no objections have been filed. Ms. Blue was the Hearing Examiner.

Dr. Ramprasad continued in saying that a request to address the Board had been filed timely on behalf of Dr. Al-Awashez. Five minutes would be allowed for that address.

Dr. Al-Awashez was represented by his attorney, John Irwin.

Mr. Irwin addressed the Board stating that Dr. Al-Awashez is a native and resident of Saudi Arabia and was unable to attend. Mr. Irwin said while Dr. Al-Awashez was in a training program several years ago and was assigned to a community hospital serving as a locum, Dr. Al-Awashez found himself in a situation where he was not fully apprised of the mechanics of the prescription procedures in Canada and violated local laws regarding signatures of prescriptions. Mr. Irwin stated that Dr. Al-Awashez was reprimanded for those actions and later came to Ohio and applied for his permanent Ohio license. Following Dr. Al-Awashez's disclosure of the Canadian disciplinary action, the Ohio Board cited him for the reprimand. Mr. Irwin noted that Ms. Blue's recommendation was to deny, but not permanently deny, the certificate. Mr. Irwin stated that no objections had been filed and he asked that the Board ratify the Report and Recommendation.

Dr. Ramprasad asked if the Assistant Attorney General wished to respond.

Mr. Wilcox stated that he did wish to respond and addressed the Board saying he believed the Report and Recommendation was thorough and it is the Board's decision as to whether denial or permanent denial is appropriate.

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Dr. Al-Awashez. Dr. Saferin seconded the motion.**

Dr. Saferin reviewed the case with the Board stating that Dr. Al-Awashez was born in 1971 in Saudi Arabia. In 1998, Dr. Al-Awashez obtained his medical degree from King Khalid College of Medicine and Health Sciences in Abha, Saudi Arabia. From 1998 through 2003, Dr. Al-Awashez completed an internship and residency in general surgery at King Khalid University Hospital in Saudi Arabia. From 2003 through 2008, Dr. Al-Awashez completed another residency in general surgery at McGill University Health Center in Quebec, Canada. From 2008 through 2010, Dr. Al-Awashez completed a fellowship in therapeutic endoscopy

at the Queen Elizabeth II Health Science Center in Halifax, Nova Scotia. In 2013, Dr. Al-Awashez completed a clinical fellowship in minimally invasive surgery at the Cleveland Clinic.

Dr. Saferin said that Dr. Al-Awashez holds a full medical license in Saskatchewan province in Canada and a temporary license in Quebec. In February 2012, Dr. Al-Awashez submitted an application for a certificate to practice medicine and surgery in Ohio, which is still pending. In his application, Dr. Al-Awashez answered “Yes” to question number 7, which asks: Has any board, bureau, department, agency or other body, including those in Ohio, in any way limited, restricted, suspended, or revoked any professional license, certificate or registration granted to you; placed you on probation; or imposed a fine, censure or reprimand against you?

Dr. Saferin continued by saying on November 22, the College of Physicians and Surgeons of Nova Scotia issued a reprimand to Dr. Al-Awashez, based on a finding that he wrote prescriptions for monitored drugs on a prescription pad that was issued to another physician, and that Dr. Al-Awashez signed the prescriptions using the name of the other physician. According to the Nova Scotia Order, Dr. Al-Awashez said he was unfamiliar with the prescription system and was working his first day as a locum in a teaching hospital where he did not have residents. Dr. Saferin noted, prior to writing the prescriptions, Dr. Al-Awashez sought out colleagues to write prescriptions for the patients. Dr. Saferin said Dr. Al-Awashez was naïve with respects to the consequences of writing prescriptions and at no time tried to hide his actions.

Dr. Saferin said the relevant statute for this case is Section 2913.31, Ohio Revised Code, Forgery. Dr. Saferin stated that Dr. Al-Awashez made a false statement in the prescription and intentionally and knowingly possessed the false/forged information and these actions constitute a felony in the state of Ohio. Dr. Saferin believes that a first year medical student would know that you should not sign another person’s name to a prescription.

**Dr. Saferin moved to amend the proposed order regarding the application of Abdulrahim Al-Awashez, M.D., for a certificate to practice medicine and surgery in Ohio be permanently denied.** The motion died for lack of a second.

Dr. Steinbergh stated that she would support the proposed order of denial. Dr. Steinbergh noted that the statements that Mr. Irwin and Dr. Saferin said were true, but said that Dr. Al-Awashez did take steps to try to get others to help him with the prescriptions. However, Dr. Steinbergh said that Dr. Al-Awashez made a fatal mistake by taking a prescription pad with someone else’s name on it, because he did not have his own. Dr. Steinbergh said that Dr. Al-Awashez forged another physician’s name on the prescription for Dilaudid, in every situation, for post-operative pain. Dr. Steinbergh believed that a different solution may have been available and that a pharmacist should have been contacted. Dr. Steinbergh said that Dr. Al-Awashez is a young physician who is not practicing at this time in the United States and if the Board would permanently deny his license, the action may have a domino effect and he may not get his license in any other state. Dr. Steinbergh noted that the Canadian Board reprimanded Dr. Al-Awashez for his actions and said at this particular stage of the physician’s career, she felt non-permanent denial was appropriate.

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Dr. Ramprasad stated that a pharmacist was contacted who indicated that Dr. Al-Awashez could not write a prescription for narcotics and attach a document explaining the circumstances to the prescription. Even if Dr. Al-Awashez would have stricken the other doctor's name off of the prescription pad, he still could not have written the prescription because of Canada's procedures. Dr. Ramprasad agreed that denial is appropriate and that the actions were wrong, but understood that it was Christmas time and the physician was trying to get patients home.

Dr. Soin agreed saying, although Dr. Al-Awashez's actions were wrong, his intentions were good and not meant to harm or defraud anyone.

Mr. Giacalone agreed, as well, saying that Dr. Al-Awashez did try to get the prescription the right way and when he was unsuccessful, unfortunately made the wrong decision.

A roll call was taken on the motion to approve:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- nay
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Steven Francis Brezny, M.D.**

Dr. Ramprasad directed the Board's attention to the matter of Steven Francis Brezny, M.D., and stated that objections have been filed. Ms. Blue was the Hearing Examiner.

Dr. Ramprasad continued in saying that a request to address the Board had been filed timely on behalf of Dr. Brezny. Five minutes would be allowed for that address.

Dr. Brezny was represented by his attorney, Beth Collis.

Ms. Collis addressed the Board saying this is the third time that she and her client have appeared before them on the same issue and she urged the Board to reinstate Dr. Brezny's license. Ms. Collis reviewed the case saying that the Board suspended Dr. Brezny's license in 2011 for failure to submit to a mental health evaluation. Since that time, Ms. Collis said, Dr. Brezny has submitted to three evaluations from Board approved psychiatrists who have all found that he is fit to return to practice.

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Ms. Collis said the case was heard in 2011 by Hearing Examiner Davidson who concluded in the report specific conditions for the reinstatement of Dr. Brezny's license. One of those conditions was to comply with a subpoena request and Ms. Collis indicated that Dr. Brezny has provided many of the documents, but said, as the Board knows, many of the documents cannot be retrieved because they are on a database of a computer that cannot be accessed.

Ms. Collis stated that Dr. Brezny then came to a second hearing before the Board, that time before Hearing Examiner Porter, who reviewed all the evidence and determined it was impossible to comply with the subpoena request and the request should be deleted from the Board Order. Ms. Collis indicated that the Board disagreed with the finding and sent Dr. Brezny back to receive more assistance to retrieve the requested records. Ms. Collis said that Dr. Brezny went to more experts to try and have the data retrieved from the computer.

Ms. Collis said that they were in front of the Board at the present time, after appearing before Hearing Examiner Blue, who reviewed all of the evidence and agreed with Mr. Porter, saying that obtaining the records from that computer is impossible. Ms. Collis noted that Mr. Appel had also filed objections in this case and in his objections is asking the Board to find it is not impossible for the records to be obtained, despite the fact that there had never been one expert testify that those records are accessible from that computer. Ms. Collis said she did, however, agree with Mr. Appel's statement that the Board reinstate Dr. Brezny's license. Ms. Collis stated that Dr. Brezny's license had been suspended for over three years, he is mentally fit to practice, and two Hearing Examiners have found that it is impossible to comply with one of the conditions of the reinstatement order. Ms. Collis concluded by saying the Board is without justification to continue to keep Dr. Brezny's license suspended and urged the Board to reinstate it.

Dr. Brezny addressed the Board, thanked them for the opportunity and said that he is asking for reinstatement of his license. He stated that the one remaining issue in his case is the request for 37 patient medical records, records that were kept on a server that is over 12 years old and began failing years ago. Dr. Brezny indicated that since the July 2011 Order, he has taken exhaustive steps to retrieve those records, including evaluations from three different computer experts. Dr. Brezny noted that the Board's IT department was unable to access the records, and the State's Bureau of Criminal Identification & Investigation (BCI & I) computer experts were unable to access the data on the hard drive. Dr. Brezny said, five different computer experts have been unable to retrieve the records and two different Hearing Examiners have recommended that the provisions for medical records, as a condition of reinstatement be deleted due to impossibility. Dr. Brezny suggested that the Board may say it is theoretical that one could retrieve the records, but after two different hearings on this matter, the state did not had one computer expert testify that the records could be retrieved. Dr. Brezny said the server was provided to the Board for 10 months and no one was able to access the records during that time. Even with unlimited financial resources to pay for forensic examination, the server cannot be returned to the point where the records could be accessed.

Dr. Brezny said the records were requested by patients who could not obtain them when he was locked out of his office, due to a landlord dispute. Dr. Brezny stated there had been no

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complaint of substandard care, and indicated Hearing Examiner Davidson said in her report, "In this matter, there is no evidence of specific harm to a specific patient."

Dr. Brezny reminded the Board of its mission to protect the public and said he found it hard to understand how preventing him from practicing due to irretrievable medical records, serves that purpose. To continue his suspension for unattainable medical records is unreasonable and unfair, said Dr. Brezny. He feels it is punitive and contrary to the best efforts of the Board to continue the suspension. Dr. Brezny concluded by saying he supports the reports of Hearing Examiner Porter, Hearing Examiner Blue, and all the computer experts who have ruled in regards to this requirement. Dr. Brezny asked the Board to immediately restore his license.

Dr. Ramprasad asked if the Assistant Attorney General wished to respond.

Senior Assistant Attorney General Appel stated that he did wish to respond and addressed the Board saying that the respondents and he agrees that Dr. Brezny should have his license reinstated. Mr. Appel said that Dr. Brezny's license had been suspended since February of 2011, and that was adequate punishment for not complying with the subpoena. However, Mr. Appel did want to comment on a few of Dr. Brezny's statements. Mr. Appel stated that a computer expert, Dale Harding, who was hired by Dr. Brezny testified that the next step to retrieve the data is to send it to a forensic data recovery company. Mr. Appel continued by saying that the company would take platters out of the hard drive in a clean room and would put the information into a new hard drive. Mr. Appel said that the computer expert said the process would be expensive and could cost approximately \$5,000, although he had seen it cost up to \$15,000. Therefore, accessing the data may still be possible.

Mr. Appel stated that the Board subpoenaed the records from Dr. Brezny on October 5, 2010 and gave him until October 26, 2010 to provide the patient records, but he failed to do so. Ultimately, Mr. Appel said, the Board wants to know if Dr. Brezny is a good doctor and that cannot be determined without the necessary patient records for review. Mr. Appel said although Dr. Brezny had not taken the step to pay a forensic data recovery company to try and access the records, which may or may not be successful, the Board should grant his reinstatement.

**Dr. Saferin moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Dr. Brezny. Dr. Soin seconded the motion.**

Dr. Ramprasad stated that he would now entertain discussion in this matter.

Mr. Gonidakis highlighted the case by discussing some of Dr. Brezny's statements from the records. Mr. Gonidakis said that Dr. Brezny admitted he had the documents electronically when the Board requested them, but was too busy to provide them because of his outside employment. Mr. Gonidakis said that Dr. Brezny eventually turned over six or seven patient records to the Board and then claimed he no longer had the server, but later admitted that he never asked the landlord if he could retrieve it. Mr. Gonidakis also noted that Dr. Brezny stated in the records he had a strong IT background, had a friend that could help him obtain the records, and discussed the several hundred dollars that was spent on the project.

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Mr. Gonidakis agreed that the server was turned over to the State Medical Board, but said it was not the Board's responsibility to retrieve the records. That task was Dr. Brezny's responsibility. Mr. Gonidakis said the question is whether Dr. Brezny had met the requirements of the Board and the answer is, no. Mr. Gonidakis welcomed the Board's opinion.

Dr. Saferin said that Dr. Brezny disrespected the Board by not turning over the records when requested. The documentation was requested so the Board could determine if Dr. Brezny was in compliance with the standards of care. Dr. Saferin stated he was concerned about what information was contained in the 30 charts that had not been delivered. Dr. Saferin also voiced concerns how Dr. Brezny can continue to safely treat patients if he cannot access their records and what are the guarantees that he will not lose the new records again. Dr. Saferin said if Dr. Brezny had a strong IT background, he should have known to back up the server.

Dr. Saferin supported continuance of the suspension until Dr. Brezny could obtain the requested documentation so the Board can review them and determine what should happen with his license.

Mr. Gonidakis agreed and said that Dr. Brezny had not taken the final step of trying to get the records and should be required to do so to determine whether or not the records can be accessed.

Mr. Giacalone asked if the forensic data recovery expert says it is impossible for the data to be recovered, would the Board be satisfied.

Dr. Saferin indicated if a legitimate data retrieval expert made the determination that the records are irretrievable, then he would be satisfied.

Dr. Ramprasad joined the conversation and said the server was sent to the BCI & I, who indicated that it would take them too long to try to access the records. Dr. Ramprasad said the Board should consider the three years that Dr. Brezny's license had been suspended is beyond what would normally be done.

Ms. Anderson reviewed the proposed order with the Board and clarified the probationary terms.

Mr. Gonidakis said the fact that Dr. Brezny gave the server to the state should be immaterial as it is not the state's responsibility to help a physician in private practice.

Mr. Kenney suggested tabling the matter until Dr. Brezny gives a forensic data recovery company the chance to see if the files could be retrieved.

Dr. Sethi agreed that he is not satisfied with the statements that the data is not accessible.

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Dr. Saferin stated if the Board reinstates Dr. Brezny's license, the Board would be setting a precedent for non-compliance.

**Dr. Soin moved to table the matter of Dr. Brezny. Mr. Gonidakis seconded the motion.** Drs. Steinbergh and Talmage abstained. All other members voted aye. The motion carried.

**Joseph Claude Carver, M.D.**

Dr. Ramprasad directed the Board's attention to the matter of Joseph Claude Carver, M.D., and stated that objections had been filed. Ms. Blue was the Hearing Examiner.

Dr. Ramprasad continued in saying that a request to address the Board had been filed timely on behalf of Dr. Carver. Five minutes would be allowed for that address.

Dr. Carver was represented by his attorney, Eric Plinke.

Mr. Plinke addressed the Board by saying that Dr. Carver appeared before the Board in 2012 when Dr. Carver received a revocation order and is now appearing before the Board because he applied for reinstatement. Mr. Plinke wanted to clarify a statement that was in his objections, saying that from the 1990's through early 2000's, Dr. Carver had 13 malpractice cases, not 18, with five settlements and that those cases were reviewed by the Medical Board many years ago. Mr. Plinke said that this case, however, had nothing to do with clinical or medical practice activities, but rather Dr. Carver's convictions were related to statements he made during his bankruptcy in 2005-2006. Mr. Plinke concluded by saying that Dr. Carver has been on the road of personal recovery since that time.

Dr. Carver thanked the board for the opportunity to address them and stated that the process has brought him personal and professional growth, as well as awareness. Dr. Carver said when his license was suspended in 2005, it was at a time very stressful time in his life. Dr. Carver indicated that the processes he experienced to get his license reinstated, started him on the recovery path he remains on today. Dr. Carver said he is not proud of his actions, but the Board probation, courses, counseling and classes he had taken forced him to look in the mirror and taught him to recognize, acknowledge and better manage his personal stressors that adversely affected his behaviors. Dr. Carver said ownership of his own behavior is the cornerstone of ethical thinking and behavior and his poor actions that resulted in convictions were his choices and responsibility alone, but they preceded the remediation that took place in 2006.

Dr. Carver stated that he was thankful for the probationary consent agreement and the steps he had to take, because it helped him put his life and his priorities back together. Dr. Carver indicated that the remediation process taught him to recognize his inability to manage multiple stressors and helped him to develop a plan to safeguard future decision-making, as well as armed him with the skills and techniques, which enabled him to manage his stress successfully. Now, Dr. Carver said, he has demonstrated nearly eight years of clean living, both personally and professionally, and although he has continued to face stressful situations, he has handled the situations in a way expected of a physician and a person in our society, with humility, contrition, grace and dignity.

Dr. Carver said that he has demonstrated to the Board his fitness to practice medicine by making only good, fully considered, and ethical choices in his life, with a clear commitment to ethical thinking and behavior. Dr. Carver said he believes his colleagues elected him to chief of surgery, because they recognized those qualities and as Chief Deputy Coroner of Fayette County in 2008. Dr. Carver said that while he was incarcerated at a Federal Medical Center, he worked in the hospice unit, caring for and teaching others to care for the sick and dying inmates. Dr. Carver indicated that he was placed in charge of the health and wellness program and taught many classes. Dr. Carver said, since his release in 2013, he has been working three part time jobs to meet his responsibilities and has been in complete compliance with his probation.

Dr. Carver concluded by acknowledging that his past poor choices and behavior have affected him, and most importantly his family, patients and friends. He admitted that he could never make up for the time he lost with those individuals. However, Dr. Carver said, with the blessing of the Board, he can be the man, father, friend, and doctor that is expected of him. Dr. Carver assured the Board that the physician standing before them is not the doctor who was before them more than eight years ago, because that individual was broken, blind and ill equipped. Dr. Carver said he is now healthy, respective, and rehabilitated, with his eyes wide open and armed with the knowledge gained through remediation.

Dr. Carver asked the Board to believe in him and allow him to go back to one of God's greatest gifts - the practice of medicine - for it is one of the greatest privileges he has ever had, only exceeded by the privilege of being a father.

Dr. Ramprasad asked if the Assistant Attorney General wished to respond.

Mr. Wilcox indicated that he did and said the report and recommendation is appropriate and he agrees with denial.

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Joseph Claude Carver, M.D. Dr. Sethi seconded the motion.**

Dr. Ramprasad indicated that he would entertain discussion in the matter.

Dr. Soin reviewed the case saying the primary question was, does the Board feel that Dr. Carver has adequately demonstrated clean living such that he is capable of caring for patients in Ohio. Dr. Soin stated that Dr. Carver got his medical degree in 1981 in Guadalajara and in 1984 entered a residency program at Wright State, but was forced to leave the program after being injured in a car accident. Dr. Soin said Dr. Carver subsequently went to another residency program in Cincinnati, but when the hospital merged with another hospital in 1986, there was no position for him. Eventually, Dr. Carver found a residency program in New York and after completing his training, he was in private practice in several locations and had his own practice for about 12 years. Dr. Soin said that Dr. Carver became the Attending Staff Physician and Chief of Surgery at Central Ohio Center for Women's Care in Washington Court House.

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Dr. Soin continued by saying that Dr. Carver testified that he last practiced medicine on February 15, 2012 and from February 16, 2012 through mid-July of 2013 was incarcerated in federal prison. Dr. Soin indicated that Dr. Carver testified that since his release from prison, he has been working three part time jobs. On Dr. Carver's application, he answered yes to approximately 12 questions, regarding being disciplined, malpractice and resigning or being terminated from positions, and education related questions.

Dr. Soin said in October of 2005, Dr. Carver entered into a Consent Agreement, which revoked his certificate to practice, stayed the revocation, and suspended his certificate for an indefinite period of time, but not less than one year. Dr. Soin indicated that according to the Consent Agreement, Dr. Carver had interactions with several patients. From April of 2003 to January of 2004, Dr. Carver was engaged in a sexual relationship with a patient.

Dr. Soin said, in 2001, during a Laparoscopic surgery, Dr. Carver found some tissue on a shoe cover and threw the tissue away, along with his surgical glove after folding the tissue inside his glove, without examining it. The nursing staff pulled the tissue out of the trash and sent it to the hospital pathology laboratory, where it was determined to be a portion of the patient's uterine tube, which had been removed without the patient's consent.

Dr. Soin indicated that there was an additional patient involved in this Consent Agreement for Dr. Carver. Dr. Soin said Patient 3 was about to have baby, the fetus was in distress, and Dr. Carver initiated Pitocin and continued it for a while. In the indication of imminent fetal death, Dr. Carver then took the patient back for a C-section.

Dr. Soin then went on to review the criminal conviction, where Dr. Carver gave false testimony under oath in bankruptcy court and was ordered to serve 24 months in federal prison. Dr. Soin indicated that Dr. Carver was ordered to pay restitution of approximately \$160,000, of which he had repaid approximately \$1,000. Dr. Soin also said that Dr. Carver testified that honesty and moral character are important elements in medicine and he provided support statements from colleagues, including the CEO and manager of Tri-State Urgent Care as well as several other physicians who have worked with him recently.

Dr. Soin concluded by saying because Dr. Carver had so many issues, he supports the motion of denial at this time.

Dr. Saferin asked how long the denial would last, saying that Dr. Carver could come back next month.

Ms. Anderson clarified the term of denial for the Board members.

Dr. Steinbergh noted that Dr. Soin did an excellent job in bringing to light many elements of the case that the Board should consider in their determination of the case. Dr. Steinbergh stated that her feeling is that the Board is concerned about what Dr. Carver's practice would look like today. He has completed all of the steps of remediation that the Board asked him to do and participated in programs/courses at The Center for Personalized Education for Physicians (CPEP). Dr. Steinbergh noted if the Board does not give Dr. Carver his license, he will be out another two years and will have to be tested again.

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Dr. Steinbergh stated that either the Board should decide on a permanent revocation because of his past errors or grant a certificate and put Dr. Carver into a period of probation and practice plan to monitor him. Dr. Steinbergh indicated that Dr. Carver has goals with his gynecologic practice. One can never condone what Dr. Carver did and Dr. Steinbergh stated that she believes that he understands that.

Dr. Steinbergh concluded by saying that Dr. Carver has been through a tremendous ordeal, and he deserved his punishment. However, Dr. Steinbergh reiterated that the Board should either permanently deny or move on.

**Dr. Steinbergh moved to amend the proposed order to grant the license and asked that the matter be tabled for a new order to be prepared with a probationary period and practice plan of two years.** The motion failed for a lack of a second.

Mr. Giacalone stated that he was not certain that probation is appropriate but would support tabling the matter.

A roll call was taken on the original motion:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- nay
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- nay
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

**Ronald Alan Greeno, M.D.**

Dr. Ramprasad directed the Board's attention to the matter of Ronald Alan Greeno, M.D., and stated that no objections had been filed. Ms. Blue was the Hearing Examiner.

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Ronald Alan Greeno, M.D. Dr. Soin seconded the motion.**

Dr. Ramprasad indicated that he would entertain discussion in the matter.

Dr. Steinbergh reviewed the case with the Board saying that Dr. Greeno obtained his medical degree from the University of Nebraska College of Medicine and from 1979 to 1982 completed an internship and residency in internal medicine at the University of Iowa Hospital and Clinics in Iowa City, Iowa. In 1983, Dr. Greeno completed a one-year

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fellowship in Critical Care Medicine at Memorial Sloan-Kettering and in 1985 completed a two-year fellowship in Pulmonary Disease at Sloan-Kettering. Dr. Steinbergh noted that Dr. Greeno is board-certified by the American Board of Internal Medicine in internal medicine, pulmonary disease, and critical care medicine and is currently licenced to practice medicine in California, Idaho, Illinois, Iowa, Massachusetts, Michigan, New Jersey, New York, and Washington. From October of 1997 to the present, Dr. Greeno has been the Founder/Physician/Chief Medical Officer at Cogent HMG in Brentwood, Tennessee.

Dr. Steinbergh stated that Dr. Greeno submitted an application for a license in September of 2013, which is currently pending. At his hearing, Dr. Green asked the Board to grant him an administrative license only, saying that he was in a leadership role for Cogent and does not practice hands-on clinical patient care but rather teaching, mentoring, peer review and professional development of other practitioners in states where he holds a license. Dr. Steinbergh continued to say that Dr. Greeno indicated he does not intend to practice in a clinical setting and only needs a license to fulfill his leadership position as Chief Medical Officer for Cogent HMG.

Dr. Steinbergh stated that Dr. Greeno had not practiced allopathic medicine for more than two years. The Board has the ability to license Dr. Greeno and if they wish to allow him to be fully licensed, the Board would ask that he fulfill the proper requirements. Dr. Steinbergh noted that the Board cannot legally grant an administrative license only, but can grant a restricted/limited license.

Ms. Anderson clarified that the earlier conversation regarding a non-clinical license does not apply to this case, as the statute would have to be changed before the Board could begin using that type of license.

Dr. Steinbergh indicated that she agreed with the proposed order, read the order, and stated that Dr. Greeno did not object to the order, and in fact, supports it.

Dr. Ramprasad noted that because this is a non-disciplinary matter, Dr. Bechtel and Dr. Talmage could vote on this matter.

A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- aye
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- aye
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

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**Joseph Todd Joyner, M.D.**

Dr. Ramprasad directed the Board's attention to the matter of Joseph Todd Joyner, M.D., and stated that objections have been filed. Mr. Porter was the Hearing Examiner.

Dr. Ramprasad continued in saying that a request to address the Board had been filed timely on behalf of Dr. Joyner. Five minutes would be allowed for that address.

Dr. Joyner was represented by his attorney, Steven A. Sindell.

Mr. Sindell addressed the Board by saying that Dr. Joyner has an outstanding record in medical practice and had supporting documentation from more than 50 of his colleagues. He noted that 15 doctors and nurses drove from Cleveland to Columbus to testify on Dr. Joyner's behalf and more offered to do so.

Dr. Joyner addressed the Board and said he had less than five minutes to explain how he made one of the hardest decisions in his life. He asked the Board why he would have pled guilty to something that he did not do. Dr. Joyner reiterated that he was innocent of the charges. Dr. Joyner said, however, there was no evidence to prove his innocence, no video, no witnesses, and no DNA. Dr. Joyner said that his accuser was a child who wanted to reconcile her parents and changed her story when the police and social services interviewed her. Dr. Joyner said even though he hates to point it out, as documented in testimony, the young woman had a history of telling lies and the young woman's mother, grandmother, and school records reiterate that.

Dr. Joyner said that he was faced with the prospect of a 30-year prison term if he went to trial for the accusations and he knew that juries have deemed innocent people guilty. Dr. Joyner stated his freedom is so precious because before these allegations occurred, his 13 year old daughter was diagnosed with Crohn's disease and was hospitalized for about two weeks. Dr. Joyner said that his daughter spent a week in Intensive Care Unit (ICU) and there was talk of a partial small bowel resection and ileostomy. Dr. Joyner said, during that time, his daughter wanted him at her bedside constantly, for comfort and to guide and care in the decision-making process.

Dr. Joyner concluded by saying that his medical practice is not in question, but the question is, why a person would plead guilty for something he did not do. Dr. Joyner said that it was to be there for his child who had a serious illness. Dr. Joyner noted that he was evaluated, deemed not a risk to the community, and not a Pedophile. Dr. Joyner said that anyone of us can be accused of anything at any time and he asked what the Board would do in his situation.

Dr. Ramprasad asked if the Assistant Attorney General wished to respond.

Mr. Wilcox indicated that he did wish to respond and said, since that court appearance in Cuyahoga County in 2012, Dr. Joyner had done a full 180 degrees on his culpability in this matter. Mr. Wilcox indicated that in a desperate effort to save his license, Dr. Joyner is now saying that the child, the victim in this case, was lying. Mr. Wilcox reviewed the case with the

Board and stated that Child #2 said Dr. Joyner touched her breast and inappropriately kissed her with his tongue. The grandmother, the social worker, and the detective believed the child. All of this led to a case being built against Dr. Joyner and he eventually pled guilty. Mr. Wilcox indicated that Child #2 was not lying and this was not a he-said-she-said situation, because Dr. Joyner never took the opportunity to stand up in court and proclaim his innocence.

Mr. Wilcox said that the Board should reject Dr. Joyner's charge and fabrication that the ex-husband of Dr. Doe orchestrated the charges as retribution. Mr. Wilcox said, nothing could be further from the truth because the records show that Dr. Doe noticed her child's unusual behavior around Dr. Joyner. Dr. Doe then asked her mother, Child #2's grandmother, to talk to the child. At that time, Child #2 confided to her grandmother that Dr. Joyner had inappropriately touched her.

Mr. Wilcox reiterated that the blame stops with Dr. Joyner, as he pled guilty to the crime, stood in front of a judge and admitted his guilt in open court. Mr. Wilcox noted that the State did not call Child #2 as a witness and that was the right decision. The State did not want to sit that child down beside the man who had touched her inappropriately and tongue kissed her in her own bed. Mr. Wilcox said that those around Child #2 who should have protected her seemed to have had another agenda when they came to the Board hearing. Mr. Wilcox said that the attempts to smear the detective in the case are pathetic, as there was no intimidation in the investigation. Mr. Wilcox said that the individual had been a detective for 11 years and a police officer for 25 years and nothing in the records indicate that the detective did anything improper.

Mr. Wilcox concluded by saying that the Board should agree with Mr. Porter's analysis of the case and the witnesses' credibility. Mr. Wilcox reminded the Board that Mr. Porter heard testimony for three days and judged their demeanor and Mr. Porter strongly rejected Dr. Joyner's efforts to blame others for his actions. Mr. Wilcox said that Board could send a message that the Medical Board will not tolerate physicians who commit felonious acts against children and that message can be sent by adopting the Report and Recommendation.

**Dr. Saferin moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Joseph Todd Joyner, M.D. Dr. Soin seconded the motion.**

Dr. Ramprasad indicated that he would now entertain discussion in the matter.

Dr. Sethi reviewed the case with the Board. Dr. Sethi read from the Findings of Fact saying, on November of 2012 in the Court of Common Pleas, Dr. Joyner pled guilty and was found guilty of one felony count of Abduction, in accordance with Section 2905.02, Ohio Revised Code. The Conclusion of Law is that Dr. Joyner pled guilty and had a judicial finding of guilty, as described. The Finding of Fact, individually and/or collectively, constitute, a plea of guilty to a judicial finding of guilt of or a judicial finding of eligibility for intervention in lieu of conviction for a felony as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Dr. Sethi stated that the Hearing Officer noted that the evidence established that Dr. Joyner pled guilty to the offense and the court accepted the plea and found him guilty. Dr. Sethi said that the evaluation further indicated that Dr. Joyner pled guilty to avoid jail sentence and, contrary to what he had told the court, Dr. Joyner told the Board that the accusations were made by a dishonest and vindictive father and that he was innocent of the charges. Dr. Sethi found it interesting to find the mother who turned Dr. Joyner in, ended up marrying him a few years later. Dr. Sethi asked how a mother could marry someone who had inappropriately touched a child.

Dr. Sethi noted, the case is very disturbing with the allegations that the physician touched her breast. Dr. Sethi said that he agreed that their role is to protect patients but had concerns as to why so many individuals would stand up and support such a physician.

**Dr. Sethi moved that the Proposed Order be amended to read as follows:**

**It is hereby ORDERED that:**

- A. PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Joseph Todd Joyner, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Joyner's certificate shall be SUSPENDED for an indefinite period of time, but not less than three years.
- B. CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Joyner's certificate to practice medicine and surgery until all of the following conditions have been met:
- 1. Application for Reinstatement or Restoration:** Dr. Joyner shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
  - 2. Personal Ethics Course(s):** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Joyner shall provide 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 Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

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

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3. **Course(s) Concerning Physician/Patient Boundaries:** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Joyner shall provide acceptable documentation of successful completion of a course or courses on maintaining physician/patient boundaries. 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 Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Joyner submits the documentation of successful completion of the course(s) on maintaining physician/patient boundaries, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

4. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Joyner has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.

C. **PROBATION:** Upon reinstatement or restoration, Dr. Joyner's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:

1. **Obey the Law:** Dr. Joyner shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Declarations of Compliance:** Dr. Joyner 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 Dr. Joyner's certificate is restored or 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:** Dr. Joyner shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Joyner's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances shall occur every six months thereafter, and/or as otherwise 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. **Practice Plan:** Within 30 days of the date of Dr. Joyner's reinstatement or restoration, or as otherwise determined by the Board, Dr. Joyner shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Joyner's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Joyner shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Joyner submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Joyner and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Joyner and his medical practice, and shall review Dr. Joyner's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Joyner and his medical practice, and on the review of Dr. Joyner's patient charts. Dr. Joyner shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Joyner's declarations of compliance.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Joyner shall immediately so notify the Board in writing. In addition, Dr. Joyner shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Dr. Joyner shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

The Board, in its sole discretion, may disapprove any physician proposed to serve as Dr. Joyner's monitoring physician, or may withdraw its approval of any physician previously approved to serve as Dr. Joyner's monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

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5. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Joyner is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
  6. **Required Reporting of Change of Address:** Dr. Joyner 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, Dr. Joyner's certificate will be fully restored.
- E. REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**

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

In the event that Dr. Joyner provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

These requirements shall continue until Dr. Joyner receives from the Board written notification of the successful completion of his probation.

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

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any professional license. This requirement shall continue until Dr. Joyner receives from the Board written notification of the successful completion of his probation.

3. **Required Documentation of the Reporting Required by Paragraph E:** Dr. Joyner shall provide this Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

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

The motion failed for a lack of a second.

Dr. Steinbergh said this is not a he-said-she-said case, because Dr. Joyner pled guilty to the charges. Dr. Steinbergh stated that Dr. Joyner stood before the Board and asked what they would have done. Dr. Steinbergh indicated that she would not have pled guilty to something she had not done. Dr. Steinbergh said that she has no tolerance for this type of behavior and that she supports permanent revocation.

A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- nay
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

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**Ramanadham Kilaru, M.D.**

Dr. Ramprasad directed the Board's attention to the matter of Ramanadham Kilaru, M.D., and stated that no objections have been filed. Ms. Shamansky was the Hearing Examiner.

Dr. Ramprasad continued in saying that a request to address the Board had been filed timely on behalf of Dr. Kilaru. Five minutes would be allowed for that address.

Dr. Kilaru was represented by his attorney, Beth Collis.

Ms. Collis stated that Dr. Kilaru lives in Texas and was not in attendance at the meeting. However, Ms. Collis said, Dr. Kilaru did attend a hearing on March 6, 2014, and they did not file objections to the Report and Recommendation and summary that was prepared by Ms. Shamansky. Ms. Collis noted that Hearing Examiner Shamansky had recommended that the Board take no further action in the case. Ms. Collis stated that many of the newer Board members may not be aware of a specific rule the Board has. That rule is the Ohio Administrative Code Rule 4731-13-36(G), which says, "'No Further Action' means that the Board finds that a violation occurred but declines to impose any disciplinary sanction. No further action shall be ordered by the board under circumstances where the board finds that all necessary remedial measures have been completed by the certificate holder, future monitoring is unnecessary and reprimand is not warranted."

Ms. Collis said, in this case, Dr. Kilaru is a board-certified radiologist who holds certification with the American Board of Radiology, including the nuclear medicine of that Board, and the American Board of Nuclear Medicine. Ms. Collis stated that Dr. Kilaru practices in Texas and the Texas Board issued an agreed order in June of 2013 that restricted Dr. Kilaru's license from doing mammograms with cross sectional imaging and limited his practice to simply doing plain film radiographs, until such time that he completed a 90-day observership. Ms. Collis said that the observership was completed at the University of Texas, San Antonio, which required Dr. Kilaru to leave his home in Dallas and move to San Antonio. Ms. Collis stated that Dr. Kilaru testified, as a physician in his late sixties, it was difficult to be away from home and keep up with the residents. However, Dr. Kilaru worked hard and found it to be a very good learning experience. Ms. Collis indicated that the records reflect that Dr. Kilaru made excellent progress in the program and was well-liked by the attending physician, who found Dr. Kilaru to be engaging, truly interested in learning and remarked on his high level of skills as a radiologist. Ms. Collis continued by saying that numerous physicians of the teaching hospital provided testimony that Dr. Kilaru completed rotations in abdominal imaging and rotated through the MRI and MSK units and the mammography unit. Dr. Kilaru documented his review of over 1,000 mammograms and estimated over 1,000 abdominal CT reviews. In November of 2013, the Texas Board lifted all restrictions on Dr. Kilaru's license and he currently has a clear, unrestricted, unlimited license to practice in the State of Texas.

Ms. Collis said that the State Medical Board of Ohio has chosen to take no additional actions in previous cases and brought up the case of another radiologist from two years ago. Ms. Collis reminded the Board that the doctor in that case, missed the reading of a plain film X-ray where there was a bullet in a leg of a patient. The hospital put the physician on

specific remedial training and the Ohio Board imposed no further sanction.

Ms. Collis concluded by saying, Dr. Kilaru is not practicing in Ohio and requested that the Board adopt the Hearing Examiner's recommendation and take no further action in this case.

Dr. Ramprasad asked if the Assistant Attorney General wished to respond.

Ms. Snyder indicated that she did wish to respond and addressed the Board saying that this is a boot-strap action off of an agreed order between Dr. Kilaru and the Texas Board. Ms. Snyder indicated that although the Ohio Board does not have all of the facts, she pointed out that there were multiple patients involved. Ms. Snyder reminded the Board that about five years ago, there was a similar radiologist case and because there were multiple patients involved, the Board reprimanded the physician. Therefore, Ms. Snyder encouraged the Board to consider reprimand instead of not taking further action.

**Dr. Steinbergh moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Ramanadham Kilaru, M.D. Dr. Soin seconded the motion.**

Dr. Ramprasad reviewed the case with the Board saying that Dr. Kilaru was a physician who was in practice in 1995 had emergency bypass surgery done. Dr. Ramprasad said Dr. Kilaru's son was ill and did not practice for nearly eight to ten years. Then, when Dr. Kilaru wanted to go back to practice, he took an eight month fellowship in body-imaging and musculoskeletal disease (MSK imaging). Dr. Ramprasad indicated that Dr. Kilaru started working at the University of Texas, San Antonio and then was doing advanced CT scans, MRIs and mammography.

Dr. Ramprasad said that subsequently, Dr. Kilaru moved from Texas where he was reading about 800 mammograms or so, to a VA Medical Center after having worked as locum tenens. Dr. Ramprasad stated that he had initially been reading primarily body-imaging, then was asked to read some mammographies because of inadequate staffing. Dr. Ramprasad continued by saying that deficiencies were found in Dr. Kilaru's work and determined that remedial course was needed. Dr. Ramprasad stated that Dr. Kilaru lost his job and took time to do a three month course at the San Antonio Center, where he did follow several radiologists who certified that Dr. Kilaru did a very good job of learning the process. Dr. Ramprasad noted that Dr. Kilaru did benefit from the course. Dr. Ramprasad said that the Texas Board had determined that Dr. Kilaru had completed all of their requirements and was satisfied.

Dr. Ramprasad said that Dr. Kilaru has stated that he is not coming to Ohio to practice, but wants to retire without a case hanging over his head. Dr. Ramprasad did not see Dr. Kilaru as a danger to practice and was impressed that he had taken time to correct himself in the university setting with particular specialists, who all thought the physician was perfectly fine. Dr. Ramprasad stated that he believes that no further action is appropriate.

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Dr. Steinbergh agreed that she supported the proposal of no further action as the physician has remediated himself. Dr. Steinbergh noted that there is credible evidence from several physicians who attested to Dr. Kilaru's knowledge.

A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

### **David Edward Noonan, Jr.**

Dr. Ramprasad directed the Board's attention to the matter of David Edward Noonan, Jr. Dr. Ramprasad stated this matter was considered by the Board at the April 9, 2014 meeting, at which time it was tabled. Ms. Blue was the Hearing Examiner.

**Dr. Steinbergh moved to remove from the table, the Proposed Order in the matter of David Edward Noonan, Jr. Dr. Saferin seconded the motion.** All members voted aye. The motion carried.

At the April meeting, Mr. Noonan and Assistant Attorney General Snyder gave presentations, Dr. Sethi led a review of the case, and the Board members discussed the matter but failed to reach a decision by the required six votes. The presentations, Dr. Sethi's case review, and the Board's discussions and votes are included in the minutes of the April meeting, which the Medical Board approved this morning. This afternoon we are once again considering the Report and Recommendation filed by Ms. Blue.

**Dr. Sethi moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of David Edward Noonan, Jr. Dr. Soin seconded the motion.**

Dr. Ramprasad indicated that he would now entertain discussion in the matter.

Dr. Ramprasad reviewed the case briefly with the Board saying the proposed order was permanent denial. Dr. Ramprasad noted that Mr. Noonan has made restitution to his victims. Dr. Ramprasad noted that discussion centered around whether Mr. Noonan's sentencing 12 or 13 years ago should still be considered, or if making restitution and straightening his life should be sufficient.

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Dr. Steinbergh reviewed the actions that occurred at the last meeting and why the matter was tabled.

Dr. Saferin suggested that the Board not permanently deny Mr. Noonan's application. Dr. Saferin stated that the Board should grant the application with specific restrictions, such as drug testing, among other restrictions. Dr. Saferin said that Mr. Noonan has paid his dues, made restitution and done everything asked of him. Dr. Saferin noted that the Board gives second chances to people who relapse and some of those individuals had also committed felonies. Dr. Saferin said this situation warrants an opportunity for Mr. Noonan to change his life.

**Dr. Saferin moved to amend the Proposed Order to grant David Edward Noonan, Jr. his license and impose a two-year probationary period with terms and conditions as he proposed on May 14, 2014. Dr. Sethi seconded the motion.**

Dr. Ramprasad indicated that he would now entertain discussion regarding the matter.

Mr. Giacalone noted that a few items stood out to him, particularly, that Mr. Noonan preyed on the elderly, and that he admitted that he still drinks on occasion. Mr. Giacalone said that he believes in second chances, but he does still have concerns. Mr. Giacalone was concerned about the comment that Mr. Noonan made that "good things" happened. Mr. Giacalone questioned what those "good things" were. Mr. Giacalone said he struggled with the character of a person who would prey on the elderly and is not sure that Mr. Noonan should be trusted with people, again, on a personal level.

Dr. Steinbergh agreed and said the fact that Mr. Noonan preyed on the elderly was very disturbing to her.

Mr. Kenney stated that he understands the felonies occurred, but after the amount of time that has elapsed and the fact that he paid the restitution should be considered in the determination. Mr. Kenney said that patient care is not in jeopardy in this situation.

Mr. Gonidakis agreed with Mr. Kenney regarding restitution being paid and said that Mr. Noonan has paid his debt to society. Mr. Gonidakis does not understand why a second chance would not be granted to Mr. Noonan.

Dr. Ramprasad agreed with both Mr. Kenney and Mr. Gonidakis.

Mr. Giacalone stated, if it were just money that was taken, but Mr. Noonan did not purchase the insurance policies for these individuals and the elderly were depending on those insurance policies. Mr. Giacalone indicated that Mr. Noonan committed blatant fraud and it was unforgivable.

Dr. Ramprasad stated that the Board is not forgiving him for his actions, but Mr. Noonan is currently in business and seems to be doing well. Dr. Ramprasad said, along the line, someone must change and we must ask if, after 12 years, Mr. Noonan has changed.

Dr. Soin said that he appreciated all of the restitution and the change in Mr. Noonan's life. Dr. Soin said he struggles with granting a license to one convicted of five felonies and defrauding elderly people. Dr. Soin said that he was glad that Mr. Noonan has turned his life around, but he cannot personally support granting the license.

Dr. Steinbergh said that Dr. Soin did a good job articulating his thoughts and that having a license, regardless of what type of license, the Board is held accountable for those types of decisions.

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

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- nay
	Dr. Steinbergh:	- nay
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- nay

The motion to amend carried.

**Dr. Saferin moved to approve the Proposed Order as amended. Dr. Sethi seconded the motion.** A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- nay
	Dr. Steinbergh:	- nay
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- nay

The motion failed.

**Dr. Soin moved to approve the original Proposed Order for permanent denial in the matter of David Edward Noonan, Jr. Dr. Saferin seconded the motion.** A roll call was taken:

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ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- nay
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- nay
	Dr. Sethi:	- nay
	Dr. Talmage:	- abstain
	Mr. Kenney:	- nay
	Mr. Gonidakis:	- nay
	Mr. Giacalone:	- aye

The motion failed.

Dr. Steinbergh reviewed the current order as amended with the Board. If the Board wishes to approve a simple denial, the members need to indicate the period of time that is appropriate. Dr. Steinbergh said, the Board could restructure the Order and state a definite term of suspension beyond the impairment assessment and require Mr. Noonan to participate in ethics courses, as well as place him into a practice plan. Dr. Steinbergh stated that just because a person asks for a license, the Board is not required to grant one or negotiate.

Dr. Soin indicated that he would like to see the Order restructured with a practice plan.

Dr. Talmage exited the meeting at this time.

Dr. Steinbergh said even though we have no evidence that Mr. Noonan would harm his clients, there are honesty, trust and ethical concerns. Dr. Steinbergh stated that the public is depending on the Board to say that Mr. Noonan is okay to have a massage license.

Mr. Gonidakis said, every month the Board takes a leap of faith when physicians who are stealing drugs from their patients or are on drugs come before them and the Board welcomes them back. Mr. Noonan has been living clean for 10 or more years now and the Board is saying that is not good enough. Mr. Gonidakis said he has a fundamental problem with the way the case was being handled.

Dr. Steinbergh stated that she did not feel the probationary terms are strong enough.

Ms. Anderson noted that due to rule requirements, Mr. Noonan must be on probation for five years, if found to be impaired.

**Dr. Steinbergh moved to table the matter of David Edward Noonan, Jr. Dr. Soin seconded the motion.** All members voted aye. The motion carried.

The Board took a short recess at 3:53 p.m. and returned at 4:15 p.m.

Dr. Talmage returned to the meeting at this time.

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**Bradley Joseph Vargo, D.O.**

Dr. Ramprasad directed the Board's attention to the matter of Bradley Joseph Vargo, D.O., and stated that no objections had been filed. Ms. Blue was the Hearing Examiner.

Dr. Ramprasad continued in saying that a request to address the Board had been filed timely on behalf of Dr. Vargo. Five minutes would be allowed for that address.

Dr. Vargo was represented by his attorney, James McGovern.

Mr. McGovern addressed the Board and thanked the Board for moving the deliberation date up on the summary suspension case where Dr. Vargo has been diligent in getting himself into treatment and completing other steps that the Board prefers to have done in impairment cases.

Dr. Vargo thanked the Board for the opportunity to address them. He said, from the very start of this regrettable affair, Dr. Vargo said he tried to do the right thing. Dr. Vargo said he feels fortunate to have had the opportunity for the education, growth and accountability that have been afforded to him from his colleagues, co-workers, and the Medical Board. It is only through the dedication to uncompromised patient care and the concerned focus of his own health and well-being that he is humbly able to stand before the Board remorseful, yet enlightened and enthusiastic, as a recovering physician. Dr. Vargo said, eventually, he hopes to carry this knowledge and enthusiasm into a medical practice. Dr. Vargo said that he learned much over the past few months, including sharing his experiences and thoughts as an integral part and a manner of recovery. Therefore, Dr. Vargo said he shared with thought with the Board. The disease of addiction is colorfully insidious and unrelenting. Dr. Vargo said that it should not be held with disregard, for those who do, will never see it coming. Dr. Vargo said he has been very fortunate and thankful that he has had much support and help during these events. Dr. Vargo beseeched the Board in saying, for all physicians that are at risk, and all are indeed at risk. Above all, it is masterfully deceptive with distinctly ambiguous consequences up until the point that it kills you because of its progressive nature. Dr. Vargo said that recovering from this despair is going to require a set of new life skills, that which he is confident he has acquired and has incorporated into his life every single day. Dr. Vargo said he has been steadfast in that regard with the necessary attitudes and behaviors. It has never been his intent to be disrespectful of the sovereign duty and responsibility that he has to people that he cared for as a physician or to be dishonest with his colleagues. No person deserves to be treated by an impaired physician and no group of facility deserves to have one within its ranks. Dr. Vargo stated that excluding his family and himself, these are the people that he has let down the most and with that, he has the utmost deepest regret of all. Nevertheless, Dr. Vargo said that he is optimistic about his future and with the Board's understanding and graces, he hoped to re-enter the profession and would be humbled and grateful.

Mr. McGovern asked that the Board move through the 90 day period in an efficient way and allow Dr. Vargo to get credit for the suspension that he has already served.

Dr. Ramprasad asked if the Assistant Attorney General wished to respond.

Mr. Wilcox indicated that he did wish to respond and addressed the Board saying that this is a scary case when you review the facts. Dr. Vargo showed up at St. Joseph's Health Center around 6 a.m. and approximately four hours later, he tested 0.15. Mr. Wilcox said that Dr. Vargo had supervised five or six procedures that morning, and his alcohol level would have been higher earlier in the morning. Mr. Wilcox said that this situation proves how tolerance can be built in long-time drinkers. Mr. Wilcox recommended a six month/180 day suspension.

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Bradley Joseph Vargo, D.O. Dr. Saferin seconded the motion.**

Dr. Ramprasad indicated that he would now entertain discussion in the matter.

Dr. Steinbergh said that Dr. Vargo was articulate but she was not convinced that he completely understands it yet. Dr. Steinbergh indicated that it is a tough disease and Dr. Vargo is correct in saying no hospital should have an impaired doctor on staff nor should a patient be seen by a physician that is impaired.

Dr. Steinbergh continued by saying that Dr. Vargo is an anesthesiologist who was summarily suspended by the Board on March 12, 2014. Dr. Steinbergh reviewed Dr. Vargo's credentials saying that he received his osteopathic medicine degree from the University of Health Sciences College of Osteopathic Medicine in Kansas City, Missouri in 1988, completed an internship, followed by a three year residency program in anesthesiology at the Cleveland Clinic. In 1993, Dr. Vargo completed a one year fellowship in critical care medicine at the Cleveland Clinic. Dr. Steinbergh said that Dr. Vargo is well-trained and should be a good physician. Dr. Steinbergh reviewed the case with the Board and said that Dr. Vargo was issued a license to practice medicine in 1989 and last practiced on February 7, 2014, when he was found intoxicated. Dr. Steinbergh indicated that Dr. Vargo is board-certified in anesthesiology and critical care medicine.

Dr. Steinbergh stated that a concern the Board had, was that Dr. Vargo pled guilty in December of 2000 to a charge of Operating a Motor Vehicle while Intoxicated (OMVI). Dr. Vargo was ordered to attend a 72 hour alcohol education and assessment program, in lieu of jail time, and had his license suspended for 180 days. Dr. Steinbergh indicated that Dr. Vargo completed the program in 2001. In 2001, when Dr. Vargo renewed his medical license, he answered "no" to the question regarding being found guilty of, or pled guilty or no contest to, or received treatment in lieu of a conviction of a misdemeanor or felony. Dr. Steinbergh noted at the time he answered the question inaccurately, Dr. Vargo said he did not believe he was being misleading and did not think he was in violation of the question.

Dr. Steinbergh continued by saying, on February 7, 2014, Dr. Vargo said he got up at 4:45 a.m. Dr. Vargo felt tired, as though he had not gotten enough rest, but drove 50 minutes to the hospital to work. Dr. Steinbergh said that Dr. Vargo denied he had consumed alcohol that morning. Dr. Vargo arrived at the hospital around 6:30 a.m. and had five cases. Dr. Steinbergh pointed out that Dr. Vargo did not inform anyone that he was intoxicated, but around 11:00 a.m. he was summoned by the nurse supervisor to her office, where she told

Dr. Vargo that someone on the staff reported that he smelled of alcohol. The hospital then proceeded to test Dr. Vargo.

Dr. Steinbergh said that Dr. Vargo has stated that his sobriety date is February 7, and he admitted to consuming five or more scotch whiskeys the prior evening. Dr. Vargo has completed a 28 days treatment program and entered into a five year monitoring and advocacy agreement with Ohio Physician Health Program. Dr. Whitney, who evaluated him, found he was not able to practice medicine at an acceptable level, but felt that Dr. Vargo's prognosis was good.

Dr. Steinbergh indicated that she agreed with the Conclusion of Law and Findings of Fact and agreed the Proposed Order was well written. Dr. Steinbergh noted that she disagreed with using any suspension time that Dr. Vargo has already served as credit. Dr. Steinbergh stated that Dr. Vargo clearly needs to be suspended at this time. Dr. Steinbergh agrees with the Mr. Wilcox that the suspension needs to be longer than 90 days. Dr. Steinbergh reiterated the fact that Dr. Vargo went to the hospital intoxicated, that he reviewed five cases for five patients and said the Board will never know if there have been any adverse effects from Dr. Vargo's egregious actions that day. Dr. Steinbergh said that Dr. Vargo is fortunate that there was a team also looking over the patients.

**Dr. Steinbergh moved to amend the Proposed Order's suspension time to not less than 180 days. Dr. Saferin seconded the motion.**

Dr. Ramprasad stated that he would now entertain discussion in the matter.

Mr. Kenney asked when the Board suspends a license for a year or two years, is there a way that the physicians can work in an administrative position within a hospital system, so they can keep within the system, but not have patient contact.

Dr. Steinbergh replied, the Board hopes the physicians will work during their period of suspension, in some line of work.

Mr. Kenney suggested that the Board look into that option. Mr. Kenney did say that he wasn't sure that a suspension of 180 days was sufficient but would vote for it. He added that the road to recovery is long and hard.

Dr. Steinbergh indicated that she believed a longer suspension period would be good for Dr. Vargo and when he is ready to go back, if he has met all of his stipulations and conditions for reinstatement, it is a healthier way to go.

Mr. Giacalone joined the discussion and said that he agreed. Mr. Giacalone wanted to make a few points. He said he didn't understand how Dr. Vargo did not believe that he falsely answered the renewal question, after drinking with buddies, being handcuffed and placed into a police car and not think that is an arrest. Mr. Giacalone said that he questions Dr. Vargo's thought process.

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

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ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion to amend carried.

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Bradley Joseph Vargo, D.O. Dr. Soin seconded the motion.**

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion to approve carried.

#### PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Ramprasad indicated that in the following matter, the Board issued a Notice of Opportunity for Hearing and that no timely request for hearing was received. The matter was reviewed by a Hearing Examiner, who prepared the Proposed Findings and Proposed Orders and the matter is now before the Board for final disposition. Dr. Ramprasad stated that this item is disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In this matter, Dr. Talmage served as Acting Secretary and Dr. Bechtel served as Supervising Member.

#### Allyn Scott Immel

Dr. Ramprasad directed the Board's attention to the matter of Allyn Scott Immel.

**Dr. Steinbergh moved to find that the allegations as set forth in the August 14, 2013, Notice of Opportunity for Hearing in the matter of Mr. Immel have been proven to be true by a preponderance of the evidence and to adopt the Proposed Findings and**

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**Proposed Order. Dr. Soin seconded the motion.**

Dr. Ramprasad indicated that he would now entertain discussion regarding the matter.

Mr. Giacalone reviewed the case with the Board saying, on April 25, 2012, Allyn Scott Immel submitted to the Board an Application for Certificate to Practice a Limited Branch of Medicine - Massage Therapy. On March 21, 2013, the Board sent to Mr. Immel's address of record, by certified mail, return receipt requested, a set of interrogatories for which he was to respond. This interrogatory request was triggered in part by responses in Mr. Immel's original application for licensure that included two arrests involving Driving while Under the Influence (DUI) which are alleged to have occurred on March 28, 2008 in Lawrenceville, Georgia and another on January 29, 2009 in Duluth, Georgia.

Mr. Giacalone continued by saying that Mr. Immel received the March 21, 2013, letter and enclosed interrogatories on March 22, 2013. However, the Board did not receive a response from Mr. Immel, or a request for an extension of time, by the due date of April 19, 2013. Mr. Giacalone stated, on April 29, 2013, the Board sent to Mr. Immel's address of record, again by certified mail, return receipt requested, a second letter with the interrogatories enclosed. The April 29, 2013, letter again directed Mr. Immel to respond to the interrogatories and also stated that a failure to timely respond, could subject Mr. Immel to discipline, up to and including denial of his application. Mr. Immel received the April 29, 2013, letter and enclosed interrogatories on May 6, 2013. However, the Board again did not receive a response from Mr. Immel, or a request for an extension of time by the due date of May 28, 2013. On June 7, 2013, the Board sent to Mr. Immel's address of record, by certified mail, return receipt requested, a third letter with the interrogatories enclosed. According to documentation from the United States Postal Service, the June 7, 2013, mailing was returned as unclaimed on July 8, 2013, to the Board.

Mr. Giacalone concluded by saying, based on the foregoing facts, Mr. Immel's actions, or lack thereof, constitute "failure to cooperate in an investigation conducted by the board pursuant to Section 4731.22 (F), Ohio Revised Code, including failure to answer truthfully a question presented by the board in written interrogatories." Mr. Giacalone said, in a letter dated August 14, 2013, by certified mail, return receipt requested, Mr. Immel was provided with a notice of opportunity for a hearing pursuant to Chapter 119, Ohio Revised Code. That documentation notified Mr. Immel that the Board intended to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate his certificate to practice massage therapy, or to reprimand or place him on probation. Mr. Giacalone indicated that Mr. Immel had until September 16, 2013, to submit a written request for a hearing, but failed to do so. Mr. Giacalone stated for these reasons, he supported the Hearing Examiner's report and supports permanent denial.

A roll call was taken:

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ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

## FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Ramprasad advised that Dr. Edmands applied for a license to practice osteopathic medicine and surgery in Ohio. Dr. Edmands was the subject of prior action by the West Virginia Board of Osteopathic Medicine, which reprimanded Dr. Edmands and placed his license on probation for a period of twelve months. This action was based on the West Virginia Board's findings that Dr. Edmands had pre-signed prescriptions, verbal orders, and blank face-to-face visit forms for staff members to complete.

Dr. Ramprasad stated that the matter is disciplinary in nature and therefore the Secretary and Supervising Member cannot vote. In this matter, Dr. Talmage served as Secretary and Dr. Bechtel served as Supervising Member.

### Christopher James Edmands, D.O.

**Dr. Steinbergh moved to find that the allegations as set forth in the March 14, 2014 Notice of Opportunity for Hearing in the matter of Christopher James Edmands, D.O., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, that the application of Christopher James Edmands, D.O., to practice medicine and surgery in the State of Ohio be permanently denied. Mr. Giacalone seconded the motion.**

Dr. Ramprasad stated that he would entertain discussion in the above matter.

Dr. Steinbergh stated that this physician pre-signed prescription, verbal orders and blank face-to-face visit forms for staff members to complete and those actions were totally unacceptable and Ohio does not need a physician like this.

A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye

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Dr. Ramprasad: - aye  
Dr. Sethi: - aye  
Dr. Talmage: - abstain  
Mr. Kenney: - aye  
Mr. Gonidakis: - aye  
Mr. Giacalone: - aye

The motion carried.

**Anne Miller Kaeser, M.D.**

Dr. Ramprasad stated that Anne Miller Kaeser, M.D., has applied for a license to practice medicine and surgery in Ohio. According to Dr. Kaeser's resume of activities, she has not been actively engaged in the practice of medicine and surgery for more than two years. On or about March 20, 2014, the Board issued a Notice of Opportunity for Hearing to Dr. Kaeser, and documentation of Service was received. Dr. Ramprasad said there was no request for hearing filed, and more than 30 days have elapsed since the mailing of the Notice. The matter is now before the Board for final disposition.

Dr. Ramprasad stated that the matter is not disciplinary in nature, and therefore the Secretary and Supervising Member may vote.

**Dr. Steinbergh moved to find that the allegations as set forth in the March 20, 2014 Notice in the matter of Anne Miller Kaeser, M.D., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, to approve Dr. Kaeser's application for a license to practice medicine and surgery in Ohio, provided that she takes and passes the Special Purpose Examination (SPEX) or specialty board recertification examination within one year of March 20, 2014. Dr. Sethi seconded the motion.**

Dr. Ramprasad stated that he would entertain discussion in the above matter. No discussion occurred.

A roll call was taken:

ROLL CALL: Dr. Bechtel: - abstain  
Dr. Saferin: - aye  
Dr. Soin: - aye  
Dr. Ramprasad: - aye  
Dr. Sethi: - aye  
Dr. Talmage: - abstain  
Mr. Kenney: - aye  
Mr. Gonidakis: - aye  
Mr. Giacalone: - aye

The motion carried.

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REPORTS AND RECOMMENDATIONS CONTINUED

Dr. Ramprasad directed the Board's attention to the matter of David Edward Noonan, Jr.

**David Edward Noonan, Jr.**

**Dr. Saferin moved to remove from the table the matter of David Edward Noonan, Jr. Dr. Sojn seconded the motion.** All members voted aye. The motion carried.

**Dr. Saferin moved to approve the Hearing Examiners Conclusions of Law and Findings of Fact, and amend the Proposed Order to read as follows:**

It is hereby ORDERED that:

- A. **GRANT OF APPLICATION; SUSPENSION OF CERTIFICATE:** The application of David Edward Noonan, Jr., to practice massage therapy in the State of Ohio shall be GRANTED, provided that he otherwise meets all statutory and regulatory requirements. That certificate shall be immediately SUSPENDED for an indefinite period of time, but not less than ninety days.
- B. **INTERIM MONITORING:** During the period that Mr. Noonan's certificate to practice massage therapy in Ohio is suspended, Mr. Noonan shall comply with the following terms, conditions, and limitations:
  1. **Obey the Law:** Mr. Noonan shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy in Ohio.
  2. **Declarations of Compliance:** Mr. Noonan 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 this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  3. **Personal Appearances:** Mr. Noonan shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise 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. **Initiate Drug/Alcohol Treatment:** Within 30 days of the effective date of this Order, or as otherwise approved by the Board, Mr. Noonan shall submit to a drug/alcohol assessment and any Appropriate drug/alcohol treatment, as determined by an informed assessment of his current needs. Such assessment

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and treatment shall be provided by a treatment provider approved under Section 4731.25, Ohio Revised Code, for treatment of drug and/or alcohol dependency or abuse.

Prior to the assessment, Mr. Noonan shall furnish the approved treatment provider copies of the Board's Summary of the Evidence, Findings of Fact, and Conclusions of Law, and any other documentation from the hearing record that the Board may deem appropriate or helpful to the treatment provider. Within ten days after the completion of the assessment, or as otherwise determined by the Board, Mr. Noonan shall cause a written report to be submitted to the Board from the treatment provider, that shall include, to the extent applicable, the following:

- A detailed plan of recommended treatment based upon the treatment provider's informed assessment of Mr. Noonan's current needs;
- A statement indicating whether Mr. Noonan entered into or commenced the recommended treatment program within 48 hours of its determination;
- A copy of a treatment contract signed by Mr. Noonan establishing the terms of treatment and aftercare, including any required supervision or restrictions on practice during treatment or aftercare; and
- A statement indicating that the treatment provider will immediately report to the Board any failure by Mr. Noonan to comply with terms of the treatment contract during inpatient or outpatient treatment or aftercare.

a. **Sobriety**

1. **Abstention from Drugs:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed, or administered to him by another so authorized by law who has full knowledge of Mr. Noonan's history of chemical dependency and/or abuse and who may lawfully prescribe for him (for example, a physician who is not a family member).

Further, in the event that Mr. Noonan is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Mr. Noonan shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Mr. Noonan received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use.

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Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Mr. Noonan shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

2. **Abstention from Alcohol:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall abstain completely from the use of alcohol.

b. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**

1. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Mr. Noonan shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Mr. Noonan's drug(s) of choice.
2. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Mr. Noonan shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

3. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Mr. Noonan shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is

not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.

4. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, all urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code. The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 6 below (“Alternative Drug-testing Facility and/or Collection Site”), to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board’s retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.
5. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, within 30 days of the effective date of this Order, Mr. Noonan shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Mr. Noonan shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Mr. Noonan and the Board-approved DFCS. Mr. Noonan’s failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

6. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person.

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In addition, Mr. Noonan and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

7. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
  8. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, in the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Mr. Noonan must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Mr. Noonan shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
  9. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
- c. **Alternative Drug-testing Facility and/or Collection Site:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, it is the intent of this Order that Mr. Noonan shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Mr. Noonan, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Mr. Noonan.
1. Within 30 days of the date on which Mr. Noonan is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Mr. Noonan, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Mr. Noonan shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Mr. Noonan's residence or employment location, or to a physician who practices in the same locale as Mr. Noonan. Mr. Noonan shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Mr. Noonan acknowledges that the alternative DFCS or the supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

2. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
3. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, in the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Mr. Noonan must immediately notify the Board in writing. Mr. Noonan shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DCFS or supervising physician becomes unable to serve, Mr. Noonan shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Mr. Noonan.
4. If Mr. Noonan is found to be impaired by a Board-approved treatment provider, the Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Mr. Noonan's designated alternative DFCS or any person proposed to serve as his supervising physician, or may withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

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- d. **Reports Regarding Drug & Alcohol Screens:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, all screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Mr. Noonan's declarations of compliance. It is Mr. Noonan's responsibility to ensure that reports are timely submitted.
- e. **Additional Screening without Prior Notice:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, upon the Board's request and without prior notice, Mr. Noonan must provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Mr. Noonan, or for any other purpose, at Mr. Noonan's expense. Mr. Noonan's refusal to submit a specimen on request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.
- f. **Rehabilitation Program:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Mr. Noonan shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Mr. Noonan's declarations of compliance.

- g. **Comply with the Terms of Aftercare Contract:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Order, the terms of this Order shall control.
- h. **Releases:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Mr. Noonan's chemical dependency/abuse and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical

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records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

Mr. Noonan shall also provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event Mr. Noonan fails to agree to comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

5. **Absences from Ohio:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the suspension/ probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Mr. Noonan resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Mr. Noonan may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Mr. Noonan is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

6. **Required Reporting of Change of Address:** Mr. Noonan shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Mr. Noonan's certificate to practice massage therapy in Ohio until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Mr. Noonan shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Mr. Noonan shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
3. **Personal/Professional Ethics Course:** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Mr.

Noonan shall submit acceptable documentation of successful completion of a course or courses dealing with personal/professional 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.

In addition, at the time Mr. Noonan submits the documentation of successful completion of the course(s) dealing with personal/professional ethics, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of massage therapy in the future.

4. **Demonstration of Ability to Resume Practice:** If Mr. Noonan is found to be impaired by a Board-approved treatment provider, Mr. Noonan shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
  - a. Certification from treatment provider approved under Section 4731.25, Ohio Revised Code, that Mr. Noonan has successfully completed a program of intensive outpatient treatment for chemical dependency/abuse at a treatment provider approved by the Board. Such treatment shall include a minimum of 20 treatment sessions over no less than five consecutive weeks.
  - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
  - c. Evidence of continuing full compliance with this Order.
  - d. Two written reports indicating that Mr. Noonan's ability to practice massage therapy has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependence/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Mr. Noonan. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Mr. Noonan shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Mr. Noonan, and any conditions, restrictions, or limitations that should be

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imposed on Mr. Noonan's practice of massage therapy. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may require an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

5. **Additional Evidence of Fitness To Resume Practice:** In the event that Mr. Noonan has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.
- D. **PROBATION:** Upon reinstatement or restoration, Mr. Noonan's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years unless Mr. Noonan is found to be impaired by a Board-approved treatment provider in which case the period of probation will last for a period of five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Mr. Noonan shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
  2. **Modifications of Terms:** Mr. Noonan shall not request modifications of the terms, conditions, or limitations of probation for at least two years after imposition of these probationary terms, conditions, and limitations.
  3. **Tolling of Probationary Period While Out of Compliance:** In the event Mr. Noonan is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
  4. **Practice Plan:** Prior to Mr. Noonan's commencement of practice in Ohio, or as otherwise determined by the Board, Mr. Noonan shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Mr. Noonan's activities will be directly supervised and overseen by a monitoring licensed massage therapist approved by the Board. Mr. Noonan shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Mr. Noonan submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring licensed massage therapist for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a licensed massage therapist who practices in the same locale as Mr. Noonan and who is engaged in the same or similar practice specialty.

The monitoring licensed massage therapist shall monitor Mr. Noonan and his massage therapy practice, and shall review Mr. Noonan's client charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring licensed massage therapist shall provide the Board with reports on the monitoring of Mr. Noonan and his massage therapy practice, and on the review of Mr. Noonan's client charts. Mr. Noonan shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Mr. Noonan's declarations of compliance.

In the event that the designated monitoring licensed massage therapist becomes unable or unwilling to serve in this capacity, Mr. Noonan shall immediately so notify the Board in writing. In addition, Mr. Noonan shall make arrangements acceptable to the Board for another monitoring licensed massage therapist within 30 days after the previously designated monitoring licensed massage therapist becomes unable or unwilling to serve, unless otherwise determined by the Board. Mr. Noonan shall further ensure that the previously designated monitoring licensed massage therapist also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any licensed massage therapist proposed to serve as Mr. Noonan's monitoring licensed massage therapist, or may withdraw its approval of any licensed massage therapist previously approved to serve as Mr. Noonan's monitoring licensed massage therapist, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring licensed massage therapist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Noonan's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Mr. Noonan violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

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**G. REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER**

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

Further, Mr. Noonan shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide health-care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

For massage therapists, the term “healthcare services” includes massage-therapy services, and the term “healthcare center” includes but is not limited to entities that may be referred to as a wellness center, exercise center, health club, spa, salon, or gymnasium.

This requirement shall continue until Mr. Noonan receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Mr. Noonan shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Mr. Noonan shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Mr. Noonan receives from the Board written notification of the successful completion of the probation.
3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Mr. Noonan shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Mr. Noonan. This requirement shall continue until Mr. Noonan receives from the Board written notification of the successful completion of his probation.
4. **Required Documentation of the Reporting Required by Paragraph G:** Mr. Noonan shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification:
  - (a) the return receipt of certified mail within 30 days of receiving that return receipt,
  - (b) an acknowledgement of delivery bearing the original ink signature of the person

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to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

**Dr. Soin seconded the motion.**

Conversation between the Board members about the length of the suspension occurred.

Mr. Noonan stated that he has already taken Ethics courses for the license.

**Mr. Kenney moved to amend Dr. Saferin’s motion to remove the phrase “but not less than ninety days” from the language regarding the suspension. Mr. Gonidakis seconded the motion.**

A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion to amend carried.

**Dr. Saferin moved to approve the Proposed Order as amended. Dr. Steinbergh seconded the motion.**

A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain

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Mr. Kenney: - aye  
Mr. Gonidakis: - aye  
Mr. Giacalone: - aye

The motion carried.

## ORDERS OF SUMMARY SUSPENSION, ORDERS OF IMMEDIATE SUSPENSION, AND NOTICES OF AUTOMATIC SUSPENSION

Dr. Ramprasad stated that there were none.

## PROBATIONARY APPEARANCES

### **Christine M. Graham, L.M.T.**

Dr. Soin welcomed Ms. Graham to the meeting and asked if she would inform the Board on how she is doing on her rehabilitation and recovery.

Ms. Graham said she is doing very well, and that through her recovery efforts and the support of her family and friends, she was amazed at where these five years had gotten her in her recovery.

Dr. Soin asked about Ms. Graham's support system.

Ms. Graham said that her friends in AA, her husband and longtime friends have supported her.

Dr. Ramprasad said that she was diagnosed with depression, but he noticed that she is not on any depression medication.

Ms. Graham stated that she also has fibromyalgia and takes Lyrica, which she believes is part of the reason that she was diagnosed with depression. At the time, she wondered if she had depression or was it the fibromyalgia causing her to feel the way she did. Ms. Graham noted that she has not taken anything for depression since 2010.

Dr. Ramprasad asked if she sees her psychiatrist.

Ms. Graham answered, she does not.

Dr. Soin said, given that Ms. Graham's choice of drug was Percocet and since she suffers from fibromyalgia, he asked how she copes and manages when the pain flair ups.

Ms. Graham indicated that she had found that moderate exercise is helpful and because massage therapy is strenuous, she ensures she continues to exercise.

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**Dr. Soin moved to release Christine M. Graham, L.M.T., from the terms of the May 13, 2009 Consent Agreement, effective immediately. Dr. Steinbergh seconded the motion.** All members voted aye. The motion carried.

REPORTS AND RECOMMENDATIONS CONTINUED

**Steven Francis Brezny, M.D.**

**Mr. Gonidakis moved to remove from the table, the Proposed Order for Steven Francis Brezny, M.D. Dr. Soin seconded the motion.** All members voted aye. The motion carried.

**Mr. Gonidakis moved to amend the Proposed Order to read as follows:**

It is hereby ORDERED that:

- A. The July 2011 Entry of Order issued by the Board to Steven Francis Brezny, M.D., in Case Nos. 11-CRF-009 and 11-CRF-016 is hereby modified as follows:
1. The condition for reinstatement set forth in paragraph B.2 is MOVED to the Probation section of the Order under Subsection C, RENUMBERED paragraph 6, and DELETED from the conditions for reinstatement.
  2. The following probationary requirement is added to the Order under Subsection C and numbered paragraph 7:
    7. Submit Computer Server to Forensic Data Recovery Firm: Within 90 days of the reinstatement or restoration of his certificate, or as otherwise determined by the Board, Dr. Brezny shall submit his computer server to a forensic data recovery firm, as agreed upon by the parties, with instructions to retrieve and/or recover the missing data/medical records sought under paragraph C.6 of the July 2011 Entry of Order, as amended. If any of the missing data/medical records are recovered, it shall be provided to the Board. If the missing data/medical records are unable to be recovered, then Dr. Brezny shall submit a document from the forensic data recovery firm stating as such. Dr. Brezny shall pay the reasonable and customary cost of the recovery efforts by the forensic data recovery firm.
- B. All other terms and conditions of the July 2011 Entry of Order shall remain in full force and effect.

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

**Dr. Saferin seconded the motion.**

A roll call was taken:

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ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion to amend carried.

**Dr. Saferin move to approve the Proposed Order as amended. Dr. Sethi seconded the motion.**

A roll call was taken:

ROLL CALL:	Dr. Bechtel:	- abstain
	Dr. Saferin:	- aye
	Dr. Soin:	- aye
	Dr. Steinbergh:	- aye
	Dr. Ramprasad:	- aye
	Dr. Sethi:	- aye
	Dr. Talmage:	- abstain
	Mr. Kenney:	- aye
	Mr. Gonidakis:	- aye
	Mr. Giacalone:	- aye

The motion carried.

## PROBATIONARY APPEARANCES CONTINUED

### **Jonathan L. Haimes, M.D.**

Dr. Soin welcomed Dr. Haimes to the meeting, asked how he was doing, what his long-term plans were and if he planned to practice in Ohio.

Mr. Gonidakis left the meeting at this time.

Dr. Haimes said that he is extremely humbled and grateful to the Board and the Compliance department for giving him the opportunity to rehabilitate himself, both personally and professionally. Dr. Haimes said he did not understand about alcoholism, addiction or chemical dependency when he first appeared before the Board in 2007 or the drastic effects it had on his brain. He had been diagnosed with post-traumatic stress disorder (PTSD), mood disorder, and severe chemical dependency. His doctors told him he was temporarily totally disabled and Dr. Haimes said that was a gift, because for the next two years, he was

able to work on himself and went to meetings all day long. Dr. Haimés said that that time was difficult financially and if those requirements had not been imposed, he would not have done it. However, Dr. Haimés stated that he feels extremely grateful for the Board giving him the opportunity, ability, and the tools he needed to attempt to practice medicine, under careful monitoring. Dr. Haimés indicated that he believes that over the past five years he was able to prove that. Mr. Haimés said, not only was he able to re-obtain his board-certification in obstetrics and gynecology, which is necessary if one wishes to obtain board-certification in addiction medicine, as one needs a primary area of practice. Dr. Haimés indicated that he does not plan to practice in obstetrics and gynecology. Dr. Haimés said that he has children that he has joint custody of and before this case came about, his ex-wife and children lived in Colorado. A few years ago, his fiancé and he moved to Longmont, Colorado. Dr. Haimés indicated that he and his fiancé have been together for more than a decade and plan to marry in July. He indicated that he travels back and forth and every three weeks, he stays for ten days, because he made a commitment to his children.

Dr. Haimés indicated that he plans to continue practicing in Ohio, until a time of which he is assured that his patients are being well taken care of. The Colorado Board was very fair to him when he applied and said that Dr. Haimés should finish up the Ohio case and then go back to them. That Board continued/tabled his license until his Ohio case was completed. Dr. Haimés said he hopes to be practicing perhaps in both states. Dr. Haimés said he was recently granted privileges to practice at an in-patient treatment facility in Ohio, teach medical students at the Cleveland Clinic and Ohio State. Dr. Haimés said he planned to, at least, keep up his license in Ohio.

Dr. Haimés concluded by saying that he has already voluntarily signed up with the Colorado Physicians' Health Program and they function similarly to the Board's Compliance Committee. Dr. Haimés has asked them to begin monitoring him for drugs and alcohol beginning the first day after his release. Dr. Haimés indicated that the reason he is doing this, is because the evidence shows that it is the best way to be successful and his chances of staying sober are much higher.

Dr. Soin asked if Dr. Haimés was going to continue, himself, as a patient with the Suboxone program and if so, will he do that in Ohio or Colorado.

Dr. Haimés indicated that he was going to continue the program with his physicians here in Ohio as he is making positive changes to his office and utilizing ODADAS and hopes to get approved as an out-patient treatment facility.

Mr. Giacalone asked if he chose to move to Colorado because cannabis is legal there.

Dr. Haimés indicated that he has not consumed any chemical substances since March 22, 2007. Dr. Haimés said that alcohol is legal in Ohio, but because he is an addict alcoholic in recovery, he does not intend to consume it. All of his patients are told that when they come to his practice and the hospital that just granted him privileges was provided with approximately 150 pages about him. He also told them about the Step I and Step II Consent Agreements, so they would know everything. Dr. Haimés indicated that the only way he would consume any chemical substances would be if it was being prescribed to him by a

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physician who knows about his disease and his addiction medicine psychiatrist approved it and thought it was appropriate.

**Dr. Steinbergh moved to release Jonathan L. Haimes, M.D., from the terms of his May 13, 2009 Consent Agreement, effective on May 14, 2014. Dr. Saferin seconded the motion.** All members present voted aye. The motion carried.

Dr. Sethi left the meeting at this time

**Howard C. Larky, D.O.**

Dr. Steinbergh welcomed Dr. Larky to the meeting and asked about his practice at this time, what the courses he took meant to him, what changes has he made in his life, and how can the Board be convinced that he is healthy and ready to return to practice.

Dr. Larky indicated that he practices in Zanesville in cardiothoracic anesthesia and the course is not an easy one. The courses have taught him a great deal about himself and life and how to be a better person father and physician. During the process he learned how to protect himself and his patients and keep his shield up.

Dr. Sethi returned to the meeting at this time.

Dr. Steinbergh asked about the transition into the group in Zanesville and asked if everyone in the group and his colleagues were aware of the situation and was happy there.

Dr. Larky said that everyone in the group and his colleagues know of the situation and he is very happy where he is.

Dr. Sethi asked about his family situation and if he has custody of his children and if he has a support group.

Dr. Larky said that he has shared parenting but because his schedule is hectic, he sees them three or four times a week. He said his parents are in Detroit, but are very supportive and his girlfriend is supportive, too.

**Dr. Steinbergh moved to release Howard C. Larky, D.O., from the terms of his Board Order of November 9, 2011, effective immediately. Dr. Soin seconded the motion.** All members voted aye. The motion carried.

Dr. Ramprasad, thereupon at 4:35 p.m. adjourned the May 14, 2014, meeting of the State Medical Board of Ohio.

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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 May 14, 2014, as approved on June 11, 2014.

  
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Krishnamurthi Ramprasad, M.D., President

  
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Mark Bechtel MD, Acting Secretary

