

**MINUTES****THE STATE MEDICAL BOARD OF OHIO****October 8, 2014**

Krishnamurthi Ramprasad, M.D., President, called the meeting to order at 9:50 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: Donald R. Kenney, Vice-President; Mark A. Bechtel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Anita M. Steinbergh, D.O.; Michael L. Gonidakis; Amol Soin, M.D.; Sushil Sethi, M.D.; Robert P. Giacalone; Kim G. Rothermel, M.D.; and Andrew P. Schachat, M.D.

Also present were: Jonathan Blanton, Interim Executive Director; Kimberly Anderson, Assistant Executive Director; Susan Loe, Assistant Executive Director, Human Resources and Fiscal; Danielle Cox, Chief of Human Resources; Michael Miller, Assistant Executive Director for Licensure and Renewal; Sallie J. Debolt, Senior Counsel; David Katko, Assistant Legal Counsel; Mary Courtney Ore, Deputy Director of Communications; Joan K. Wehrle, Education and Outreach Program Manager; Jonithon LaCross, Public Policy & Governmental Affairs Program Administrator; K. Randy Beck, Acting Chief of Investigations; Teri Meyer and David McCafferty, Investigators; William Schmidt, Senior Counsel for Investigations; Rebecca Marshall, Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Cheryl Pokorny, Greg Taposci, and James Roach, Enforcement Attorneys; Kyle Wilcox, Melinda Snyder, and James Wakley, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Vickie Oldham, Fiscal Officer; Gary Holben, Operations Administrator; Danielle Bickers, Compliance Supervisor; Annette Jones and Angela Moore, Compliance Officers; Kay Rieve, Administrative Officer; Mitchell Alderson, Chief of Licensure; Barbara Jacobs, Senior Staff Attorney; Cathy Hacker, P.A. Program Administrator; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Interim Executive Assistant.

**MINUTES REVIEW**

**Dr. Steinbergh moved to approve the draft minutes of the September 10, 2014, Board meeting, as written. Dr. Saferin seconded the motion.** All members voted aye. The motion carried.

**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: Mounir Boutros, M.D.; Rebecca Joy Carpenter, M.T.; Theodore J. Cole, D.O.; Jessica J. Dussault; and Mark A. Weiner, D.O.

A roll call was taken:

ROLL CALL:

Dr. Bechtel	- aye
Dr. Saferin	- aye
Dr. Rothermel	- aye
Dr. Steinbergh	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye
Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schachat	- 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. A roll call was taken:

ROLL CALL:

Dr. Bechtel	- aye
Dr. Saferin	- aye
Dr. Rothermel	- aye
Dr. Steinbergh	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye
Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schachat	- 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 matters before the Board today, Dr. Bechtel served as Secretary and Dr. Saferin served as Supervising Member.

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.

MOUNIR BOUTROS, M.D.

Dr. Ramprasad directed the Board's attention to the matter of Mounir Boutros, M.D. Objections have been filed and were previously distributed to Board members. Ms. Shamansky was the Hearing Examiner.

**Dr. Steinbergh moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Mounir Boutros, M.D. Dr. Rothermel seconded the motion.**

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

Dr. Steinbergh stated that Dr. Boutros earned his medical degree in Syria in 1986. Thereafter, Dr. Boutros came to the United States and was licensed to practice medicine in Ohio in 1989. Dr. Boutros began training in internal medicine and subsequently trained and practiced in psychiatry. In 1997, Dr. Boutros began a residency in dermatology. Dr. Boutros currently has a dermatology practice in Sylvania, Ohio.

Dr. Steinbergh stated that in February 2014, Dr. Boutros had a misdemeanor conviction in Perrysburg, Ohio Municipal Court for Attempted Solicitation. For the background of the conviction, Dr. Steinbergh stated that in December 2013 Dr. Boutros visited a website and found an advertisement for an escort service. Dr. Boutros subsequently arranged a meeting with a woman who, according to his testimony, he thought was someone he had known and had had a prior sexual relationship with. Dr. Boutros called the woman on a disposable cell phone and arranged the cost and time period involved. Dr. Boutros had explained that he used a disposable cell phone because there was some difficulty in his marriage and he was hiding phone calls from his wife. When Dr. Boutros was arrested at the hotel, he denied that he was necessarily going to have sexual relations with the woman, but had only wanted to spend time with her. Dr. Steinbergh found it interesting that at the time of his arrest Dr. Boutros had exactly \$60.00 on him, which was the amount he had arranged with the woman. Dr. Boutros also had a condom at the time of his arrest; Dr. Boutros had explained that he always used a condom when with his wife and he always carries one. Dr. Boutros was convicted of the fourth-degree misdemeanor of Attempted Solicitation, which was reduced from a third-degree misdemeanor through a plea agreement.

Dr. Steinbergh stated that she agrees with the Report and Recommendation's Findings of Fact and Conclusions of Law. Dr. Steinbergh stated that Dr. Boutros' attorney argues that the Conclusions of Law are not appropriate, but that legal issue is something he will need to address in a court of law. Dr. Steinbergh stated that she has high expectations of the ethical and moral decision-making of physicians and opined that it is important to see that within one's community as well as in one's practice. Dr. Steinbergh found it offensive to the community that a physician would put himself in a situation that will cause him to be arrested and to plead guilty to a misdemeanor.

Mr. Kenney stated that in the incident in question, nothing happened and Dr. Boutros only made an attempt to solicit. According to testimony, Dr. Boutros went to the door of the "prostitute," who was actually an undercover police officer, and asked "Do I know you?"; she responded "Are you my doctor?" and Dr. Boutros walked away. Mr. Kenney opined that the Board should consider issuing a reprimand, which will show that the Board does not approve of these actions, and removing the Proposed Order's 30-day suspension while maintaining the probationary terms and conditions. Dr. Rothermel agreed, stating that a suspension of Dr. Boutros' license would not be to anyone's benefit, particularly his patients.

Mr. Gonidakis asked if there is established precedent for how the Board has dealt with similar cases in the past. Dr. Steinbergh responded that she had researched previous cases involving convictions for fourth-

degree misdemeanors with moral turpitude and found that the case with circumstances most similar to Dr. Boutros' was from 2013 in which the respondent was reprimanded. Dr. Steinbergh stated that she would not be opposed Mr. Kenney's suggestion.

Dr. Ramprasad stated that he was disturbed that Dr. Boutros has consistently lied to the Board about this situation and still insists that he was not going to meet a prostitute. However, Dr. Ramprasad agrees with Mr. Kenney that nothing happened in this situation. Dr. Ramprasad speculated that it may be a situation in which someone walks into a place of prostitution and then, deciding it is not morally right, leaves. Dr. Ramprasad noted that, while he was not comparing the two men, a similar incident regarding Mahatma Gandhi is recounted in his autobiography in which he enters and then leaves a brothel. Dr. Ramprasad stated that he was favorable to Mr. Kenney's suggestion.

Mr. Giacalone agreed that a 30-day suspension of Dr. Boutros' license is excessive, but he also agreed with Dr. Ramprasad that Dr. Boutros seems to be lying to the Board. Mr. Giacalone opined that based on the facts of this case, it is almost irrefutable that Dr. Boutros had intended to solicit a prostitute, despite what he said at his hearing. Mr. Giacalone stated that a reprimand may be appropriate, but he was troubled that Dr. Boutros was not forthcoming with the Board. Mr. Kenney stated that he himself had initially favored a 30-day suspension, but changed his mind after rereading the record. Mr. Kenney opined that this entire process would most likely have a deleterious effect on Dr. Boutros' practice. Mr. Kenney noted that according to affidavits presented at hearing, Dr. Boutros continues to provide excellent care to his patients.

**Mr. Kenney moved to amend the Proposed Order of the Report and Recommendation to remove the suspension of Dr. Boutros' license and to instead reprimand that license. Mr. Kenney further moved to leave the minimum two-year probation and all probationary terms intact. Dr. Rothermel seconded the motion.** A vote was taken:

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

The motion to amend carried.

**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 Mounir Boutros, M.D. Dr. Soin seconded the motion.** A vote was taken:

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

The motion to approve carried.

REBECCA JOY CARPENTER, M.T.

Dr. Ramprasad directed the Board's attention to the matter of Rebecca Joy Carpenter, M.T. Objections have been filed and were previously distributed to Board members. Ms. Shamansky was the Hearing Examiner.

Dr. Ramprasad stated that a request to address the Board has been timely filed on behalf of Ms. Carpenter. Five minutes will be allowed for that address.

Ms. Carpenter apologized to the Board of her oversight in neglecting to timely renew her massage therapist license. Ms. Carpenter stated that her parents raised her to be a hard-working, law-abiding, kind-hearted, and self-sufficient woman. However, when Ms. Carpenter learned that the status of her massage therapy was inactive, she felt like a failure. Ms. Carpenter stated that her restoration application and the exhibits presented at her hearing show that she approached this situation head-on and she has been honest throughout the process.

Ms. Carpenter continued that she has often asked herself how this could have happened, stating that she is a responsible, organized multi-tasker who runs a household and owns a business. Ms. Carpenter stated that with her husband's help, she was able to step back and say that she is human. Ms. Carpenter stated that she had had a system of paying bills, subscriptions, and renewals when reminders were received in the mail, but the reminder to renew her massage therapy license never arrived. Ms. Carpenter blamed this on herself because she had moved and had neglected to change her address with the Board. Ms. Carpenter stated that within an 18-month period she built two businesses, got married, suddenly lost her father, purchased a home, and became pregnant with twins. Ms. Carpenter found the following year, with being executrix of her father's will, raising twins, and returning to work following bed rest and maternity leave, to be the hardest year of her life. It was during that year that Ms. Carpenter's license renewal was due. Ms. Carpenter stated that she is offering these details as facts and not as excuses.

Ms. Carpenter stated that learning that her massage therapy license was expired caused her to halt plans for her children's preschool and their college funds. Ms. Carpenter could not explain why she did not

remember to renew her license. Ms. Carpenter stated that she takes sole responsibility for her mistakes and that she now has a new outlook, a new goal, and peace in her heart. Ms. Carpenter assured that Board that it will never see her again in these circumstances.

Ms. Carpenter asked the Board to grant her request for restoration of her license with no suspension so she can get back to assisting her clients and getting her family back on track with its goals.

Dr. Ramprasad asked if the Assistant Attorney General would like to respond. Mr. Wakley stated that he would like to respond.

Mr. Wakley stated that at Ms. Carpenter's hearing, he had recommended that her license be reinstated with a maximum 90-day suspension. Mr. Wakley stated that he has changed his opinion and, given the fact that Ms. Carpenter has been out of practice for approximately five months already, recommended that a reprimand with no suspension would be appropriate. Mr. Wakley opined that Ms. Carpenter made an honest oversight and was genuinely remorseful. Mr. Wakley further opined that the stress of having gone through this process will deter similar conduct in the future.

**Dr. Steinbergh moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Rebecca Joy Carpenter, M.T. Dr. Soin seconded the motion.**

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

Mr. Giacalone stated that Ms. Carpenter was first licensed to practice massage therapy in January 2005 and began her own business in August 2010, where she practiced massage therapy and rented space to several other licensed massage therapists. In July 2011, Ms. Carpenter's massage therapy license expired due to non-renewal. Ms. Carpenter has admitted that she continued to practice massage therapy without a valid license from July 2011 until April 2014, when she realized the license had expired. During that time, Ms. Carpenter practiced massage therapy continuously except during time taken off due to complications related to her pregnancy and maternity leave following the birth of her twins. Ms. Carpenter has provided documentation showing that she first discovered her license had lapsed when she tried to contract with a credit card processor for her business; that company verified the licenses of the other massage therapists in the business, but told Ms. Carpenter that her license was expired. Ms. Carpenter testified that she stopped practicing immediately upon learning that her license had expired and went about trying to reinstate it.

Mr. Giacalone continued that Ms. Carpenter, according to her testimony, changed residences between her 2009 renewal and the 2011 expiration of her license and she did not receive the license renewal notice in the mail. Ms. Carpenter admitted that when she renewed her license in 2009, she knew she would have to renew it again in two years. Ms. Carpenter also conceded that it was her obligation to know when her license was valid. Ms. Carpenter testified that she simply forgot to renew due to human error. Ms. Carpenter presented evidence that during the time she was practicing without a valid license, she maintained liability insurance and she has never had a malpractice claim filed against her. Ms. Carpenter presented further evidence that she also took continuing education courses during that time to improve her practice.

Mr. Giacalone stated that at several points during the hearing Ms. Carpenter offered her apology to the Board and its staff for having to use its time to resolve this matter, and she repeated this apology before the Board today. Ms. Carpenter has testified that she now uses a spreadsheet program that includes notification of her future license renewal dates and she has promised that this will never again be an issue for her.

Mr. Giacalone stated that it is indisputable that Ms. Carpenter continued to practice massage therapy from July 2011 to April 2014 despite the expiration of her license. Mr. Giacalone stated that he accepts the Hearing Examiner's Findings of Fact and Conclusions of Law. However, Mr. Giacalone suggested amending the Proposed Order to be a reprimand with no suspension and no probationary terms. Mr. Giacalone opined that this was an honest oversight. Mr. Giacalone stated that Ms. Carpenter took ownership of her mistake and felt that she should be acknowledged for that.

**Mr. Giacalone moved to amend the Proposed Order of the Report and Recommendation to be a reprimand, with no suspension of license or probationary terms. Dr. Rothermel seconded the motion.**

Dr. Ramprasad stated that he will now entertain discussion of the proposed amendment.

Dr. Steinbergh stated that she does not disagree with Mr. Giacalone's proposed amendment. However, Dr. Steinbergh felt that it is very important that the Board is clear in the record and it is not establishing a precedent. Dr. Steinbergh stated that practicing massage therapy without a license is inappropriate and that she has a problem with massage therapists who do not recognize the importance of their license. Dr. Steinbergh also found it difficult that Ms. Carpenter checked the licenses of other massage therapists in her business but did not check her own. Dr. Steinbergh stated that she had supported the Proposed Order because it is consistent with what the Board has done in the past with similar cases. Dr. Steinbergh stated she would not oppose Mr. Giacalone's proposed amendment, but practicing without a license is not acceptable to the Board.

Mr. Giacalone agreed with Dr. Steinbergh, but stated that each case is unique. Mr. Giacalone stated that Ms. Carpenter stopped practicing immediately and took affirmative action when she discovered that her license had expired. Ms. Carpenter also made the effort to contact the Board and take remedial steps. Mr. Giacalone was unsure what else Ms. Carpenter could have done to mitigate the situation. Mr. Giacalone stated that he could not penalize Ms. Carpenter for something that was a human error when she has taken all possible steps to address the situation. Mr. Giacalone opined that Ms. Carpenter does not need an ethics course and she knows what ethics are. Mr. Giacalone stated that probation is for people who deserve it and opined that Ms. Carpenter does not deserve probation. Dr. Ramprasad further noted that Ms. Carpenter has already been out of practice for quite some time.

Mr. Giacalone opined that this case is a perfect example of why the Board needs to have non-disciplinary fining authority.

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

ROLL CALL:

Dr. Bechtel	- abstain
Dr. Saferin	- abstain
Dr. Rothermel	- aye
Dr. Steinbergh	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye
Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Gonidakis	- aye
Mr. Giacalone	- aye

The motion to amend carried.

**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 Rebecca Joy Carpenter, M.T. Dr. Soin seconded the motion.** A vote was taken:

ROLL CALL:

Dr. Bechtel	- abstain
Dr. Saferin	- abstain
Dr. Rothermel	- aye
Dr. Steinbergh	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye
Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Gonidakis	- aye
Mr. Giacalone	- aye

The motion to approve carried.

THEODORE J. COLE, D.O.

Dr. Ramprasad directed the Board's attention to the matter of Theodore J. Cole, D.O. No objections have been filed. Mr. Mayton was the Hearing Examiner.

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

Mr. Zinsmaster noted that neither Dr. Cole nor the state has filed objections to the Hearing Examiner's Report and Recommendation. Mr. Zinsmaster stated that nearly all of the Board's articulated mitigating circumstances are applicable in Dr. Cole's case. The Hearing Examiner has proposed a reprimand and six

months of probationary terms. Mr. Zinsmaster stated that probationary terms are generally imposed on licensees so that they can fulfill certain probationary requirements, such as completing educational courses. However, Mr. Zinsmaster stated that Dr. Cole has already completed additional education, as shown in the hearing record. Mr. Zinsmaster respectfully requested that the Board consider only issuing a reprimand to Dr. Cole with no probation.

Dr. Cole stated that this matter involved his treatment of two family members several years ago. Dr. Cole stated that Patient 2 had not responded to treatment from several physicians for conditions including fibromyalgia, insomnia, fatigue, interstitial cystitis, and esophageal reflux. Dr. Cole stated that it was only then, when no other course of action was available, that he prescribed medication to Patient 2 in order to break the cycle of her pain and suffering. Dr. Cole stated that today, due to his intervention, Patient 2 is nearly symptom-free.

Dr. Cole continued that his treatment of Patient 1 involved prescribing medication for sleep. Patient 1 suffered from numerous health problems, including spinal stenosis, cancer, and chronic insomnia. Dr. Cole stated that as soon as he was informed that his treatment of Patient 1, a family member, was inappropriate, he stopped prescribing medication and turned her care over to another physician. Dr. Cole noted that the new physician continued the same medications that Dr. Cole had prescribed.

Dr. Cole stated that he maintained all medical records for both these patients and also obtained medical records from prior treating physicians to ensure the safety of his treatments. Dr. Cole stated that he never attempted to conceal these activities, no abuse or diversion of medication occurred, and no patients were put in harm's way. Dr. Cole stated that he provided his services only out of concern for the patients' well-being. Dr. Cole stated that at that time he was not aware that his actions were against the policy of the Medical Board. Dr. Cole stated that he rarely prescribes controlled substances in his practice, but he attended an intensive three-day course at Vanderbilt University to ensure he was familiar with their usage and he has incorporated what he learned into his practice.

Dr. Cole stated that knowing what he knows now, he would not have prescribed these medications for his family members and he will not do so again in the future. Dr. Cole thanked the Board for its efforts and for pointing out areas in which he could improve his performance as a physician. Dr. Cole stated that he will share what he has learned with medical students who rotate in his office. Dr. Cole stated that his only goal is to provide the best possible care to his patients.

Dr. Ramprasad asked if the Assistant Attorney General would like to respond. Mr. Wilcox stated that he would like to respond.

Mr. Wilcox opined that, given the facts in this case, a reprimand with no suspension would be appropriate. Mr. Wilcox was uncertain that a probationary period of six months would be a wise use of the Board's resources in this situation. Mr. Wilcox stated that the Board must send a message that it is not acceptable to prescribe medications to one's family members due to issues of objectivity, but felt that probation would not be necessary in this case.

**Dr. Rothermel moved to approve and confirm Mr. Mayton's Findings of Fact, Conclusions of Law,**

**and Proposed Order in the matter of Theodore J. Cole, D.O. Mr. Kenney seconded the motion.**

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

Dr. Steinbergh stated that she will abstain from discussion and voting in this matter.

Dr. Ramprasad briefly reviewed Dr. Cole's medical career. Patient 1, a family member of Dr. Cole's, suffered from insomnia. Dr. Cole prescribed Lunesta to Patient 1 on six occasions, and he prescribed Ambien and Restoril to Patient 1 on one occasion each. At his hearing, Dr. Cole conceded that these prescriptions were not written for emergency situations.

Dr. Ramprasad continued that Patient 2, also a family member of Dr. Cole's, was under the care of two physicians other than Dr. Cole for treatment of fibromyalgia and chronic fatigue syndrome. Dr. Cole prescribed Vicodin to Patient 2 on one occasion to treat severe neck and back pain in a non-emergency situation. Dr. Cole also prescribed Lomitol and Xyrem to Patient 2.

Dr. Ramprasad opined that Dr. Cole seems to have honestly overlooked the prohibition against prescribing to family members. Dr. Ramprasad stated that Dr. Cole has taken steps to correct this by taking a very good course on prescribing controlled substances at Vanderbilt University. Dr. Ramprasad agreed with the Report and Recommendation's Findings of Fact and Conclusions of Law. However, Dr. Ramprasad suggested that the Proposed Order be amended to remove the probationary terms and leave only the reprimand. Dr. Ramprasad opined that there was no proper role for probation in this matter and reiterated that Dr. Cole has taken the prescribing course at Vanderbilt University.

**Mr. Giacalone moved to amend the Proposed Order to remove the probationary terms, leaving only the reprimand. Dr. Soin seconded the motion. A vote was taken:**

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

The motion to amend carried

**Dr. Rothermel moved to approve and confirm Mr. Mayton's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Theodore J. Cole, D.O. Dr. Sethi seconded the motion. A vote was taken:**

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

The motion to approve carried.

#### JESSICA J. DUSSAULT

Dr. Ramprasad directed the Board's attention to the matter of Jessica J. Dussault. No objections have been filed. Mr. Porter was the Hearing Examiner.

**Dr. Soin moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Jessica J. Dussault. Dr. Steinbergh seconded the motion.**

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

Mr. Kenney stated that Ms. Dussault applied for a license to practice massage therapy in Ohio in June 2013. On her application, Ms. Dussault admitted that she has been charged with three Operating a Vehicle Under the Influence of Alcohol (OVI) violations. In 2006, Ms. Dussault was charged with OVI, speeding, and paraphernalia. In 2007, Ms. Dussault was involved in a multi-vehicle accident; Ms. Dussault was charged with OVI in that incident. In 2009, Ms. Dussault was charged with OVI and driving on a closed highway. In 2013, Ms. Dussault underwent outpatient assessment at Glenbeigh Hospital, where she was diagnosed with alcohol dependency. Consequently, Ms. Dussault was found to be impaired and not capable of practicing massage therapy at acceptable and prevailing standards of care.

Mr. Kenney continued that Ms. Dussault was actually arrested a fourth time on October 27, 2013, after she had submitted her application for a massage therapy license. Ms. Dussault did not inform Glenbeigh Hospital of this fourth arrest, nor did she inform the Board until her hearing on July 23, 2014. Mr. Kenney found it odd that throughout this time Ms. Dussault has continued to work as a bartender. Ms. Dussault also testified that she has not been attending Alcoholics Anonymous meetings because she does not believe AA works.

Mr. Kenney stated that he agrees with the Findings of Fact and Conclusions of Law in the Report and Recommendation. The Hearing Examiner's Proposed Order would grant Ms. Dussault's application for licensure and immediately suspend it for an indefinite period with interim monitoring during the period of

suspension. Mr. Kenney stated that he does not agree with the Proposed Order. Mr. Kenney suggested that a permanent denial of Ms. Dussault's application would be appropriate and would prevent her from applying for a license in the future. Mr. Kenney's suggestion was based on the fact that Ms. Dussault has had four OVI violations, she does not believe that AA is for her, and she continues to work as a bartender.

**Mr. Kenney moved to amend the Proposed Order to permanently deny Ms. Dussault's application for a license to practice massage therapy in Ohio. Dr. Steinbergh seconded the motion.**

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

Dr. Steinbergh agreed with Mr. Kenney and opined that if a license were granted, the Board would struggle with Ms. Dussault in terms of compliance with a Board Order. Dr. Steinbergh acknowledged that Ms. Dussault has testified that she would go to AA meetings if the Board so ordered. However, Dr. Steinbergh stated that Ms. Dussault's actions, including continuing to work as a bartender and failing to inform the Board of her fourth OVI arrest, are consistent with a person who would probably not be compliant with a Board Order and would be difficult to monitor. Dr. Steinbergh questioned why the Board should utilize its resources to license and monitor Ms. Dussault when there is no right to a license. Dr. Steinbergh stated that she supports the proposed amendment to permanently deny.

Dr. Ramprasad stated that he also agrees with Mr. Kenney's proposed amendment. Dr. Ramprasad noted that Ms. Dussault did not stop drinking until six months after her fourth OVI arrest. The discussions in the record did not show Dr. Ramprasad that Ms. Dussault has any self-reflection on her situation. Dr. Ramprasad observed the following testimony by Ms. Dussault:

"I don't need to drink. It's always been more of a social thing for me. You know, sometimes when I get with my friends ... I just get carried up in the excitement of being with my friends..."

Dr. Ramprasad lamented that after four OVI arrests, Ms. Dussault still does not "get it." Dr. Ramprasad agreed with Dr. Steinbergh that this is something Ms. Dussault does not believe in and she may not comply with a Board Order.

A vote was taken on Mr. Kenney's motion to amend:

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

Mr. Giacalone - aye

The motion to amend carried.

**Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Jessica J. Dussault. Dr. Rothermel seconded the motion.** A vote was taken:

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

The motion to approve carried.

MARK A. WEINER, D.O.

Dr. Ramprasad directed the Board's attention to the matter of Mark A. Weiner, D.O. Objections have been filed and were previously distributed to Board members. Mr. Porter was the Hearing Examiner.

**Dr. Soin moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Mark A. Weiner, D.O. Dr. Steinbergh seconded the motion.**

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

Dr. Sethi stated that on April 17, 1996, Dr. Weiner entered into a Consent Agreement with the Medical Board in lieu of formal proceedings, based on violations of Section 4731.22(B)(26), Ohio Revised Code, related to impairment. Dr. Weiner was released from his Consent Agreement on April 17, 1999. Dr. Sethi stated that since that time, Dr. Weiner has suffered a relapse.

Dr. Sethi explained that on August 31, 2013, Dr. Weiner was approached by police officers, who reported that Dr. Weiner was intoxicated outside a bar and was engaging in conduct that presented a risk of physical harm to himself and would be offensive and annoying to others. Dr. Weiner's behavior during this incident included getting on his hands and knees, blocking the sidewalk, refusing to move, yelling at passers-by, and passing out against a tree. Dr. Weiner was charged with two counts of disorderly conduct. After being transported to a hospital, Dr. Weiner behaved belligerently towards the hospital staff.

Dr. Sethi continued that on September 7, 2013, in Newport, Kentucky, Dr. Weiner was approached by the police, who reported that Dr. Weiner was yelling and screaming because he felt he hadn't received good service at a bar. The police further reported that Dr. Weiner had a strong odor of alcohol, slurred speech, bloody eyes, and was a danger to himself and the public. The police attempted to place Dr. Weiner in a taxi cab, but he began yelling at people entering the bar, causing public panic and annoyance. Dr. Weiner was charged with alcohol intoxication in a public place and disorderly conduct. Dr. Sethi stated that Dr. Weiner failed to report his relapse to the Board.

Dr. Sethi commented that the Hearing Examiner did an excellent job summarizing the evidence and Dr. Weiner's history with the Board. However, Dr. Sethi did not agree with the Hearing Examiner's Proposed Order of a minimum 90-day suspension of Dr. Weiner's medical license. Dr. Sethi suggested that a minimum 180-day suspension from the effective date of the Order would be appropriate.

**Dr. Sethi moved to amend the Proposed Order so that the suspension of Dr. Weiner's license will be for a minimum of 180 days from the effective date of the Order, with all other terms unchanged. Mr. Giacalone seconded the motion.**

Dr. Ramprasad stated that he will now entertain discussion of the proposed amendment.

Dr. Steinbergh opined that the Proposed Order, which would suspend Dr. Weiner's license for a minimum of 90 days from October 9, 2013, the date of his summary suspension, would be sufficient. Dr. Steinbergh felt that Dr. Weiner has been out of practice long enough and questioned adding on another 180 days of suspension.

Mr. Giacalone stated that he supports Dr. Sethi's position. Mr. Giacalone stated that there are troubling circumstances in this case. Mr. Giacalone stated that Dr. Weiner had abused Demerol in 1995, and he has now relapsed on alcohol and engaged in arguably violent acts. Mr. Giacalone noted that Dr. Weiner charged at bouncers in a bar and behaved belligerently towards hospital staff who were trying to help him. Mr. Giacalone also observed that Dr. Weiner's own expert, Gary A. Levinson, M.D., stated, "It is my medical opinion that Dr. Weiner's current depression is temporary and that he should be able to return to being a functional physician within the next six months." Further, Dr. Weiner himself testified that he is not ready to go back to practicing medicine. Mr. Giacalone opined that Dr. Weiner should be out of practice for at least six months from the effective date of the Order, particularly since he has shown a propensity towards violence.

Dr. Steinbergh expressed concerns of whether some of Dr. Weiner's behavior could have been induced or exacerbated by topiramate, a medication he began taking in April 2013 for a tremor. Mr. Giacalone noted Katherine Moore, M.D., a Mayo Clinic psychiatrist, was skeptical that topiramate had caused Dr. Weiner's behavior. Dr. Steinbergh disagreed with Dr. Moore and stated that she personally believes, based on her clinical practice, that medications like topiramate can affect changes in personality or exacerbate a condition. Dr. Steinbergh stated that this is a first relapse for Dr. Weiner and there is no evidence that the Board needs to remove him from practice for a longer period.

Responding to a question from Dr. Ramprasad, Ms. Anderson stated that the Order will require Dr. Weiner

to submit written reports of evaluation from two psychiatrists as a condition for reinstatement of his license, in addition to other conditions. Dr. Ramprasad opined that the requirement of psychiatric assessments is the most important thing and as long as that is in place, it does not matter to him if Dr. Weiner's suspension is for a minimum of 90 days or 180 days.

Dr. Sethi opined that Dr. Weiner's belligerent behavior in two separate instances is a disgrace for a physician. Dr. Sethi opined that a suspension of at least 180 days is a necessity for Dr. Weiner to be in shape to return to practice.

Dr. Soin questioned what the Board would accomplish with an additional 180 days of suspension if the conditions for the reinstatement of Dr. Weiner's license are appropriate, including the requirement of evaluation by two psychiatrists. Dr. Soin commented that if the additional 180 days is simply punitive then he could accept that argument; otherwise, Dr. Soin stated that he could agree to a 90-day or a 180-day suspension so long as the conditions for reinstatement are met. Mr. Giacalone responded that, for him, this is not a punitive issue, but rather is a matter that Dr. Weiner's own expert has recommended that he not practice medicine for six months. Mr. Giacalone also saw this as a public health issue. Mr. Giacalone noted that Dr. Weiner was addicted to Demerol in the 1990's, then relapsed on alcohol and showed violent tendencies. Mr. Giacalone opined that a 180-day suspension is appropriate given Dr. Weiner's history and propensity towards violence. Mr. Giacalone opined that the additional 180 days is an extra safeguard to help ensure that Dr. Weiner does not pose a threat to his patients when he returns to practice.

Dr. Rothermel reiterated that under the conditions for reinstatement of Dr. Weiner's license, two mental health professionals must agree that he is ready to return to the practice of medicine. Dr. Rothermel noted that one of those professionals has sent a letter stating that Dr. Weiner may be ready to return within six months. Dr. Rothermel opined that the Board does not need to extend the time of suspension because it is going to rely on the two professionals to determine if Dr. Weiner is ready. Dr. Rothermel stated that Dr. Weiner may be ready to return to medicine in 90 days, or perhaps it will be 180 days or a year. Dr. Rothermel stated that, in any case, the Board will not reinstate Dr. Weiner's license until all of the conditions for reinstatement are met.

Dr. Steinbergh noted that Paragraph (B)(5)(e) of the Proposed Order gives Dr. Weiner 30 days to enter into the necessary financial and/or contractual arrangements with a Board-approved drug-testing facility and/or collection site (DFCS). However, Dr. Weiner's objections indicate that he expects to move from California to Michigan within the next 60 days. Therefore, Dr. Weiner requested that he be given 60 days to enter into the necessary arrangements with a DFCS. Dr. Steinbergh opined that this is an acceptable request. Dr. Sethi agreed with Dr. Steinbergh.

**Dr. Sethi wished to change his motion to amend to add that Paragraph (B)(5)(e) of the Proposed Order be altered so that Dr. Weiner will have 60 days to enter into the necessary financial and/or contractual arrangements with a DFCS in order to facilitate the screening process in the matter required by the Order.** No Board member objected to the change. The change to the motion to amend was accepted.

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

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

The motion to amend carried.

**Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Mark A. Weiner, D.O. Dr. Soin seconded the motion. A vote was taken:**

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

The motion to approve carried.

#### FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Ramprasad stated that in the following matters, the Board issued Notices of Opportunity for Hearing and documentation of Service was received for each. There were no requests for hearing filed, and more than 30 days have elapsed since the mailing of the notices. The matters are therefore before the Board for final disposition. Dr. Ramprasad noted that the matter of Dr. Babaria is disciplinary in nature. Therefore the Secretary, Dr. Bechtel, and Supervising Member, Dr. Saferin, may not vote in that matter.

Mr. Gonidakis exited the meeting at this time.

ASHOKKUMAR RATILAL BABARIA, M.D.

Dr. Ramprasad stated that the allegations concerning Ashokkumar Ratilal Babaria, M.D., are that on or about April 30, 2014, in U.S. District Court, District of New Jersey, Dr. Babaria pled guilty to and was found guilty of one felony violation of Title 42, U.S. Code, Section 1320a-7b (b)(2)(A), which prohibits offering to pay and/or paying illegal remunerations in violation of the federal healthcare anti-kickback statute. The factual basis underlying Dr. Babaria's conviction involved his offering to pay and paying cash kickbacks to physicians and other healthcare providers to induce referrals of Medicare and Medicaid patients to a diagnostic testing center owned by Dr. Babaria.

**Dr. Steinbergh moved to find that the allegations as set forth in the August 13, 2014 Notice of Immediate Suspension and Opportunity for Hearing have been proven by a preponderance of the evidence, and to enter an Order, effective immediately upon mailing, permanently revoking Dr. Babaria's license to practice medicine and surgery in Ohio. Dr. Sethi seconded the motion. A vote was taken:**

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

The motion carried.

BENJAMIN FRANCIS DONOHUE, M.D.

Dr. Ramprasad stated that Dr. Donohue has applied a license to practice medicine and surgery Ohio. The Board notified Dr. Donohue that it proposed to approve his application, but limit that license to participation in a fellowship program at Beacon Orthopaedics due to the fact that Dr. Donohue has not engaged in the active practice of medicine for more than two years. Further, the Board proposed to remove the limitation upon Dr. Donohue's submission of documentation that he has successfully completed one year of fellowship at Beacon Orthopaedics.

**Dr. Steinbergh moved to find that the allegations set forth in the August 19, 2014 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, granting Dr. Donohue's application for licensure; limiting such license to participation in a fellowship program at Beacon Orthopaedics; and upon Dr. Donohue's submission of documentation that he has successfully completed one year of fellowship training at Beacon Orthopaedics, said limitation shall be terminated and the license shall**

**be unrestricted. Dr. Soin seconded the motion.** A vote was taken:

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

The motion carried.

YULIA GRAY, M.D.

Dr. Ramprasad stated that Dr. Gray has applied for restoration of her license to practice medicine and surgery in Ohio. The Board notified Dr. Gray that it proposed to approve her application for restoration, provided that she takes and passes the Special Purpose Examination (SPEX) or specialty board certification examination and three months of additional training in a mini-residency due to the fact that Dr. Gray has not engaged in the active practice of medicine for more than two years.

**Dr. Saferin moved to find that the allegations set forth in the August 19, 2014 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, granting Dr. Gray's application for restoration of her license, provided that she takes and passes the Special Purpose Examination (SPEX) or specialty board recertification program within one year of August 19, 2014, and completes three months of additional training in a mini-residency. Dr. Steinbergh seconded the motion.** A vote was taken:

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

The motion carried.

EXECUTIVE SESSION

**Dr. Steinbergh moved that the Board declare Executive Session to confer with the Attorney General's representatives on matters of pending or imminent court action. Dr. Soin seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Bechtel	- aye
	Dr. Saferin	- aye
	Dr. Rothermel	- aye
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schachat	- 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. Anderson, Mr. Miller, Ms. Loe, Ms. Debolt, Mr. Katko, Ms. Ore, Ms. Wehrle, Mr. Schmidt, Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Rieve, Mr. Alderson, Ms. Jacobs, Ms. Moore, and Mr. Taylor in attendance.

Mr. Gonidakis returned to the meeting during the Executive Session.

The Board returned to public session.

Dr. Saferin exited the meeting at this time.

RATIFICATION OF SETTLEMENT AGREEMENTSLAWRENCE M. RUBENS, M.D. – STEP II CONSENT AGREEMENT

**Dr. Steinbergh moved to ratify the Proposed Step II Consent Agreement with Dr. Rubens. Dr. Soin seconded the motion.** A vote was taken:

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

Dr. Schachat	- aye
Mr. Gonidakis	- aye
Mr. Giacalone	- aye

The motion to ratify carried.

RYAN J. I. WEEDEN, M.T. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE  
MASSAGE THERAPY

**Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Mr. Weedon. Dr. Soin seconded the motion.** A vote was taken:

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

The motion to ratify carried.

Dr. Saferin returned to the meeting at this time.

CITATIONS AND ORDERS OF SUMMARY SUSPENSION

AMANDA ELIZABETH ALLEN, L.M.T. – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**Dr. Steinbergh moved to send the Citation Letter to Ms. Allen. Mr. Kenney seconded the motion.** A vote was taken:

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

Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Gonidakis	- aye
Mr. Giacalone	- aye

The motion to send carried.

MEGAN M. HAGEDORN – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**Dr. Steinbergh moved to send the Citation Letter to Ms. Hagedorn. Dr. Soin seconded the motion.**

A vote was taken:

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

The motion to send carried.

CHRISTOPHER J. HODGE, D.O. – NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity for Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**Dr. Steinbergh moved to send the Notice of Summary Suspension and Opportunity for Hearing to Dr. Hodge. Dr. Rothermel seconded the motion.**

A vote was taken:

ROLL CALL:	Dr. Bechtel	- abstain
	Dr. Saferin	- abstain
	Dr. Rothermel	- aye
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye

Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Gonidakis	- aye
Mr. Giacalone	- aye

The motion to send carried.

THOMAS D. KRAMER, JR., M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**Dr. Steinbergh moved to send the Citation Letter to Dr. Kramer. Mr. Kenney seconded the motion.**

Mr. Giacalone asked why this citation does not include a summary suspension of the practitioner's license. Ms. Marshall replied that the Secretary and Supervising Member reviewed this case and did not direct staff to pursue a summary suspension. Ms. Marshall stated that the period of alleged non-compliance with the Consent Agreement was from April 2013 to March 2014, with no evidence of non-compliance from March 2014 to the present. The practitioner appears to be compliant at the present time, but this citation is being proposed to address the prior period of non-compliance.

Mr. Kenney commented that this topic continues to come up and he does not favor this proposed citation.

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

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

The motion to send carried.

MICHAEL C. MACATOL, M.D. – NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity

for Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**Dr. Steinbergh moved to send the Notice of Summary Suspension and Opportunity for Hearing to Dr. Macatol. Dr. Soin seconded the motion. A vote was taken:**

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

The motion to send carried.

#### APPLICANTS FOR LICENSURE

**Dr. Saferin moved to approve for 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," the massage therapist applicants listed in Exhibit "C," the Oriental medicine practitioner applicants listed in Exhibit "D," the physician assistant applicants listed in Exhibit "E," the physician applicants listed in Exhibit "F," and the radiologist assistant applicants listed in Exhibit "G." Dr. Bechtel seconded the motion. A vote was taken:**

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

The motion carried.

PROBATIONARY REQUESTS

Dr. Ramprasad advised that at this time he would like the Board to consider the probationary requests on today's consent agenda. Dr. Ramprasad asked if any Board member wished to discuss a probationary report or probationary request separately. No Board member wished to consider any probationary request.

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

- **To grant Michael T. Bangert, M.D.'s request for approval of Ellen Ballerene, M.D., to serve as the new treating psychiatrist; and approval of Elaine Zimmerman, M.S., L.S.W., to serve as the new mental health professional providing psychotherapy;**
- **To grant Dustin M. Clark, M.D.'s request for discontinuance of the controlled substance log requirement;**
- **To grant Christopher S. Croom, M.D.'s, request for reduction in 12-step meetings from three per week to two per week; and reduction in appearances from every three months to twice annually;**
- **To grant Bradley E. Dickson, M.D.'s request for approval of *Intensive Course in Medical Record Keeping*, offered by Case Western Reserve University;**
- **To grant W. Andrew Highberger, M.D.'s request for discontinuance of the chart review requirement; discontinuance of the controlled substance log requirement; and reduction in appearances to every six months;**
- **To grant Joanna C. S. Kauffman, M.D.'s request for approval of Jerry D. McCreery, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per month;**
- **To grant Vincent James Keiser, M.D.'s request for reduction in appearances to every six months; and reduction in drug and alcohol rehabilitation meetings to two per week;**
- **To grant Mark C. Leeson, M.D.'s request for approval of Thomas C. Holloway, M.D., to serve as the new monitoring physician;**
- **To grant Sheila S. Reddy, M.D.'s request for reduction in appearances to every six months; reduction in drug and alcohol rehabilitation meetings to two per week with a minimum of 10 per month; and discontinuance of the chart review requirement;**
- **To grant Carol G. Ryan, M.D.'s, request for approval of the proposed practice plan; approval of Annette M. Chavez, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per week;**

- To grant Richard J. Ryan, M.D.'s request for permission to administer, possess, and personally furnish controlled substances; discontinuance of the comparative audit; and discontinuance of the assay report of unused waste;
- To grant Rick D. St. Onge, M.D.'s request for reduction in psychiatric sessions; and reduction in psychotherapy treatment sessions;
- To grant Kendra N. von der Embse, D.O.'s request for reduction in appearances to every six months; and reduction in drug and alcohol rehabilitation meetings to two per week with a minimum of 10 per month;
- To grant Albert J. Weisbrot, M.D.'s request for reduction in appearances to annually; and
- To grant Randall G. Whitlock, Jr., P.A.'s request for approval of Michael A. Bain, M.D., to serve as the reporting physician.

**Dr. Soin seconded the motion.** All members voted aye on all matters, except Dr. Steinbergh, who abstained in the matter of Dr. von der Embse. The motion carried.

The Board recessed at 11:30 a.m. and returned at 12:40 p.m. Dr. Sethi was not present when the meeting resumed.

#### REPORTS AND RECOMMENDATIONS

#### RECONSIDERATION IN THE MATTER OF REBECCA JOY CARPENTER, M.T.

Ms. Anderson stated that the matter of Ms. Carpenter was based on her application to restore her license to practice massage therapy. Ms. Anderson noted the motion passed by the Board reprimanded Ms. Carpenter, but did not explicitly grant her application for restoration of her license. In an abundance of caution, Ms. Anderson asked the Board to reconsider this matter so that the Board's intent regarding Ms. Carpenter's application for restoration is clear.

**Dr. Steinbergh moved to reconsider the matter of Rebecca Joy Carpenter, M.T. Dr. Soin seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Bechtel	- abstain
	Dr. Saferin	- abstain
	Dr. Rothermel	- aye
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Ramprasad	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Gonidakis	- aye

Mr. Giacalone - aye

The motion to reconsider carried.

**Dr. Soin moved to grant Ms. Carpenter's application for restoration of her license to practice massage therapy in Ohio, as well as an Order of reprimand as passed by the Board previously. Dr. Steinbergh seconded the motion.** A vote was taken:

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

The motion carried.

#### ADMINISTRATIVE REPORT

**Staffing Updates:** Mr. Blanton stated that Kimberly Lee has been selected to fill the vacant Enforcement Attorney position. Mr. Blanton stated Ms. Lee has been in private practice and will begin with the Board on October 20, 2014.

Mr. Blanton continued that the Customer Service/Front Desk Receptionist position will be filled by Robyn Daughtry. Ms. Daughtry has already been filling this position for the last few months on a temporary basis. Mr. Blanton commented that he has received consistent compliments on Ms. Daughtry's phone and interpersonal skills.

Mr. Blanton stated that applications are being reviewed for the position of Licensure Certification Examiner and interviews will begin soon.

**Meetings:** On September 12, Mr. Blanton, Ms. Anderson, and Ms. Bickers, had a follow-up meeting with Medicaid Director John McCarthy regarding physician disqualification from Medicaid based on Medical Board action.

On September 16, Mr. Blanton and Ms. Anderson attended a meeting with the medical directors of Medicaid, the Bureau of Workers' Compensation, and the Department of Youth Services. Topics discussed included the episodic basis of care and workforce issues.

On September 17, Mr. Kenney, Dr. Steinbergh, Mr. Gonidakis, Mr. Blanton, Ms. Anderson, Mr. Schmidt,

Ms. Bickers, and Mr. LaCross met with representative from the Ohio Physicians Health Program (OPHP) to discuss results of a survey conducted by OPHP regarding the One-Bite Exception Rule and how other states handle that issue.

On September 17, Mr. Blanton, Ms. Anderson, Mr. Schmidt, and Ms. Bickers had a conference call with Theodore Parran, M.D., Christina Delos Reyes, M.D., and Amy Friedman Pisman regarding monitoring services that Case Western University could provide for physicians on probation. Mr. Blanton stated that these are preliminary talks and he looks forward to providing the Board with more information in the future.

On September 17, Mr. LaCross participated in a conference call with the Cleveland Clinic's Health Care Policy and Treatment Subcommittee to discuss their educational efforts on prescribing issues. Mr. Blanton hoped to travel to the Cleveland Clinic in the near future with some Board members to learn more about their education program and how to incorporate it into the Board's activities.

On September 22, Mr. Blanton, Ms. Anderson, and Mr. Miller met with Mary Applegate, M.D., of the Ohio Department of Health, to discuss physician workforce demographics and what the health care marketplace in Ohio will look like in the future.

On September 24, Dr. Soin, Mr. Blanton, Mr. Schmidt, and Mr. LaCross met with representatives of Senator Sherrod Brown to discuss the TREAT act relating to medications for treatment of substance abuse.

From September 30 to October 1, Mr. Blanton attended the National Drug Enforcement Administration (DEA) Conference on prescription drugs and chemical diversion held in Kansas City, Missouri. Mr. Blanton reported that Ohio is still seen as a leader in the response to prescription drug abuse. Mr. Blanton stated that the biggest issue discussed was states' efforts to establish prescription monitoring programs (PMP).

On October 6, Mr. Miller met with the Ohio Department of Health to discuss Ohio's 2015 J-1 Vista Waiver Program.

**Fiscal Report:** Mr. Blanton stated that the Board's Fiscal Years 2016/2017 budget was submitted on time on September 17. The Board has received confirmation from the Office of Budget and Management that the budget contained no technical defects. Mr. Blanton stated that it remains to be seen how the budget will be rolled into the larger executive budget from the Governor's office.

Mr. Blanton stated that the Board's revenue for August was \$550,310.00 and expenditures were \$828,784.00. Mr. Blanton stated that part of the discrepancy between these numbers is that August was one of two months this year in which three payroll periods posted instead of the usual two. Mr. Blanton stated that the Board is about on target with its year-to-date projections.

**Publications:** Mr. Blanton stated that a total of three issues of *Med Bd E-News* were published in September, including a special issue on September 15 focused on Ohio's Falls Prevention Awareness efforts with the Department of Health.

**Presentations:** On September 10, Dr. Steinbergh and Ms. Wehrle met with Ohio University Heritage College of Medicine (OUHCOM) students to discuss actions taken by the Board.

On September 11, Mr. Blanton gave a presentation on professional ethics and boundary issues at Case Western Reserve University. Mr. Blanton commented that the presentation was very productive.

On September 17, Ms. Anderson provided a presentation via teleconference on rule 4731-11-09, prescribing to persons not seen, to the Upper Midwest Telehealth Regional Conference. Mr. Blanton commented that Dr. Ramprasad and Ms. Anderson have been very active in disseminating information regarding upcoming changes to this rule.

On September 24, Ms. Anderson participated in a panel discussion on prescribing issues at the Ohio Pain Initiative Conference in Columbus. Mr. Blanton stated that he attended the conference and noted that Ms. Anderson did a fantastic job representing the Board and explaining the history of the Board's rules.

On October 6, Ms. Wehrle provided an overview of the October 2014 Board meeting for medical students at OUHCOM, who are currently attending the meeting.

**Recognition by the Governor's Office:** Mr. Blanton stated that on September 24, the Board was invited to a recognition ceremony hosted by Governor Kasich and Lieutenant Governor Taylor as one of the agencies who met the 15% Minority Business Enterprise (MBE) set-aside goal for the year. Mr. Blanton commented that the Board went beyond the 15% goal, thanks in large part to efforts by Ms. Loe, Mr. Holben, and Ms. Oldham.

Dr. Sethi returned to the meeting at this time.

**2014 OARRS Project:** Regarding the Board's 2014 Ohio Automated Rx Reporting Service (OARRS) Project, Mr. Blanton stated that the Board's investigators tried to hand-deliver 1,389 letters to prescribers of controlled substances who had not yet registered with OARRS. Of those, 918 have begun or completed the OARRS registration process and 471 have not. Of those 471, 55 had died or retired and 14 had moved out of state, leaving 402 controlled substance prescribers who have not yet registered. Mr. Blanton speculated that these prescribers may be in the process of registering or may have stopped prescribing controlled substances.

Dr. Sethi asked if physicians who do not prescribe medications are still required to register with OARRS. Ms. Anderson answered that the current rule, which covers all controlled substances, does not require physicians to register for OARRS, but it does require physicians to check OARRS if there are red flags for controlled substance abuse or diversion. Ms. Anderson stated that the new rule which will become effective on January 1, 2015, requires physicians who prescribe opioids or benzodiazepines to certify on their license renewal application that they have registered with OARRS.

**Financial Disclosure Statements:** Mr. Blanton stated that the Board members have been provided a guidance document titled "Reporting Gifts on Financial Disclosure Statements." Mr. Blanton briefly

explained that Board members are not required to disclose gifts from family members, as that term is defined by statute. Gifts from non-family members must be reported if the fair market value is more than \$75.00 or the aggregate value is over \$75.00. Mr. Blanton also explained how to report instances of paying less than fair market value of an item. Responding to questions from the Board, Ms. Debolt explained that official travel expenses paid by the Federation of State Medical Boards (FSMB) are not required to be reported because the State Medical Board of Ohio pays dues to the FSMB.

## REPORTS BY ASSIGNED COMMITTEES

### POLICY COMMITTEE

Mr. Gonidakis stated that next month draft legislation regarding the One-Bite Exemption will be presented to the Committee and the Board for approval to be circulated to interested parties.

Mr. Gonidakis stated that he, Mr. Kenney, and Mr. Blanton met with Senator Shannon Jones to discuss the Board's proposed fining authority. Mr. Gonidakis commented that the meeting went well and Senator Jones seemed receptive to helping the Board get this proposal through the legislature and to the Governor's desk by the end of this year.

### PROPOSED UPDATE TO RULE 4731-11-09, PRESCRIBING TO PERSONS NOT SEEN BY PHYSICIAN

Ms. Anderson stated that, based on suggestions from the Policy Committee, the proposed update to Rule 4731-11-09(A)(1) now reads as follows:

The physician shall complete and document a medical evaluation and collection of relevant clinical history which meets minimal standards as if the evaluation was completed in a face-to-face interaction.

Ms. Anderson stated that this language is responsive to the issue that physicians of certain specialties do not routinely take patients' vital signs as part of their standard of care.

Ms. Anderson continued that the proposed update to Rule 4731-11-09(A)(2), regarding diagnostic equipment used to examine patients in remote locations, will require that equipment to meet three conditions. First, the diagnostic equipment must be capable of transmitting images of the patient's physical condition in real time. Second, the diagnostic medical equipment must be capable of transmitting the patient's physical condition and other relevant physical data or vital signs necessary to establish diagnosis and identify the underlying conditions or contraindications to the treatment recommended and provided. Third, the diagnostic equipment must have the ability to be adjusted for better image quality and definition.

Ms. Anderson added that language in Rule 4731-11-09(B)(2)(c), regarding advanced practice nurses, has been amended with guidance from the Board of Nursing so that correct terminology is used.

**Dr. Steinbergh moved to approve the draft amended rule for circulation to interested parties. Dr. Bechtel seconded the motion.** All members voted aye. The motion carried.

#### UPDATE ON RESEARCH REGARDING RULE 4731-11-04, WEIGHT LOSS RULE

Ms. Anderson stated that the Board has historically expressed concerns about the diversion potential of short-term weight loss medications. Ms. Anderson, Mr. Schmidt, Ms. Wehrle, Mr. Beck, and Mr. Katko researched this issue thoroughly and specifically compared Ohio's rules to those of the Commonwealth of Kentucky, whose rules on short-term weight loss medications are less stringent than Ohio's. Specifically, Kentucky does not require a face-to-face visit with the physician every 30 days and the Body Mass Index (BMI) threshold for prescribing the medications is lower. Ms. Anderson found that the Kentucky State Police is having problems with diversion of phentermine, thus showing the significant diversion potential of that weight-loss medication.

Ms. Anderson stated that the staff would like to recommend some minor changes to the Board's short-term weight loss rules, but no significant changes or loosening of requirements. Ms. Anderson stated that she will present draft amendments to the Policy Committee next month using information gathered during research. Ms. Anderson noted that this rule only concerns short-term weight loss medications and not long-term weight maintenance medications, which are addressed in a different rule.

#### PROPOSED UPDATES TO RULES 4731-11-02, 4731-11-03, AND 4731-11-05, CONTROLLED SUBSTANCE PRESCRIBING RULES

Ms. Debolt stated that these rules are currently undergoing the five-year review process. Ms. Debolt noted several proposed amendments to these rules which are intended to streamline and clarify its provisions.

Ms. Debolt stated that during discussions, Dr. Schachat noted that cocaine hydrochloride has additional legitimate uses which are not included in the Board's rule. In response, the draft amendment to Rule 4731-11-03(A)(2) reads as follows:

A physician shall not utilize the schedule II controlled substance cocaine hydrochloride for purpose other than one of the following: (a) as topical anesthetic in situations where it is properly indicated; (b) for in-office diagnostic testing for pupillary disorders.

Ms. Debolt noted one other proposed amendment. While the current rules states that the physician must perform a thorough physical examination, the proposed amendment states that it must be an "appropriate" examination. Ms. Debolt stated that this change reflects discussions that have taken place in the Policy Committee over the last few months.

**Dr. Saferin moved to approve the proposed amendments to Rules 4731-11-02 and 4731-11-03 and the proposed rescission of Rule 4731-11-05 to be sent to interested parties for comment. Dr. Steinbergh seconded the motion.**

Dr. Steinbergh asked if the Rule can be further amended if the Board discovers additional legitimate uses

for cocaine hydrochloride. Ms. Debolt replied that the Rule can be further amended based on comments from the public.

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

PROPOSED UPDATE TO RULE 4731-1-02, APPLICATION OF RULES GOVERNING THE LIMITED BRANCHES OF MEDICINE

Ms. Debolt stated that the proposed amendments to Rule 4731-1-02 are mostly designed to clarify the rule. Ms. Debolt noted one significant amendment that would recognize the American Electrology Association as the national professional organization whose code of ethics and standards of practice cosmetic therapist will be held to.

**Dr. Steinbergh moved to approve the proposed amendments to Rule 4731-1-02, for circulation to interested parties. Dr. Bechtel seconded the motion.** All members voted aye. The motion carried.

LICENSURE COMMITTEE

CERTIFICATE OF CONCEDED EMINENCE APPLICATION REVIEWS

ANDREW NICHOLAS REDINGTON, M.D.

Dr. Saferin stated that Dr. Redington has applied for a Certificate of Conceded Eminence. Dr. Redington has accepted a full-time position at the University of Cincinnati College of Medicine. Dr. Saferin commented that Dr. Redington has an outstanding *curriculum vitae*. The Licensure Committee recommends approving the application.

**Dr. Saferin moved to approve Dr. Redington's application for a Certificate of Conceded Eminence. Dr. Rothermel seconded the motion.** A vote was taken:

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

The motion carried.

ZELIA MARIA DA SILVA CORREA, M.D.

Dr. Saferin stated that Dr. Correa has applied for a Certificate of Conceded Eminence. Dr. Saferin stated that this matter was tabled by the Licensure Committee so that more information can be gathered.

LICENSURE APPLICATION REVIEWSAMBER EL-HALABY, M.D.

Dr. Saferin reported that Dr. El-Halaby has applied for restoration of her Ohio medical license. Dr. Saferin reported that Dr. El-Halaby is up-to-date with her Continuing Medical Education (CME) and is specialty board-certified. The Licensure Committee recommended that the application be approved as presented.

**Dr. Bechtel moved to approve Dr. El-Halaby's restoration application as presented. Dr. Rothermel seconded the motion.**

Dr. Steinbergh stated that Dr. El-Halaby trained as a pathologist at University Hospitals in Cleveland from 2005 to 2009. Dr. El-Halaby has not practiced clinical medicine since April 2012. Dr. Steinbergh stated that since Dr. El-Halaby holds current board certification from the American Board of Pathology, she supports approving her restoration application as presented.

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

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

The motion carried.

MICHAEL LOREY, P.A.

Dr. Saferin stated that the Licensure Committee tabled the matter of Mr. Lorey's restoration application so that more information can be gathered.

Dr. Steinbergh asked what information the Licensure Committee is seeking. Dr. Ramprasad responded that though Mr. Lorey has recently certified with the National Commission on Certification of Physician

Assistants (NCCPA), he has not practiced in 10 to 11 years. Dr. Ramprasad noted that when physicians are away from practice for a similar time, they need to do a residency. Though there are no residencies for physician assistants, the Committee wanted to ensure that Mr. Lorey would have a mentor when he began practicing again. Dr. Saferin added that, due to the length of time since Mr. Lorey last practiced, the Committee would like to ensure that he is supervised on-site by his supervising physician for a period for time, perhaps 90 days. Dr. Ramprasad stated that language is being drafted and will be presented to the Licensure Committee and the Board next month.

WAIVER REQUEST FOR USMLE TEN-YEAR RULE

WEI-MING KAO, M.D., PH.D.

Dr. Saferin stated that in February 2014, the Board approved Dr. Kao's request for a good-cause waiver for being over the 10-year limit for taking all steps of the United States Medical Licensing Examination (USMLE) and allow him to take Step 3 of the USMLE. Dr. Kao has now taken Step 3 of the USMLE and did exceptionally well. Dr. Kao is now requesting a good-cause exception to the 10-year rule so that he may be granted a license. The Licensure Committee recommended approving Dr. Kao's request.

**Dr. Saferin moved to approve the good-cause exception of the 10-year rule, as outlined in 4731-6-14(C)(3)(b)(ii), and accept Dr. Kao's examination sequence in order for him to be granted a license. Dr. Steinbergh seconded the motion.**

Dr. Steinbergh noted that Dr. Kao finished his internal medicine/pediatrics residency at MetroHealth Medical Center in Cleveland, where he completed three years of training in addition to completing his Ph.D. in biomedical sciences. For these reasons, Dr. Steinbergh agreed with granting Dr. Kao's request.

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

The motion carried.

PROPOSED RULE FOR PROCESSING APPLICATIONS FOR SERVICE MEMBERS, VETERANS, OR SPOUSES OF SERVICE MEMBERS OR VETERANS

Dr. Saferin stated that the Licensure Committee recommends approval of this proposed rule, with the

amendment that the same change be made on applications for renewal and for restoration of licenses.

**Dr. Saferin moved to approve the proposed rule, with the additional provision that the same changes proposed for licensure applications will also be made for license renewal and license restoration applications. Dr. Rothermel seconded the motion.** All members voted aye. The motion carried.

#### FINANCE COMMITTEE

Mr. Kenney stated that he, Mr. Gonidakis, and Mr. Blanton met with Senator Shannon Jones to discuss the Board's proposed fining authority. Mr. Kenney stated that the mechanism for getting this proposal through the legislature is currently unclear; though it was initially going to be part of other legislation, it may become its own separate bill. Mr. Kenney stated that he will work hard to obtain approval of this provision before the end of the year. Mr. Gonidakis opined that there is very little opposition to the proposal and it may be a matter of timing and the support of Senator Jones as to whether it will pass the legislature.

Regarding the coming rent increase, Mr. Kenney stated that the Board has no negotiation power in that matter. When the increase becomes effective it will be approximately \$11.00 per square foot. Mr. Kenney commented that that price is probably rather inexpensive for downtown Columbus, but is substantially higher than it was two years ago.

#### PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

##### APPLICATIONS FOR CERTIFICATE TO PRACTICE AS A PHYSICIAN ASSISTANT REVIEWS

##### GREGORY BEE, P.A., AND JENNIFER PARVU, P.A.

Dr. Sethi stated that the Physician Assistant/Scope of Practice Committee reviewed the applications of Jennifer Parvu, P.A., and Gregory Bee, P.A. At that time, it was noted that the cover memos had incorrectly stated that the physician assistants were applying for provisional certificates to prescribe, when in fact they were applying for licenses to practice as physician assistants. The Committee tabled both items so that the memos could be corrected and the full Board could take up the matters.

Dr. Sethi stated that Ms. Parvu has completed an Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) approved undergraduate program at the Kettering College of Medical Arts. Ms. Parvu also holds a master's degree in exercise and health studies from Miami University. Dr. Sethi stated that holding a master's degree is a requirement for being licensed as a physician assistant, but a master's degree in exercise and health studies is not specifically listed as an acceptable degree in the Board's rules. Consequently, the Board must determine if Ms. Parvu's master's degree is clinically relevant to the practice of a physician assistant. Mr. Bee, who holds a master's degree in kinesiology from James Madison University, is in a similar situation.

Dr. Sethi opined that the Board needs more research into the nature of these educational programs before making a decision on these matters. Dr. Sethi asked if holding a master's degrees in kinesiology or in exercise and health studies is relevant to the practice of a physician assistant and the judgments that

practicing in that field requires.

Dr. Steinbergh agreed that more research should be done on the nature of these master's degrees and the educational courses they require. Dr. Steinbergh suggested that the Board examine such educational programs across a broad spectrum and compare the curricula to that of the degrees which the Board staff can accept administratively. Dr. Steinbergh suggested that if the comparisons are similar, then the Board may find Ms. Parvu's and Mr. Bee's degrees to be acceptable. Dr. Sethi stated that if that is the case, then future applicants with these degrees can be approved administratively.

Dr. Rothermel asked if the Board has previously granted physician assistant licenses to applicants with these master's degrees. Dr. Steinbergh recalled one applicant with a master's degree in kinesiology with the Board accepted. However, Dr. Steinbergh stated that the membership of the Board has changed considerably since that time and opined that more research should be gathered so the current Board can make its determination on this matter.

**Dr. Sethi moved to table the matters of Ms. Parvu and Mr. Bee. Dr. Rothermel seconded the motion.** All members voted aye. The motion to table carried.

## RULES & POLICIES

### PROPOSED RULES 4731-11-01 AND 4731-11-12, OFFICE-BASED OPIOID TREATMENT

Ms. Debolt stated that this proposed amended rule and proposed new rule have been reviewed by the Common Sense Initiative (CSI) office, which made no recommendations for changes. The proposed amended rules are now ready to be filed with the Joint Commission on Agency Rule Review (JCARR).

**Dr. Steinbergh moved that the proposed amended Rule 4731-11-01 and proposed new Rule 4731-11-12 be filed with JCARR for the formal rulemaking process. Dr. Saferin seconded the motion.** All members voted aye. The motion carried.

### DEFINITION OF "ARMED FORCES" FOR PROPOSED RULES

Ms. Debolt stated that this proposal would change the definition of the term "armed forces" in rules which the Board has already approved for filing with the Common Sense Initiative (OSI) related to considering military training and experience in the licensing requirements for anesthesiologist assistants, radiologist assistants, acupuncturists, Oriental medicine practitioners, and genetic counselors. Specifically, the proposal would include the following under the definition of armed forces: The commissioned corps of the United States Public Health Service, the Merchant Marine Service during wartime, such other service as may be designated by Congress, and the Ohio organized militia when engaged in full-time national guard duty for a period of more than 30 days. Ms. Debolt stated that these designations are taken from statutes defining armed services.

**Dr. Saferin moved to amend the definition of the term "armed forces" in proposed rules 4731-24-05, 4762-1-01, 4774-1-02.0, and 4778-1-02.1 as presented. Dr. Saferin further moved to approve the**

**proposed rules, as amended, for filing with the Common Sense Initiative Office. Dr. Bechtel seconded the motion.** All members voted aye. The motion carried.

The Board took a brief recess at 1:50 p.m. and returned at 2:10 p.m.

#### COMPLIANCE COMMITTEE

Dr. Ramprasad stated that on September 10, 2014, the Compliance Committee met with Aiyappan Menon, M.D., Elizabeth S. Unk, M.D., and Anthony D. Zucco, D.O., and continued them under the terms of their respective Board actions. The Compliance Committee also accepted Compliance staff's report of conferences on August 11th and 12th, 2014, and further approved the draft minutes from the August 13, 2014 Compliance Committee.

Dr. Ramprasad added that the Compliance Committee also discussed the possibility of holding probationary office conferences via electronic means such as webcams. The Committee agreed to evaluate requests for electronic appearances on a case-by-case basis.

#### BOARD-APPROVED TREATMENT PROVIDER RENEWAL APPLICATION

##### CLEVELAND CLINIC FOUNDATION

Dr. Ramprasad stated that the Compliance Committee recommended that the Application for Certificate of Good Standing from the Cleveland Clinic be approved for the types of treatment and assessments at the Lutheran Hospital, 1730 W. 25th Street, Cleveland, OH, for outpatient treatment, aftercare, 72-hour inpatient assessments, and return to work evaluations.

**Dr. Steinbergh moved to approve the renewal application for a Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from the Cleveland Clinic Foundation. Dr. Bechtel seconded the motion.** A vote was taken:

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

The motion carried.

FINAL PROBATIONARY APPEARANCESERICKA L. DAVIS, P.A.

Ms. Davis was appearing before the Board pursuant to her request for release from the terms of her October 13, 2010 Consent Agreement. Ms. Bickers reviewed Ms. Davis' history with the Board.

Dr. Steinbergh asked how Ms. Davis is doing and what her ongoing program is. Ms. Davis replied that this process has been one of the best things that could have happened to her. Ms. Davis stated that she has learned who she is and how to cope with stresses in a positive way. Ms. Davis stated that she has very strong social and family support as well as a strong sponsor. Ms. Davis stated that she still undergoes some therapy, which she finds beneficial. Ms. Davis stated that she will continue to attend meetings on a weekly basis. Ms. Davis commented that her life could not be any better and she does not want to change anything that she is doing currently.

Dr. Steinbergh asked how many hours Ms. Davis works and what type of medical practice she is in. Ms. Davis replied that she generally works 40 to 50 hours in an orthopedic spine surgery practice. Ms. Davis stated that the practice is fairly busy but her employer is extremely understanding of family obligations and what has gone on in her life.

Dr. Ramprasad asked if Ms. Davis has any family history of alcohol abuse. Ms. Davis answered that her grandfather had similar problems. Dr. Ramprasad asked if Ms. Davis has discussed this issue with her children and educated them about the risks. Ms. Davis replied that she has discussed this with her children, especially her daughter who has recently begun college. Ms. Davis stated that her daughter has actually attended Alcoholics Anonymous (AA) meetings with her and they communicate very openly about alcoholism and drug abuse.

Dr. Ramprasad asked where Ms. Davis saw herself three, four, or even ten years from now. Ms. Davis responded that her life is fantastic right now and she does not want to change anything. Ms. Davis stated that she wakes up every morning, goes through the same routine, and this is what works for her. Ms. Davis stated that it is a day-to-day process rather than looking into the future.

Dr. Ramprasad asked Ms. Davis to describe her support system. Ms. Davis answered that she gets support from AA meetings and her AA sponsor. Ms. Davis stated that she also has several friends in the AA program who she communicates with regularly, in addition to supportive friends from outside the program. Ms. Davis stated that her children provide support as well.

Dr. Steinbergh cautioned Ms. Davis that, although her life is going well now, there will be stressors in her life that she cannot anticipate. Dr. Steinbergh advised Ms. Davis to always be vigilant against relapse and to have strategies in place for when life becomes stressful. Ms. Davis agreed and noted that during her sobriety she has undergone such stressful events as a divorce, moving her daughter to college, and getting a new job. Ms. Davis stated that she has the tools to enable her to work through stressful times.

Dr. Saferin asked if Ms. Davis serves as a sponsor for anyone in AA. Ms. Davis replied that she has been a

temporary sponsor, but does not feel she can commit to being a full-time sponsor at this point due to significant time restraints in her life. Ms. Davis stated that she would like to be a full-time sponsor sometime in the future.

**Dr. Steinbergh moved to release Ms. Davis from the terms of her October 13, 2010 Consent Agreement, effective October 16, 2014. Dr. Saferin seconded the motion.** All members voted aye. The motion carried.

STEVEN H. SUESS, M.D.

Dr. Suess was appearing before the Board pursuant to his request for release from the terms of his October 14, 2009 Consent Agreement. Ms. Bickers reviewed Dr. Suess' history with the Board.

Dr. Steinbergh asked if Dr. Suess still lives in South Carolina. Dr. Suess answered affirmatively. Dr. Steinbergh asked if Dr. Suess continues to practice family medicine. Dr. Suess answered that he was boarded in family medicine, but has been practicing in urgent care and emergency medicine for the last six years. Dr. Suess stated that his current practice is going well.

Dr. Steinbergh asked where Dr. Suess is in his life and his recovery, and well as what life will look like once he is released from his Consent Agreement. Dr. Suess replied that he is currently living in Florence, South Carolina and practicing emergency medicine in a small critical-access hospital in a rural area. Dr. Suess stated that the area in which he practices is poverty-stricken and many of the patients have little means and no insurance. Dr. Suess commented that his practice has been a gratifying experience. Dr. Suess stated that prior to working in emergency medicine and urgent care, he had a private family medicine practice for 20 years. Dr. Suess intends to continue practicing emergency medicine for the time being, although he is exploring options for returning to family medicine or urgent care. Dr. Suess stated that he attends the Recovery Professionals Program (RPP) and caduceus meetings in South Carolina and undergoing random testing in accordance with both his Ohio Consent Agreement and his agreement with the South Carolina Board of Medical Examiners. Dr. Suess commented that he will be released from his South Carolina agreement, contingent upon being released from his Ohio Consent Agreement.

Dr. Steinbergh asked about Dr. Suess' recovery program going forward. Dr. Suess stated that he is in a much better place now than in 2008 and that sobriety has been good for him physically, mentally, and spiritually. Dr. Suess stated that attending Alcoholics Anonymous (AA) meetings has reestablished his faith in a higher power, the importance of regular prayer, and the importance of working with others. Dr. Suess stated that he and his sponsor periodically go to meetings at the county jail and he finds that to be beneficial. Dr. Suess has also co-sponsored some people recently. Dr. Suess stated that attending AA meetings has made him a significantly better person. Dr. Suess stated that he intends to continue his program and turn things over to a higher power when things get tough. Dr. Suess stated that he has learned to take one day at a time.

Dr. Rothermel asked how Dr. Suess' one-year suspension from the Ohio Board affected him, in both positive and negative ways. Dr. Suess replied that he had been required to complete a 28-day inpatient rehabilitation program, even though he had been sober and attending AA meetings for five months at that

time. However, Dr. Suess was able to help others within the treatment program and by helping others, he also helped himself. Dr. Suess commented that a delay in beginning his 28-day treatment program ultimately delayed the reinstatement of his Ohio license. Dr. Suess had a job arranged with a South Carolina hospital, but they wanted his Ohio license to be reinstated first. The delay in reinstatement cost Dr. Suess his job at the hospital because they could not wait any longer for the reinstatement. Dr. Suess stated that he was out of work for three months before he was offered a job in emergency medicine in South Carolina, which he has been doing ever since.

Dr. Steinbergh was surprised that, even though Dr. Suess' Ohio medical license was suspended for one year, he was only out of work for three months and was able to practice in South Carolina. Dr. Steinbergh asked if the South Carolina Board ever suspended Dr. Suess' license in that state. Dr. Suess replied that he had a private agreement with the South Carolina Board which did not include a suspension of his license. Dr. Steinbergh commented that in Ohio, all consent agreements are public knowledge. Ms. Bickers asked if the South Carolina Board had agreed to not take a formal public action against Dr. Suess so long as he remained compliant with RPP. Dr. Suess was uncertain if a formal public action would have been taken, but stated that his participation in RPP had been mandatory. Dr. Saferin asked if the South Carolina Board had fined Dr. Suess. Dr. Suess replied that there was no fine.

Mr. Kenney expressed concern that the medical students in attendance may get the impression that having one's license suspended is not a hardship because one could simply go and practice in another state. Mr. Kenney stated that normally, a suspension of medical license in one state will often trigger similar suspension of any licenses held in other states. Mr. Kenney asked Dr. Suess to describe some of the hardships that were caused by the Ohio Board's action.

Dr. Suess stated that he first came to the attention of the Ohio Board because he was arrested for Driving Under the Influence (DUI) in 2007. Dr. Suess stated that he incurred significant expenses in attorney fees. Dr. Suess stated that having one's license suspended has tremendous consequences and in most cases the practitioner cannot work. Dr. Suess continued that under a consent agreement, the practitioner must call a laboratory daily to see if they have been randomly selected for a drug or alcohol test. The practitioner must also attend AA meetings three times per week over an extended period. In addition, the practitioner must pay for an inpatient rehabilitation program, which can range from \$10,000.00 to \$30,000.00. Dr. Suess stated that Ohio requires a 28-day inpatient program, but South Carolina mandates a 90-day program. Such actions can also create difficulties in gaining hospital credentials or being approved by insurance companies. In addition, the situation can be very hard on the practitioner's family and co-workers.

Mr. Kenney thanked Dr. Suess and noted that though his DUI was seven years ago, he is still dealing with the consequences of it today. Mr. Kenney stated that these situations can be very hard on children and often splits up families. Mr. Kenney opined that Dr. Suess' explanation of the consequences of the Board's action helped more people than Dr. Suess would imagine.

Dr. Steinbergh agreed with Mr. Kenney and advised the medical students that drinking and driving can be devastating, not only to oneself but also to one's family and could kill someone. Dr. Steinbergh reiterated Mr. Kenney's point that an action by the Ohio Board begins a domino effect on any licenses that may be

October 8, 2014

---

held in other states, noting that Dr. Suess' situation in South Carolina is very unusual.

Dr. Steinbergh was glad to hear the Dr. Suess is healing and that he has a process in place for himself going forward.

**Dr. Steinbergh moved to release Dr. Suess from the terms of his October 14, 2009 Consent Agreement, effective October 14, 2014. Dr. Saferin seconded the motion.** All members voted aye. The motion carried.

Thereupon, at 2:45 p.m., the October 8, 2014 session of the State Medical Board of Ohio was adjourned by Dr. Ramprasad.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on October 8, 2014, as approved on November 5, 2014.

  
\_\_\_\_\_  
Krishnamurthi Ramprasad, M.D., President

  
\_\_\_\_\_  
Mark Bechtel, M.D., Secretary

(SEAL)

