

May 11, 2016

MINUTES**THE STATE MEDICAL BOARD OF OHIO****May 11, 2016**

Amol Soin, Acting President, called the meeting to order at 9:55 a.m. in the Administrative Hearing Room, 3rd Floor, the James A. Rhodes Office Tower, 30 E. Broad Street, Columbus, Ohio 43215, with the following members present: Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Anita M. Steinbergh, D.O.; Donald R. Kenney, Sr.; Robert P. Giacalone; Andrew P. Schachat, M.D.; and Michael Schottenstein, M.D. The following members did not attend: Michael L. Gonidakis, President; and Richard Edgin, M.D.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; Susan Loe, Director of Human Resources and Fiscal; Sallie J. Debolt, Senior Counsel; William Schmidt, Chief of Investigations; Joan K. Wehrle, Education and Outreach Program Manager; Jonithon LaCross, Public Policy & Governmental Affairs Program Administrator; Marcie Pastrick, Mark Blackmer, Cheryl Pokorny, Gregory Taposci, James Roach, and Kimberly Lee, Enforcement Attorneys; Kyle Wilcox, Melinda Snyder, and Emily Pelphrey, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Danielle Blue, Hearing Examiner; Alexandra Murray, Managing Attorney for Standards Review, Experts, and Intervention; Annette Jones and Angela Moore, Compliance Officers; Mitchell Alderson, Administrative Officer; Chantel Scott, Chief of Renewal; Cathy Hacker, Physician Assistant Program Administrator; Christine Schwartz, Legal and Policy Staff Attorney; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Saferin moved to approve the draft minutes of the April 13, 2016, Board meeting, as amended. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried.

APPLICANTS FOR LICENSURE

Dr. Rothermel 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 anesthesiologist assistant applicants listed in Exhibit "B", the genetic counselor applicants listed in Exhibit "C," the massage therapist applicants listed in Exhibit "D," the Oriental medicine practitioner applicants listed in Exhibit "E," the physician assistant applicants listed in Exhibit "F," and the Physician Applicants listed in Exhibit "G." as listed in the agenda supplement and handout. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried.

REPORTS AND RECOMMENDATIONS

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

Dr. Soin 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: Bethany Joy Notestine; Firas A. Rabi, M.D.; Dawn Nicole Sellheim, L.M.T.; and Christopher A. Stegawski, M.D. A roll call was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

Dr. Soin 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. Rothermel	- aye
Dr. Saferin	- aye
Mr. Giacalone	- aye
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye

Dr. Soin 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. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

Dr. Soin 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.

BETHANY JOY NOTESTINE

Dr. Soin directed the Board's attention to the matter of Bethany Joy Notestine. Objections have been filed to Mr. Decker's Report and Recommendation and were previously distributed to Board members.

Dr. Soin stated that a request to address the Board has been timely filed by Ms. Notestine. Five minutes will be allowed for that address.

Ms. Notestine was represented by her attorney, Kevin Kerns.

Mr. Kerns stated that Ms. Notestine met with her probation officer on May 5, 2016, and was given a letter. Mr. Kerns stated that while the contents of that letter will not be in evidence in this case, he will refer to the letter in his remarks, with the acknowledgement and approval of Mr. Wilcox.

Mr. Kerns stated that over eleven years ago Ms. Notestine made very serious mistakes. As a result, Ms. Notestine was incarcerated for almost ten years. Mr. Kerns stated that during her incarceration and since her release, Ms. Notestine has done everything possible to make amends for her mistakes and to prepare herself to practice as a massage therapist. Mr. Kerns stated that Ms. Notestine has been continuously employed since her release. Ms. Notestine's former employers have testified that she was an excellent employee and that they would rehire her. Mr. Kerns stated that if Ms. Notestine is granted a massage therapy license, she has been offered employment by Salon Reveal in Dayton.

Mr. Kerns opined that of all the testimony at Ms. Notestine's hearing, the most significant was that of the corrections officers from the federal facility in Tallahassee, Florida, and Ms. Notestine's supervisor from Alvis House Cope Center, the halfway house that Ms. Notestine reported to when she left prison. Mr.

Kerns noted that LaFay Henry, the drug treatment specialist in Tallahassee, testified that Ms. Notestine never tried to negate her behavior, was very remorseful, was very motivated to make positive changes, and was promoted to be a mentor to other inmates. Mr. Kerns further noted that Craig Broadwater, who supervised the prison call center, testified that Ms. Notestine was an outstanding agent and was identified as a mentor for other inmates for both personal and performance issues.

Mr. Kerns continued that Ms. Notestine's supervisor at Alvis House, Leslye Crawford, testified that Ms. Notestine's outgoing personality always made positive peer connections and she committed no violations. Ms. Crawford further testified that Ms. Notestine was quickly promoted through the three levels at Alvis House and she never declined to do anything she was asked to do.

Mr. Kerns stated that on May 5, Ms. Notestine's probation officer, Ms. Howard, gave her a letter that stated in part that Ms. Notestine has "changed her lifestyle by making better decisions, keeping a positive attitude, and maintaining a positive pro-social network." The letter also stated that Ms. Howard "does not have any concerns with her [Ms. Notestine] obtaining her licensure." Mr. Kerns stated that Ms. Notestine is now eligible for early release and he plans to file that request in federal court soon.

Mr. Kerns stated that it is significant that not one of the witnesses he had contacted regarding Ms. Notestine's hearing refused to testify, which he characterized as highly unusual. Mr. Kerns added that this case is important to him personally because Ms. Notestine reminded him of his niece who had just returned from Paraguay after two years in the Peace Corps. Mr. Kerns asked the Board to adopt the Hearing Examiner's Proposed Order.

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

Mr. Wilcox stated that while the Hearing Examiner did a good job presenting the facts in the Report and Recommendation, he disagreed with the Proposed Order. Mr. Wilcox stated that Ms. Notestine was convicted in federal court of a very serious felony involving drug trafficking. Mr. Wilcox stated that Ms. Notestine served over eight years in prison and has made several changes that demonstrate growth and maturity. Mr. Wilcox stated that several witnesses testified on Ms. Notestine's behalf, including individuals from the federal institution where Ms. Notestine was incarcerated and from the halfway house she went to following release from prison.

Mr. Wilcox agreed with the Hearing Examiner that Ms. Notestine should be granted a license with probationary terms, but he further opined that the license should be immediately suspended in order to send a message that the Board takes criminal convictions seriously. Mr. Wilcox suggested that a 180-day suspension would be appropriate with conditions for reinstatement that include an ethics course, followed by a minimum three-year probation. Mr. Wilcox stated that Ms. Notestine has been evaluated by other government entities such as the prison system, but the Medical Board still must ensure that she is safe to practice massage therapy.

Dr. Steinbergh moved to approve and confirm Mr. Decker's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Bethany Joy Notestine. Dr. Schottenstein seconded the motion.

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

Dr. Soin stated Ms. Notestine had made mistakes in the past and had gotten involved in drug-related incidents and arrests. These incidents include being found with 100 grams of marijuana in 2004 and purchasing heroin with intent to resell it in 2005. Subsequent involvement in drug trafficking and other drug-related offences led to Ms. Notestine being sentenced to incarceration for 120 months, with a portion of that time spent at a halfway house. Dr. Soin stated that Ms. Notestine was reportedly a model inmate during her incarceration and that she has done her best to reconcile some of her past mistakes. Ms. Notestine passed the Massage and Bodywork Licensing Examination (MBLEX) in 2014 and has applied for an Ohio massage therapy license.

Dr. Soin opined that if an individual is truly rehabilitated and could possibly contribute to society, they should be given that opportunity. Dr. Soin also noted that Ms. Notestine has applied for a massage therapy license and not a medical license. Dr. Soin stated that Ms. Notestine has served her time and has paid her debt to society. However, Dr. Soin also agreed with the Assistant Attorney General's comments regarding suspension. Dr. Soin stated that the Board needs to send a message that criminal activity is not acceptable. Dr. Soin suggested that the Proposed Order be amended to grant Ms. Notestine a massage therapy license and immediately suspend that license for 180 days, to be followed by probationary terms. Dr. Steinbergh agreed.

Dr. Steinbergh moved to amend the Proposed Order to grant Ms. Notestine's application for a massage therapy license and suspend that license for a minimum of 180 days. Dr. Steinbergh further moved that the probationary terms in the Proposed Order be in effect for a minimum of three years. Dr. Schottenstein seconded the motion.

Dr. Steinbergh asked the Board to consider making the a personal/professional ethics course a condition for reinstatement of Ms. Notestine's license, rather than a probationary term as in the Proposed Order.

Mr. Kenney opined that when an applicant has paid for their past mistakes, they should be allowed to practice under the Board's monitoring. Mr. Kenney stated that Ms. Notestine has already been unable to practice for quite some time and he did not see the benefit of keeping her from practicing for an additional 180 days. Mr. Kenney stated that Ms. Notestine served her criminal sentence and she should be able to get on with her life.

Mr. Giacalone agreed with Mr. Kenney's comments and opined that a 180-day suspension would serve no purpose other than to be punitive. Mr. Giacalone opined that if someone has worked to rehabilitate themselves, the Board should not continue to penalize them just to show that the Board does not take this matter lightly. Mr. Giacalone stated that the Board does take this matter seriously and he agreed with the Proposed Order's probationary terms.

Based on the Board members' comments, Dr. Schottenstein suggested that the Board consider a suspension of only 90 days with a three-year probationary period. Mr. Kenney opined that there should be no suspension of Ms. Notestine's license. Dr. Schachat agreed with Mr. Kenney and added that a period of

suspension could cause Ms. Notestine to lose some of her skills when she does begin practicing. Dr. Schachat stated that the Board will be able to determine if Ms. Notestine is practicing appropriately during her probation.

Dr. Soin commented that while there does not appear to be sufficient support for the amendment, it is important to recognize that the Board does not take criminal actions lightly. Dr. Steinbergh stated that the evidence demonstrates that Ms. Notestine is doing well at this point. However, Dr. Steinbergh stated that giving a license to someone convicted of a felony is not an easy thing for the Board to do. Dr. Steinbergh stated that Ms. Notestine's conviction was very serious and involved community damage and human damage. Dr. Steinbergh stated that it is important that Ms. Notestine understands the gravity of this matter and the responsibility that comes with having a license from the Medical Board.

Dr. Steinbergh wished to withdraw her motion to amend. No Board member objected to withdrawing the motion. The motion to amend was withdrawn.

Dr. Steinbergh suggested that in lieu of a license suspension, the probationary period in the Proposed Order be extended from two years to three years.

Dr. Steinbergh moved to amend the Proposed Order to extend the period of probation from a minimum of two years to a minimum of three years, with all other provisions unchanged. Mr. Kenney seconded the motion. A vote was taken:

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Mr. Decker's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Bethany Joy Notestine. Dr. Schachat seconded the motion. A vote was taken:

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

Dr. Schottenstein - aye

The motion to approve carried.

FIRAS A. RABI, M.D.

Dr. Soin directed the Board's attention to the matter of Firas A. Rabi, M.D. Objections have been filed to Ms. Clovis' Report and Recommendation and were previously distributed to Board members.

Dr. Schottenstein moved to approve and confirm Ms. Clovis' Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Firas A. Rabi, M.D. Dr. Steinbergh seconded the motion.

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

Dr. Schottenstein stated that the matter of Dr. Rabi has come before the Board due to allegations that Dr. Rabi had been disciplined by the Iowa Board of Medicine for sexual harassment and unethical or unprofessional conduct. Dr. Schottenstein briefly reviewed Dr. Rabi's medical education and career.

Dr. Schottenstein stated that the Iowa Board's action indefinitely suspended Dr. Rabi's Iowa medical license and imposed a \$10,000 civil penalty. The Iowa Board found that Dr. Rabi had violated the rule prohibiting sexual harassment while he practiced in the pediatric intensive care unit (PICU) at the University of Iowa Health Center, where he was a fellow from 2006 to 2009. The Iowa Board's findings included the following:

- Dr. Rabi had sexual relations with co-worker #7 after she became intoxicated at the PICU Christmas party.
- Dr. Rabi told co-worker #2 that he had been trying to get her into the call room because he hoped to have sexual relations with her there.
- Dr. Rabi invited co-worker #6 to the call room to join him there.
- Dr. Rabi tried to pull co-worker #5 into a locker room with him.
- Dr. Rabi engaged in a long-term sexual relationship with co-worker #4, including multiple occasions in the call room at the hospital.

Dr. Schottenstein continued that in the Iowa proceedings, Dr. Rabi argued that even though he had engaged in this behavior, his conduct was not unwanted, did not interfere with the nurses' performance, and did not create an intimidating, hostile, or offensive work environment. Dr. Rabi had indicated that the workplace had a culture of rough language and sexual innuendo. Dr. Rabi had stated that when nurses complained about his behavior, he apologized and ceased the behavior. Dr. Rabi had noted that he was not a supervisor of any of the nurses and he had no authority to hire or fire them, though he was the leader of the team and was looked at as a superior. Dr. Rabi had stated that he had only been a fellow at that time and he had seen himself as more of a friend than a supervisor to the nurses. Dr. Rabi also pointed out that doctors and nurses often dated and married each other.

Dr. Rabi indicated that he had been angry after the nurses brought their complaints, but he had a change of

heart when he attended the Acumen Institute in March 2015 to comply with the Iowa Board order. Dr. Schottenstein stated that the Acumen Institute, which deals with psychiatric, conduct, and disruptive behavior problems, provides services to licensed professionals who need treatment and education to rehabilitate their professional standing before their licensing board. Peter Graham, Ph.D., co-founder of the Acumen Institute, testified at Dr. Rabi's Ohio hearing. Dr. Graham had opined that Dr. Rabi's behavior was not predatory because he had not used explicit or official supervisory power to manipulate the nurses. Dr. Graham further opined that Dr. Rabi is unlikely to commit these violations again and that he is fit to practice medicine provided he continues to comply with the Iowa Board order.

Dr. Schottenstein continued that Dr. Rabi testified that he went through a period of time where he had "no morality" and that it had been difficult for him to come to that realization. Dr. Rabi testified that he has a renewed focus on his religion, is being treated regularly by a psychotherapist, and has completed an intensive course in medical ethics, boundaries, and professionalism. Dr. Rabi has admitted that his behavior had been highly unprofessional.

Dr. Schottenstein commented that there had been an adolescent, impatient quality to Dr. Rabi's flirtation that was appalling. Dr. Schottenstein stated that as a then-32-year-old man, Dr. Rabi sought out nurses who were new to the PICU and were ten years younger than he for purposes of sexual gratification. Dr. Schottenstein stated that Dr. Graham's opinion was technically correct that Dr. Rabi's behavior was not predatory because he had not used explicit supervisory power to facilitate his behavior. However, Dr. Schottenstein stated that doctors have an implicit authority in their role on a treatment team. Further, the nurses felt pressure to participate in Dr. Rabi's flirtations and did not want to find themselves opposed to the doctor. Dr. Schottenstein opined that the argument that Dr. Rabi had merely been socializing with the nurses and having trouble separating professional boundaries because he was trying to make friends is not plausible. Dr. Schottenstein noted that Dr. Rabi had characterized himself as having no morality during that time. Dr. Schottenstein further noted that Dr. Rabi had lied to the nurses on multiple occasions that he had an open marriage when, in fact, he did not.

Dr. Schottenstein stated that he is grateful that Dr. Rabi now appears to own and take responsibility for his actions. Dr. Schottenstein opined that Dr. Rabi's feelings of guilt and shame are appropriate for his behavior and he has made attempts to apologize to the nurses. Dr. Rabi appears to be very actively engaged with his treatment at the Acumen Institute and with his psychiatrist.

Dr. Schottenstein stated that the Proposed Order would suspend Dr. Rabi's Ohio medical license for a minimum of 90 days with conditions for reinstatement, followed by probationary terms and conditions for a minimum of three years. Dr. Schottenstein proposed an amendment to the Proposed Order which would provide for interim monitoring of Dr. Rabi during the suspension of his Ohio license. The interim monitoring provisions include requiring evidence of compliance with the Iowa Board order, cooperation with all recommendations of the Acumen Institute, and continued psychiatric treatment with a Board-approved psychiatrist. Dr. Schottenstein noted that according to Dr. Rabi's objections to the Report and Recommendation, Dr. Rabi has completed the terms of the Iowa Board Order and he has found employment in the United Arab Emirates. Dr. Schottenstein felt that despite this, a case can be made to proceed as he has outlined. A written copy of Dr. Schottenstein's proposed amendment was provided to Board members.

Dr. Schottenstein moved to amend the Proposed Order to include interim monitoring terms, as outlined in the document provided to Board members. Dr. Steinbergh seconded the motion.

Dr. Steinbergh agreed with Dr. Schottenstein's comments. Dr. Steinbergh stated that she is not swayed by where Dr. Rabi is practicing medicine, but is only concerned that Dr. Rabi has an Ohio medical license. Dr. Steinbergh stated that the Board's Order will indicate the seriousness of the action no matter where Dr. Rabi chooses to practice.

Dr. Schachat asked how the monitoring will work while Dr. Rabi is practicing in the United Arab Emirates, particularly the requirement for a monitoring physician to review Dr. Rabi's patient records and make reports to the Board. Ms. Anderson noted that the requirement to have a monitoring physician becomes effective after Dr. Rabi meets the conditions for reinstatement of his license. Mr. Giacalone commented that Dr. Rabi may have difficulty finding an appropriate monitoring physician in the United Arab Emirates and obtaining Board approval for that physician. Mr. Giacalone suggested that the requirement that Dr. Rabi have a monitoring physician following reinstatement only become effective if he returns to Ohio to practice. The Board discussed this matter thoroughly and agreed with Mr. Giacalone's suggestion.

Dr. Schottenstein wished to change his motion to amend to reflect the Board's discussion that the requirement that Dr. Rabi have a monitoring physician will become effective only if he returns to practice in Ohio. The Order will read as follows:

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** Commencing on the thirty-first day following the date on which this Order becomes effective, the certificate of Firas A. Rabi, M.D., to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than 90 days.
- B. **INTERIM MONITORING:** During the period that Dr. Rabi's certificate to practice medicine and surgery in Ohio is suspended, Dr. Rabi shall comply with the following terms, conditions, and limitations:
 1. **Obey the Law:** Dr. Rabi shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Declarations of Compliance:** Dr. Rabi shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Evidence of Compliance with the Order of the Iowa Board of Medicine:** At the time he submits his declarations of compliance, Dr. Rabi shall also submit declarations under penalty of Board disciplinary action and/or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the Iowa Board of Medicine in Case No. 02-10-337, including cooperating with all recommendations of the Acumen Institute. Moreover, Dr. Rabi shall cause to be submitted to the Board copies of any reports that he submits to the Iowa Board of Medicine whenever and at the same time the Iowa Board of Medicine requires such submission.
4. **Personal Appearances:** Dr. Rabi shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Rabi's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances shall occur every six months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
5. **Notification of Change in Terms of Probation by Iowa Board of Medicine:** Dr. Rabi shall immediately notify the Board in writing of any modification or change to any term, condition, or limitation imposed by the Iowa Board of Medicine in Case No. 02-10-337, including termination of the February 19, 2015 Iowa Board Order.
6. **Continue Psychiatric Treatment:** Within 30 days of the effective date of this Order, unless otherwise determined by the Board, Dr. Rabi shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Rabi's choice. The Board may consider Dr. Rabi's current psychiatrist, Jordan Weiss, D.O., as an approved provider.

Dr. Rabi shall continue psychiatric treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Rabi's current treatment plan and any changes that have been made to the treatment plan since the prior report; his compliance with the treatment plan; his psychiatric status; his progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report. Dr. Rabi shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Rabi's declarations of compliance. The frequency of Dr. Rabi's visits shall be determined by the approved treating psychiatrist unless otherwise directed by the Board.

Dr. Rabi shall ensure that his treating psychiatrist immediately notifies the Board of Dr. Rabi's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Rabi is unable to practice due to his psychiatric disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Rabi shall immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Rabi shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

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

7. **Polygraph Testing as Part of Treatment Plan**: Should the treatment recommended by the Board-approved psychiatrist include a requirement that Dr. Rabi undergo polygraph examination(s), Dr. Rabi shall undergo such polygraph examination(s) as directed by the Board-approved psychiatrist.
8. **Releases**: Dr. Rabi shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Rabi's psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

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

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION**: The Board shall not consider reinstatement or restoration of Dr. Rabi's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Rabi shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions**: Dr. Rabi shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
3. **Certification of Compliance with the February 19, 2015 Order of the Iowa Board of**

Medicine: At the time he submits his application for reinstatement or restoration, Dr. Rabi shall submit to the Board certification from the Iowa Board of Medicine, dated no earlier than 60 days prior to Dr. Rabi's application for reinstatement or restoration, that Dr. Rabi has maintained full compliance with the February 19, 2015 Order of the Iowa Medical Board.

4. **Personal/Professional Ethics Course(s):** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Rabi shall provide acceptable documentation of successful completion of a course or courses dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed. The Board may consider the "Intensive Course in Medical Ethics, Boundaries, and Professionalism" at Case Western Reserve University School of Medicine as full or partial fulfillment of this requirement.

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

5. **Course(s) Concerning Physician/Patient Boundaries:** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Rabi shall provide acceptable documentation of successful completion of a course or courses on maintaining physician/patient boundaries. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed. The Board may consider the "Intensive Course in Medical Ethics, Boundaries, and Professionalism" at Case Western Reserve University School of Medicine as full or partial fulfillment of this requirement.

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

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

his fitness to resume practice.

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

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Rabi shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
2. **Monitoring Physician:** Within 30 days of the date of Dr. Rabi's return to the practice of medicine in the State of Ohio, or as otherwise determined by the Board, Dr. Rabi shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Rabi and who is engaged in the same or similar practice specialty.

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

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

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

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

3. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Rabi is

found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

4. **Required Reporting of Change of Address:** Dr. Rabi shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Rabi's certificate will be fully restored.
- F. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**

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

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

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

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

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

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

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

No Board member objected to the change in Dr. Schottenstein's motion to amend. The change in the motion to amend was accepted.

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

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Clovis' Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Firas A. Rabi, M.D. Mr. Kenney seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye

Mr. Kenney - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion to approve carried.

DAWN NICOLE SELLHEIM, L.M.T.

Dr. Soin directed the Board's attention to the matter of Dawn Nicole Sellheim, L.M.T. No objections have been filed. Ms. Blue was the Hearing Examiner.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Dawn Nicole Sellheim, L.M.T. Dr. Schottenstein seconded the motion.

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

Mr. Kenney stated that Ms. Sellheim was first licensed to practice massage therapy in Ohio in 2014. Prior to being a massage therapist, Ms. Sellheim worked as a financial analyst at several banks for 15 years. Mr. Kenney stated that Ms. Sellheim has a long history of alcohol dependency. Ms. Sellheim first drank in college, then increase her alcohol consumption at the age of 22 to help her cope with her divorce and the death of her sister. Ms. Sellheim later reduced her alcohol consumption with the help of a counselor and medication for depression. However, Ms. Sellheim's consumption increased again in 2007 due to stress, her mother's diagnosis of cancer, an unstable relationship, and loneliness. Ms. Sellheim completed a six-week intensive outpatient program (IOP) in 2009, but she admitted that she consumed alcohol before completing the IOP. After the IOP, Ms. Sellheim resumed drinking alcohol.

Mr. Kenney continued that in February 2015 Ms. Sellheim was arrested for two counts of Operating a Motor Vehicle while Intoxicated (OMVI) and one count of Failure to Control. In March 2015 Ms. Sellheim pled guilty to Reckless Operation. Ms. Sellheim's driver's license was suspended for 90 days and she was sentenced to 60 days in jail, of which 57 days were suspended and three days were credited due to her attendance at a driver's program. Ms. Sellheim was also fined \$350. Mr. Kenney stated that Ms. Sellheim began drinking again within a couple of weeks.

Mr. Kenney stated that in July 2015, Ms. Sellheim notified the Board of her conviction from four months prior. In her answers to the Board's interrogatories, Ms. Sellheim indicated that she continues to drink alcohol about two to three times per week. In January 2016, Ms. Sellheim, at the order of the Board, submitted to an examination at Glenbeigh Hospital. The conclusion of the examination was that Ms. Sellheim was impaired and therefore not capable of practicing as a massage therapist at acceptable and prevailing standards of care. Mr. Kenney noted the testimony of Dr. Parran, who conducted Ms. Sellheim's examination. Dr. Parran testified that, contrary to popular perception, 80% of those with active alcoholism do not have withdrawal symptoms, but they have intermittent loss of control, blackouts, alcohol amnesia, and legal consequences such as driving while intoxicated. Dr. Parran also testified that Ms. Sellheim's prognosis is good because her diagnosis is highly treatable.

Mr. Kenney noted that Ms. Sellheim has not yet entered an IOP or an aftercare contract. Further, the Board has not received information that Ms. Sellheim is capable of practicing in accordance with acceptable and prevailing standards of care. Mr. Kenney agreed with the Hearing Examiner that Ms. Sellheim's massage therapy license should be suspended indefinitely. However, Mr. Kenney opined that the suspension should be for a minimum of 180 days, with all other interim monitoring terms unchanged.

Mr. Kenney moved to amend the Proposed Order so that the suspension of Ms. Sellheim's license to practice massage therapy will be for a minimum of 180 days. Dr. Steinbergh seconded the motion.

Dr. Steinbergh noted that she seconded Mr. Kenney's motion to amend for discussion purposes.

In response to a question from Mr. Giacalone, Mr. Kenney stated that he has suggested a minimum 180-day suspension due to Ms. Sellheim's long history of alcohol abuse. Mr. Kenney opined that the suspension should be of an adequate length to assure the Board of Ms. Sellheim's sobriety. Mr. Kenney noted that the Hearing Examiner's Proposed Order did not include a minimum time of suspension.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- nay
	Dr. Steinbergh	- nay
	Dr. Soin	- nay
	Mr. Kenney	- aye
	Dr. Schachat	- abstain
	Dr. Schottenstein	- abstain

The motion to amend did not carry.

A vote was taken on Dr. Steinbergh's motion to approve the Hearing Examiner's Report and Recommendation:

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

The motion to approve carried.

CHRISTOPHER A. STEGAWSKI, M.D.

Dr. Soin directed the Board's attention to the matter of Christopher A. Stegawski, M.D. Objections have been filed to Ms. Blue's Report and Recommendation and were previously distributed to Board members.

Dr. Soin stated that a request to address the Board has been timely filed by Dr. Stegawski. However, Dr. Soin noted that neither Dr. Stegawski nor an attorney representing him was present at the meeting. The Assistant Attorney General declined to address the Board in this matter.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Christopher A. Stegawski, M.D. Dr. Schottenstein seconded the motion.

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

Dr. Schottenstein stated that in February 2015 in U.S. District Court, Dr. Stegawski was found guilty of one felony count of Conspiracy to Distribute Narcotics, two felony counts of Maintaining a Place for the Purpose of Distribution, and one felony count of Conspiracy to Launder Monetary Instruments. Dr. Schottenstein stated that the allegation against Dr. Stegawski was that he was attempting to make as much money as possible by prescribing, distributing, and dispensing controlled substances. Dr. Stegawski allegedly saw 30 to 40 patients per day who traveled long distances to see Dr. Stegawski at his clinics. Customers were charged \$200 cash for each visit and \$150 cash for urinalysis. It was also alleged that Dr. Stegawski knew or should have known that the clinics' customers were drug abusers.

Dr. Schottenstein continued that Dr. Stegawski's customers received the same regimen of prescription medications, namely oxycodone, hydrocodone, and either diazepam or alprazolam, with some customers receiving OxyContin. Dr. Stegawski reportedly failed to conduct any meaningful examination of these patients to determine if there was a legitimate need for the medications. Reportedly, Dr. Stegawski rarely if ever counseled the patients about alternative treatments such as physical therapy, counseling, or surgery. Dr. Schottenstein noted that many local pharmacies refused to honor Dr. Stegawski's prescriptions due to the large quantities of narcotics he prescribed and due to his catering to customers with histories of drug abuse and arrest.

Dr. Schottenstein stated that the majority of patients interviewed admitted that they were addicted to pain medication prior to going to Dr. Stegawski's clinics and that they had no legitimate pain that necessitated narcotics prescriptions. Some patients also admitted that they were drug dealers and were selling the prescriptions on the street. Dr. Schottenstein stated that between May 2010 and August 2010 Dr. Stegawski ordered large dosage units of controlled substances which were distributed within his clinic's in-house dispensary to generate additional income.

Dr. Schottenstein stated that in December 2015, the court sentenced Dr. Stegawski to 160 months in prison, followed by supervised release for ten years. Dr. Stegawski was also ordered to pay a fine of \$400 and to forfeit \$41,128 to the United States.

Dr. Schottenstein stated that Dr. Stegawski was not physically present at his hearing because of his incarceration, but he did testify by telephone. Dr. Stegawski also sent in documentary evidence that was admitted as exhibits. Dr. Stegawski testified that he had seen approximately 25 patients per day and that patients presented to him on some pre-existing combination of Soma, Oxycodone, and Xanax. Dr. Stegawski testified that prior to the law enforcement raid on his clinic, he had been attempting to wean his patients off Soma and to limit their Oxycodone to 180 mg per day. Dr. Stegawski further testified that his clinic was raided because his business partner was trafficking in cocaine and had filed a complaint against him to divert attention from his criminal activities. Dr. Stegawski indicated that there was a Portsmouth-based drug cartel that encouraged complaints against him in order to remove him from the area because he was operating independently of the cartel.

Dr. Schottenstein stated that Dr. Stegawski spent a substantial amount of his testimony indicating that he had discovered two new pain syndromes that had heretofore been unappreciated by the medical community. Regarding the first syndrome, which he termed "Fibromyalgia Scioto," Dr. Stegawski stated that his patients' symptoms were due to an undiscovered reaction to tick bites that are endemic to the area. Regarding the second syndrome, Dr. Stegawski felt that there is a large population of drug users who have survived motor vehicle accidents and, though they were protected by their airbags, they sustained deceleration injuries to the lower back. Dr. Schottenstein stated that Dr. Stegawski appeared to believe that the pain syndromes were responsible for the opiate epidemic in his local area. Dr. Schottenstein observed that the Assistant Attorney General and the Hearing Examiner endeavored to try to follow Dr. Stegawski's train of thought, but they appeared unable to do so and had to continuously redirect Dr. Stegawski to address the matter at hand.

Dr. Schottenstein did not find Dr. Stegawski's testimony to be mitigating. Rather, Dr. Schottenstein opined that Dr. Stegawski's testimony was disjointed, incohesive, and random. Dr. Schottenstein stated that Dr. Stegawski's exhibits, which consisted of copious notes and handouts, were jumbled and tangential. Dr. Schottenstein stated that Dr. Stegawski expressed no guilt or remorse and that he takes no responsibility for the consequences of his actions. Dr. Schottenstein stated that Dr. Stegawski explained his actions away by justifying them or by portraying himself as a victim of law enforcement that is either too unsophisticated to understand his practice or is overzealous in attempts to prosecute physicians who manage high-risk patients.

Dr. Schottenstein stated that he agrees with the Hearing Examiner's Proposed Order to permanently revoke Dr. Stegawski's Ohio medical license. Dr. Steinbergh agreed with Dr. Schottenstein's comments and reiterated that Dr. Stegawski's comments were incoherent.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye

Dr. Schachat - aye
Dr. Schottenstein - aye

The motion to approve carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Soin stated that in the following matters, the Board issued a Notice of Opportunity for Hearing. No timely requests for hearing were received. The matters were reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and are now before the Board for final disposition. Dr. Soin stated that these matters are disciplinary in nature, and therefore the Secretary and Supervising Member may not vote. In these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

MARC NATHAN ADATO, L.M.T.

Dr. Steinbergh moved to find that the allegations as set forth in the October 14, 2015 Notice of Opportunity for Hearing in the matter of Mr. Adato have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky's Proposed Findings and Proposed Order. Dr. Schachat seconded the motion.

Dr. Soin stated that he will now entertain discussion in the matter of Mr. Adato.

Dr. Schachat stated that Mr. Adato is alleged to have failed to cooperate with a Board investigation. Dr. Schachat stated that the Board sent interrogatories to Mr. Adato via certified mail to his address of record on two occasions. The Board also placed an advertisement on three separate dates in a local newspaper in the area that the Board understood that Mr. Adato had most recently resided. Despite these efforts, Mr. Adato did not respond to the Board.

Dr. Schachat stated that he agrees with the Hearing Examiner's Proposed Order to revoke Mr. Adato's massage therapy license.

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

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

The motion to approve carried.

NICOLE M. BREWER, L.M.T.

Dr. Steinbergh moved to find that the allegations as set forth in the January 14, 2015 Notice of Opportunity for Hearing in the matter of Ms. Brewer have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky's Proposed Findings and Proposed Order. Mr. Giacalone seconded the motion.

Dr. Soin stated that he will now entertain discussion in the matter of Ms. Brewer.

Mr. Giacalone stated that Ms. Brewer was first licensed to practice massage therapy in Ohio in January 2012. In June 2013, Ms. Brewer submitted a license renewal application in which she responded "yes" to Question #1, which asked if she had been found guilty or pled guilty to a misdemeanor or felony. Based on documentation received in conjunction with this matter, it was determined that Ms. Brewer pled guilty to, and was found guilty of, Theft, a first-degree misdemeanor, in March 2013. As a result, Ms. Brewer was sentenced to ten days in jail, with all ten days suspended. Ms. Brewer was also ordered to pay restitution in the amount of \$813, a fine of \$250, and costs of \$1,094.

Mr. Giacalone continued that Ms. Brewer's conviction was based on allegations that she had stolen \$813 in cash from a wallet that had been turned into the "lost and found" of a restaurant where she was employed as a manager. Ms. Brewer admitted that she took the wallet, which contained \$1,500 in cash, and spent the \$813 to pay her cell phone bill.

Mr. Giacalone stated that the Board issued a Notice of Opportunity for Hearing in January 2015. Ms. Brewer answered with a letter stating that she is aware of how her record reflects on her license. Ms. Brewer also stated that she no longer uses her massage therapy license or the title "L.M.T." Ms. Brewer stated that she has realized that massage therapy is not the profession for her and that if her license is revoked, she only asks that she be notified.

Mr. Giacalone stated that he agrees with the Hearing Examiner's Proposed Order of permanent revocation. Mr. Giacalone based his rationale on the fact that though Ms. Brewer was only 20 years old at the time, the theft indicates a serious breach of trust and calls into question whether she can safely and ethically work as a massage therapist, especially since massage therapy clients often leave their personal belongings in the care of the massage therapist while they are undressed for therapy. Mr. Giacalone also stated that it is clear from Ms. Brewer's letter that she has no interest or intention of practicing massage therapy now or in the future.

Dr. Schottenstein stated that he would have been open to the suggestion of a non-permanent revocation of Ms. Brewer's license. However, Dr. Schottenstein observed that Ms. Brewer did not appear before the Board to apologize, express remorse, or to take responsibility for her actions. Dr. Schottenstein stated that Ms. Brewer is not motivated to fight for her license because she has realized that massage therapy is not the right profession for her. Dr. Schottenstein also noted comments made by the Hearing Examiner and Mr. Giacalone that Ms. Brewer having potential access to other's valuables could represent ongoing problems. Dr. Schottenstein stated that he therefore supports the Proposed Order of permanent revocation.

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

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

The motion to approve carried.

The Board took a brief recess at 11:10 a.m. and resumed the meeting at 11:20 a.m. Dr. Rothermel was not present when the meeting resumed.

EXECUTIVE SESSION

Dr. Steinbergh moved to go into Executive Session to confer with the Medical Board's attorneys on matters of pending or imminent court action, and for the purpose of deliberating on proposed consent agreements in the exercise of the Medical Board's quasi-judicial capacity. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session with Mr. Groeber, Ms. Anderson, Mr. Miller, Ms. Loe, Ms. Debolt, Mr. Katko, Mr. Schmidt, Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Schwartz, Ms. Murray, Ms. Moore, and Mr. Taylor in attendance.

Dr. Rothermel rejoined the meeting during the Executive Session.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTSERIKA CHRISTINE DROSSMAN, L.M.T. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MASSAGE THERAPY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Ms. Drossman. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

EMILY KOCH HELLESEN, L.M.T. – CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Consent Agreement with Ms. Hellesen. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

CAMRAN GHAFFAR ADLY, M.D. – PERMANENT WITHDRAWAL OF APPLICATION FOR MEDICAL LICENSURE

Dr. Steinbergh moved to ratify the Proposed Permanent Withdrawal with Dr. Adly. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye

Dr. Steinbergh - aye
Dr. Soin - aye
Mr. Kenney - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion to ratify carried.

NITZA MARTINEZ BENNETT, M.D. – PERMANENT SURRENDER/RETIREMENT OF
CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender/Retirement with Dr. Bennett. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - abstain
Dr. Saferin - abstain
Mr. Giacalone - aye
Dr. Steinbergh - aye
Dr. Soin - aye
Mr. Kenney - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion to ratify carried.

JAMES CAREY ENGLISH, M.D. – CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Consent Agreement with Dr. English. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - abstain
Dr. Saferin - abstain
Mr. Giacalone - aye
Dr. Steinbergh - aye
Dr. Soin - aye
Mr. Kenney - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion to ratify carried.

JESSE MICHAEL EWALD, M.D. – STEP II CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step II Consent Agreement with Dr. Ewald. Dr.

Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

JAMES G. LAMPHEAR, M.D. – STEP I CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step I Consent Agreement with Dr. Lamphear. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

WILLIAM STANTON RICHARDSON, M.D. – STEP I CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step I Consent Agreement with Dr. Richardson. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

GREGORY GEORGE THEODORE, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. Theodore. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

CHRISTOPHER ROBERT WHITE, M.D. – STEP I CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step I Consent Agreement with Dr. White. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

BERNARD DESILVA, M.D. – PERMANENT SURRENDER/RETIREMENT OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender/Retirement with Dr. DeSilva. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye

Dr. Soin - aye
Mr. Kenney - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion to ratify carried.

DEVENDER KUMAR BATRA, M.D. – CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Consent Agreement with Dr. Batra. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

RAHUL SHETH, D.O. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
OSTEOPATHIC MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. Sheth. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to ratify carried.

MICHAEL T. TATRO, M.D. – STEP I CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step I Consent Agreement with Dr. Tatro. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Mr. Giacalone	- aye
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye

The motion to ratify carried.

JOSE ALBERTO CRESPO, M.D. – NON-DISCIPLINARY CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Non-Disciplinary Consent Agreement with Dr. Crespo. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Mr. Giacalone	- aye
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye

The motion to ratify carried.

CITATIONS AND ORDERS OF SUMMARY SUSPENSION, IMMEDIATE SUSPENSION, AND AUTOMATIC SUSPENSION

Dr. Steinbergh moved to send the Notice of Immediate Suspension and Opportunity for Hearing to John Pease Moore, III, M.D. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Mr. Giacalone	- aye
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye

The motion carried.

Dr. Steinbergh moved to enter an Order of Summary Suspension in the matter of Ryan S. Fryman, D.O., in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Notice of Summary Suspension and Opportunity for Hearing. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

Dr. Steinbergh moved to send the Notices of Opportunity for Hearing to the following: Arun Aggarwal, M.D.; Surinder K. Bansal, M.D.; Iraj Derakhshan, M.D.; Jake Paul Heiney, M.D.; Gerry Victor Hsu, P.A.; Christina M. Lietzke, M.D.; Robert Thomas Mitrione, M.D.; M. Salim Ratnani, M.D.; Dallas Aaron Smith, M.D.; and John W. Tedrow, P.A. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to send carried.

DISMISSAL OF NOTICE OF OPPORTUNITY FOR HEARING

RONALD J. CELESTE, M.D.

Dr. Soin stated that on June 10, 2015, the Board issued a Notice of Opportunity for Hearing to Ronald J. Celeste, M.D. regarding his alleged failure to cooperate in an investigation. Dr. Celeste did not request a hearing and a Proposed Findings Proposed Order was filed on February 25, 2016. Thereafter, Dr. Celeste executed a voluntary permanent surrender of his license with consent to permanent revocation, which was ratified by the Board at its meeting on April 13, 2016. Since Dr. Celeste no longer has a license with this Board, the Notice of Opportunity for Hearing should be dismissed as moot.

Dr. Steinbergh moved to approve the Dismissal Without Prejudice of the June 10, 2015 Notice of Opportunity for Hearing in the matter of Dr. Celeste. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

The Board took a recess at 12:00 p.m. The meeting resumed at 1:05 p.m.

RULES & POLICIES

Dr. Steinbergh moved to approve the proposed rescinded and new Rules 4731-1-12 and amended Rules 4731-1-12 and 4731-1-16 be filed with the Joint Commission on Agency Rule Review. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried.

Dr. Saferin moved to approve that Rule 4731-11-08, the rules in Chapter 4731-17, and the rules in Chapter 4731-19, as discussed, be filed with the Joint Commission on Agency Rule Review. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye

Mr. Kenney - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion carried.

Dr. Steinbergh moved to approve that the rules in Chapter 4731-23, Ohio Administrative Code, as discussed, be filed with the Joint Commission on Agency Rule Review. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - aye
Dr. Saferin - aye
Mr. Giacalone - aye
Dr. Steinbergh - aye
Dr. Soin - aye
Mr. Kenney - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion carried.

Dr. Saferin moved to approve the rules in Chapters 4774-1 and 4774-2, Ohio Administrative Code, as discussed, for filing with the Joint Committee in Agency Rule Review. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - aye
Dr. Saferin - aye
Mr. Giacalone - aye
Dr. Steinbergh - aye
Dr. Soin - aye
Mr. Kenney - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion carried.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that applications are being reviewed to fill investigator and nurse reviewer positions, as well as the position of Deputy Director 3 which will oversee the Board's communications section. Mr. Groeber also stated that Julie Williams, the Board's new Public Information Officer, will begin work on Monday, May 16.

Budget: Mr. Groeber stated that the Board's cash balance was over \$5,000,000 as of the end of March.

Information Technology: Mr. Groeber stated that the E-License project is continuing as expected. Mr. Groeber stated that with Mr. Miller's increased role in the overall E-Licensure project, Mr. Nealis will act as the Medical Board's E-License point of contact. Mr. Groeber stated that in the future other platforms such as the Ohio Automated Rx Reporting System (OARRS) will be migrated into the E-License system.

Mr. Groeber stated that the first iteration of a SharePoint site has been developed for Board members' agenda materials, which Mr. Giacalone has been testing for the prior month. Mr. Giacalone stated that the SharePoint site works very well and opined that it is much better than the current methods of distributing agenda items to Board members. Mr. Giacalone added that the SharePoint site is also compatible with iPads. Mr. Groeber stated that this pilot project will be expanded to some other Board members for their feedback.

Communications and Outreach: Mr. Groeber stated that he and Mr. Miller will meet with Dr. Sussman of the Ohio Council of Medical School Deans to discuss how the Medical Board and Ohio's medical schools can engage on a more frequent basis and a deeper level.

In response to concerns that have been expressed by some Board members, Mr. Groeber clarified the Board's media policy. Mr. Groeber stated that the Board requests questions from the media be put into writing, and the response is also in writing so that the answers are easy to understand. Regarding Board members' conversations with the media, Mr. Groeber stated that Board members always have the individual right to speak with whomever they wish. Mr. Groeber asked that the Board staff be kept informed whenever a Board member anticipates speaking with the media concerning Board matters.

Agency Operations: Mr. Groeber stated that the overall number of open complaints is approximately 1,700, a 5% drop from the previous month. Mr. Groeber stated that the only area of significant concern about complaints is the Standards Review and Intervention Unit, which currently has a shortage of staff members. Mr. Groeber stated that aggressive efforts continue to hire individuals into that unit, but there is difficulty finding candidate who can meet the standard of work that is required.

Mr. Groeber stated that in the Licensure Section the number of new allopathic and osteopathic licenses increased by 37% and were issued an average of four days faster. Mr. Groeber also noted that the number of podiatric medical licenses issued this year to date has almost doubled from the same time last year. Mr. Groeber stated that the number of allied medical licenses is dropping back into a normal range. Overall, 29% licenses were issued in April 2016 than in April 2015.

Mr. Groeber stated that after nine consecutive months of improvement, the number of complaints in Enforcement went up by approximately 40.

Mr. Groeber stated that Armada, a company that was contracted to produce a risk assessment of the Board's firearms policy, issued its report yesterday. The Armada report supported the Board's investigator firearms policy and made suggestion on how to secure the firearms. Mr. Groeber stated that the Board's policy on wearing bulletproof vests will be discussed next month and he invited the Board members' input on that subject.

Other Items: Mr. Groeber reminded the Board members that Financial Disclosure Forms are due at the Ohio Ethics Commission on May 16.

Mr. Groeber stated that last month Dr. Saferin was elected President of the Federation of Podiatric Medical Boards. The Board members and staff congratulated Dr. Saferin.

Mr. Groeber stated that the Governor's Cabinet Opiate Action Team (GCOAT) will soon release an 11-minute video to help prescribers understand the new acute prescribing guidelines. Prescribers will receive an email with a link to the video, which will confirm that the prescriber viewed the video and finished the questions at the end. Mr. Groeber stated that the Medical Board helped GCOAT produce the video.

Mr. Groeber stated that a licensee who was released from the terms of his probation last month had indicated to the Board that he would be willing to mentor other licensees who are going through the compliance program. At Mr. Groeber's direction, Ms. Murray contacted similarly-situated licensees who also expressed interest in such a mentoring program. Mr. Groeber stated that the staff will continue to explore the possibility of creating a support network for licensees who go through the Compliance process.

APPOINTMENTS TO THE COMMITTEE ON PRESCRIPTIVE GOVERNANCE

Dr. Steinbergh moved to appoint Richard Edgin, M.D., to serve on the Committee on Prescriptive Governance for a term beginning on June 20, 2016 and ending on June 19, 2019. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

BUDGET

Ms. Loe reiterated Mr. Groeber's previous statement that the Board's cash fund is over \$5,000,000. Ms. Loe stated that March 2016 was a significant revenue month, bringing in over \$1,000,000. Ms. Loe stated that with the end of Fiscal Year 2016 coming on June 30, there will be a small increase in spending as the

Board ensures all bills are paid and necessary purchases are made.

At Dr. Steinbergh's request, Ms. Loe briefly reviewed the process of travel expense reimbursement for those Board members who traveled to the 2016 Annual Meeting of the Federation of State Medical Boards.

INVESTIGATOR VEHICLES

Mr. Kenney stated that the Finance Committee voted to lease vehicles for all of the Board's investigators.

POLICY COMMITTEE

4731-25, OFFICE-BASED SURGERY RULES

Ms. Anderson stated that the Policy Committee reviewed the draft rules of Chapter 4731-25, including Rule 4731-25-02 which prohibits physicians from performing special services or surgeries in the office on more than one patient simultaneously using conscious sedation or anesthesia services. The draft of Rule 4731-25-02 included definitions of surgical start and stop times. Following a robust discussion, the Committee voted to remove the definitions of surgical start and stop times. The rules of Chapter 4731-25 were also updated in terms of more modern language and terminology.

Dr. Steinbergh moved to file the rules in Chapter 4731-25 with the Common Sense Initiative office. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried.

LEGISLATIVE UPDATE

House Bill 523: Mr. LaCross stated that a draft of this legislation concerning medical marijuana should be available next week. Mr. LaCross stated that he would be happy to discuss the draft with any Board member once it is available.

Licensure Legislation: Mr. LaCross stated that language for new legislation on licensure has been sent to the Legislative Services Commission (LSC) to be drafted. Mr. LaCross stated that this legislation will reduce the initial licensure fee for physicians from \$335 to \$305, incorporate the preliminary education requirements into the licensure eligibility requirements, shift the focus of statute from certificate to license,

incorporate licensure reciprocity requirements, and repeal seven sections of statutory code to streamline and simplify the statutes. Mr. LaCross anticipated having the draft from LSC in time to present to the Board at its June meeting for approval.

Senate Bill 319: Mr. LaCross stated that Senate Bill 319, commonly known as the Opiate Mid-biennium Budget Review (MBR), would authorize the Board of Pharmacy to register pharmacy technicians, require a Terminal Distributor of Dangerous Drugs (TDDD) license for any location engaged in the sale of dangerous drugs, require licensure for Suboxone clinics with 30 or more patients, place a 90-day limit on opiate prescriptions, expand the availability of naloxone, and enable methadone clinics to be licensed in Ohio if they have been operating outside Ohio for more than two years. Mr. LaCross stated that Mr. Groeber has a letter in support of the Opiate MBR that he will propose to the Board. Mr. LaCross stated that these actions are in conjunction with the Governor's efforts to combat heroin overdoses and the continuing opiate problem.

Dr. Saferin expressed concern that the proposed requirements for TDDD licensure would eliminate solo practitioners from this area of practice. Mr. Groeber stated that there are currently 1,035 unlicensed entities that will be affected by this requirement; of these entities, 428 are dentists, 411 are veterinarians, and 196 are physicians. Mr. Groeber noted that physicians are already covered by the rule at a higher ratio than other prescribers, though he recognized that some physicians will be adversely affected. According to the legislative summary, the new legislation will enable the Board of Pharmacy to conduct background interviews and prevent unfettered access to controlled substances by individuals with drug convictions, individuals currently under investigation, and individuals who have been sanctioned by their licensing board. The legislative summary also states that inspection will provide an opportunity to educate prescribers on how to safely store and dispose of dangerous drugs.

Mr. LaCross acknowledged that podiatrists will be more likely than other physicians to be affected by this legislation because podiatrists are more likely to be solo practitioners. Mr. LaCross stated that the Medical Board can have further conversations with the Board of Pharmacy regarding podiatrists.

In response to a question from Dr. Soin, Mr. LaCross stated that the 90-day limit places a cap on the total supply for opiate analgesics. Mr. LaCross also stated that there is a provision to invalidate opiate prescriptions that are not issued within 30 days in order to prevent individuals from obtaining opiates they no longer need or from filling another person's prescription. Mr. LaCross stated that this restriction only applies to Ohio patients and does not impact mail-order pharmacy shipping outside Ohio. Dr. Soin stated that he generally agrees with these provisions.

House Bill 548: Dr. Steinbergh asked about the pending legislation regarding certified registered nurse anesthetists (CRNA). Mr. LaCross stated that the CRNA legislation was introduced into committee just today with proponent testimony. Mr. LaCross stated that this legislation would grant CRNA's authority to administer drugs on their own cognizance, which constitutes prescribing and therefore would alter the scope of practice of CRNA's. Mr. LaCross stated that CRNA's are pursuing this authority because it is already something that CRNA's are doing.

Dr. Steinbergh expressed concern with one section of the CRNA legislation, as follows:

A supervising physician, podiatrist or dentist is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that arises from an action or omission of a supervised certified registered nurse anesthetist (CRNA) unless the supervising physician, podiatrist or dentist exercised control over, or participated in the action or omission of the supervised CRNA.

Dr. Steinbergh stated that when a medical problem arises the natural response of physicians is to intervene, thus exposing them to liability. Dr. Steinbergh questioned if any physician would want to participate in a collaborative agreement with a CRNA under these conditions. Dr. Steinbergh also opined that discouraging physicians from becoming involved puts patients at risk. Mr. LaCross agreed and added that it removes the collaborative atmosphere from the physician/CRNA relationship.

Dr. Soin noted that the physicians expose themselves to liability any time they intervene in any situation. Dr. Steinbergh stated that she agrees with a collaborative relationship and a team approach, which the physician obviously takes responsibility for. Dr. Steinbergh stated that that is distinct from a situation in which someone is practicing on their own accord and a physician is asked to become involved at some point. Dr. Steinbergh stated that the physician in such a scenario would not know what they are getting involved in or what the liability would be.

Mr. LaCross stated that anesthesiologists are opposed to this legislation. Mr. LaCross stated that he will circulate the legislation to Board members for their comments.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

PHYSICIAN ASSISTANT FORMULARY REVIEW

Dr. Steinbergh moved to accept the recommendations of the Physician Assistant Policy Committee and the Physician Assistant/Scope of Practice Committee regarding the physician assistant formulary. Dr. Saferin seconded the motion. All members voted aye. The motion carried.

DRAFT PHYSICIAN ASSISTANT RULES

Ms. Debolt stated that draft Rule 4730-1-05 regarding the requirement for a physician assistant quality assurance system was tabled by the Physician Assistant Policy Committee (PAPC). Ms. Debolt stated that the PAPC supports the draft Rule, but it wants to review the many comments that have been received from interested parties.

Dr. Schottenstein opined that the language in draft Rule 4731-28-01 should be clarified, particularly in light of two disciplinary cases the Board recently considered regarding the rule. Dr. Schottenstein stated that since the draft Rule is currently tabled in committee, the Board can discuss this matter at another time.

Ms. Debolt stated that the PAPC and the Physician Assistant/Scope of Practice Committee recommend approval of all other draft physician assistant rules.

Dr. Steinbergh moved to file draft Rules 4730-1-01, 4730-2-02, and 4730-2-10 with the Common Sense Initiative office. Dr. Saferin seconded the motion. All members voted aye. The motion carried.

Ms. Debolt stated that draft Rules 4730-2-04 and 4730-2-05 have been tabled in committee, but the other draft rules in Chapter 4730-2 have been recommended for circulation to interested parties.

Dr. Steinbergh moved to approve draft Rules 4730-2-01, 4730-2-07, 4730-2-08, and 4730-2-09 for circulation to interested parties for comment. Dr. Rothermel seconded the motion. All members voted aye. The motion carried.

CHAPTER 4731-20, SURGERY PRIVILEGES OF PODIATRISTS

Ms. Debolt stated that the proposed changed to Chapter 4730-20 updates the language into modern terminology and slightly reformats the rules.

Dr. Steinbergh moved that the proposal to rescind current Rule 4731-20-01, adopt new Rule 4731-20-01, and amend Rules 4731-20-02 be approved for filing with the Common Sense Initiative office. Dr. Saferin seconded the motion. All members voted aye. The motion carried.

LICENSURE COMMITTEE

RULES FOR INITIAL REVIEW

Ms. Anderson stated that the Licensure Committee voted to send the draft rules in Chapter 4731-5, regarding examination, and Chapter 4731-6, regarding medical or osteopathic licensure, to interested parties for comment. Ms. Anderson stated that the rules on examinations is still needed because the Board still administers the cosmetic therapy examination.

4731-1-24, MASSAGE THERAPY RENEWAL AND CONTINUING EDUCATION

Ms. Anderson stated that a number of public comments were received regarding Rule 4731-1-24 and those comments have been incorporated into the draft rule. Ms. Anderson noted that recent legislation mandates continuing massage therapy education (CMTE) requirements. Ms. Anderson briefly reviewed the CMTE requirements in the draft rule, which is reflective of the public comments received.

Dr. Saferin moved to file draft Rule 4731-1-24 with the Common Sense Initiative office. Dr. Steinbergh seconded the motion. All members voted aye. The motion carried.

APPLICATION QUESTIONS REGARDING MENTAL & PHYSICAL HEALTH

Ms. Anderson stated that the Licensure Committee discussed proposed changes to the Board's mental and physical health questions on applications. The Committee determined that instead of listing examples of conditions which the applicant should disclose, the question should ask the applicant to disclose any

illnesses, injuries, or conditions, mental or physical, which would affect the ability to practice medicine.

Dr. Steinbergh noted that Paragraph (a) of Question #23, regarding the Board's assessment of any ongoing treatment or monitoring program, ends with the phrase, "... so as to determine whether an unrestricted license should be issued, whether conditions should be imposed, or whether you are not eligible for licensure." Dr. Steinbergh recommended that this ending phrase be removed unless it is legally required. Ms. Anderson stated that the phrase could be removed. The Board members agreed with Dr. Steinbergh's suggestion.

Mr. Giacalone opined that not listing some conditions as examples creates ambiguity. Mr. Giacalone felt that with the proposed wording some applicants would list irrelevant conditions such as diabetes or nearsightedness, while other applicants could rationalize that they do not need to disclose more significant conditions such as bipolar disorder. Mr. Giacalone opined that a brief list of conditions should be included with the phrase "including, but not limited to"

The Board discussed this matter thoroughly and generally agreed with Mr. Giacalone that a brief list of examples of conditions to be disclosed would be the appropriate way forward on this matter. Dr. Steinbergh stated that the most important things are the applicants' ability to practice medicine, cognitive awareness, and capability of communicating and making decisions.

Dr. Steinbergh commented that the Board should modernize in terms of understanding mental health. Dr. Steinbergh stated that applicants should be able to disclose a mental illness and have it appropriately addressed by the Board without a disruptive disciplinary process. Ms. Anderson stated this would require a statutory change to Section 4731.22(B)(19), Ohio Revised Code. Ms. Anderson noted that while applicants' "yes" answers will continue to be a matter of public record, the related documentation of a condition will be protected from public scrutiny by the Board's investigatory umbrella.

Ms. Anderson thanked the Board members for their input. Ms. Anderson stated that the question will be drafted based on the Board's comments.

PODIATRIC MEDICINE & SURGERY LICENSURE DRAFT

Dr. Saferin stated that this draft language makes a series of revisions to the existing podiatric licensure statutes. These changes include: reducing the current licensure fee from \$335 to \$305 by removing the preliminary education certificate fee; incorporating the preliminary education requirement into the core eligibility for licensure requirements; incorporating a licensure reciprocity requirement into the core eligibility for licensure requirements; no longer requiring applicants to apply to the Board prior to completing their national board exam; and aligning the podiatric medicine and surgery licensure requirements with those of allopathic and osteopathic licensure.

Dr. Saferin moved to approve the podiatric medicine and surgery licensure draft language. Dr. Steinbergh seconded the motion. All members voted aye. The motion carried.

LICENSURE APPLICATION REVIEWSTURKER YILMAZ, M.D.

Dr. Saferin stated that Dr. Yilmaz is requesting a waiver of the Board's United States Medical Licensing Examination (USMLE) ten-year rule. Dr. Yilmaz completed his medical degree in Turkey. Dr. Yilmaz successfully passed Step 1 of the USMLE in 1997 and Step 2 (CK) in 1998. Dr. Yilmaz successfully completed a master's degree in audiology and speech pathology in Turkey in 2006. Subsequently, Dr. Yilmaz passed Step 2 (CS) of the USMLE in 2011 on his second attempt and Step 3 in 2013 on his first attempt. Dr. Yilmaz successfully completed a one-year pediatric otolaryngology fellowship in Michigan in 2014 and a one-year rhinology/otolaryngology fellowship in Massachusetts in 2015.

The Licensure Committee has recommended approval of Dr. Yilmaz's request.

Dr. Saferin moved to approve Dr. Yilmaz's request for a good cause exemption of the 10-year rule as outlined in 4731-6-14(C)(3)(b)(ii), Ohio Administrative Code, and accepting Dr. Yilmaz's examination sequence in order to grant him a license. Dr. Rothermel seconded the motion.

In response to a question from Dr. Steinbergh, Dr. Saferin stated that both of Dr. Yilmaz's fellowship were approved by the Accreditation Council for Graduate Medical Education (ACGME).

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

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried.

ANDREW MICHAEL CREAN, M.D.

Dr. Saferin stated that Dr. Crean graduated from the University of Southampton School of Medicine in 1992 and has a total of 16 years of recorded graduate medical education (GME) in the United Kingdom from 1992 to 2008. Dr. Crean also successfully completed a one-year post-graduate program in radiology cardiac imaging at Toronto General Hospital in 2005. Since 2008 Dr. Crean has served as a staff physician in cardiology and cardiac imaging at Toronto General Hospital. Dr. Saferin noted that Dr. Crean passed all steps of the United States Medical Licensing Examination (USMLE) sequence on the first attempts within a one-year period in 2013.

Dr. Saferin stated that Dr. Crean is requesting that the Board determine that his GME training is equivalent to two years of post-graduate training through the second-year level so that he may be granted a license. The Licensure Committee recommends approval of Dr. Crean's request.

Dr. Saferin moved to approve Dr. Crean's training and experience in the United Kingdom and one year of post-graduate training in Canada to be equivalent to the 24 months of graduate medical education through the second-year level of graduate medical education, in order to grant him a medical license in Ohio. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried.

GME-TO-FULL MEDICAL LICENSE BRIDGE PILOT

Dr. Saferin stated that this pilot project is part of an effort to partner with trainees and post-graduate training programs in Ohio to make the process of moving from training to full medical licensure as simple and efficient as possible. Dr. Saferin stated that the goal of the project is to help keep Ohio medical trainees in Ohio and to emphasize the value of having an Ohio medical license for trainees who choose to move elsewhere. Dr. Saferin stated that the Board wants to be a bridge, not a barrier, to keeping and attracting physicians for licensure in Ohio. Dr. Saferin stated that the Licensure staff is currently discussing this project with representatives of the Ohio State University College of Medicine.

Dr. Saferin exited the meeting at this time.

COMPLIANCE COMMITTEE

Dr. Steinbergh stated that on April 13, 2016, the Compliance Committee met with Gregory Stuart Grant, D.O.; and Armand L. Minotti, D.O., and moved to continue them under the terms of their respective Board actions. The Compliance Committee accepted Compliance staff's report of conferences on March 7 & 8, 2016.

Dr. Steinbergh stated that the Compliance Committee further recommended that the application for a Certificate of Good Standing from Lake Geauga Recovery Centers be approved.

Dr. Steinbergh moved to approve the Application for Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from Lake Geauga Recovery Centers, in accordance with

Section 4731.25, Ohio Revised Code, and Chapter 4731-16, Ohio Administrative Code. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye

The motion carried.

PROBATIONARY REQUESTS

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

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

- **To grant Kevin Gordon Baldie, M.D.'s request for approval of Lori A. Pittinger, M.D., to serve as the new treating psychiatrist;**
- **To grant Allan Belcher, D.O.'s request for reduction in drug screens to a minimum of two random screens per month; and reduction in the 12-step meeting requirement to two meetings per week with a minimum of ten meetings per month;**
- **To grant Anthony V. Dallas, Jr., M.D.'s, request for approval of *PBI Prescribing Course: Opioids, Pain Management and Addictions*, offered by Professional Boundaries, Inc., to fulfill the controlled substance prescribing course requirement;**
- **To grant Franklin D. Demint, D.O.'s request for approval of the submitted practice plan;**
- **To grant Mary Jo-Ellen Erickson, M.D.'s request for approval of Heidi Spiegel, L.I.S.W.-S., to serve as the treating counselor to conduct the monthly psychotherapy sessions;**
- **To grant John S. Henry, M.D.'s request for reduction in required weekly 12-step recovery meetings to two meetings per week with a minimum of ten meetings per month;**
- **To grant David Miller Heydt, M.D.'s request for reduction in personal appearances to every six months;**
- **To grant Mark E. Hostettler, M.D.'s request for approval of *Intensive Course in Medical Ethics*,**

Boundaries and Professionalism, offered by Case Western Reserve University, to complete the requirement for the personal/professional ethics course and the physician/patient boundaries course required prior to reinstatement;

- To grant Kavita A. Kang, D.O.'s request for approval of Peirce W. Johnston, M.D., to serve as the new treating psychiatrist;
- To grant Bruce J. Merkin, M.D.'s request for reduction in psychiatric treatment sessions to once every three months;
- To grant Kimberly M. Nemeth, D.O.'s request for discontinuance of the controlled substance log requirement; and discontinuance of the chart review requirement;
- To grant Michael J. Palma, M.D.'s request for approval of personal appearances via internet meeting source;
- To grant Siraj A. Siddiqui, M.D.'s request for approval of Ariane S. Neyou, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at ten charts per week;
- To grant Denise J. Signs, M.D.'s request for approval of Bruce W. Arthur, M.D., to serve as the new monitoring physician;
- To grant Matthew R. Steiner, M.D.'s request for approval of *Professional Boundaries & Boundary Violations: A Primer*, administered by the University of California, Irvine School of Medicine, to fulfill the personal/professional ethics course required for reinstatement;
- To grant Shannon Lee Swanson, D.O.'s request for approval of Jason A. Rupeka, D.O., to serve as the new monitoring physician; and reduction in the chart review requirement to ten charts per month; and
- To grant Jilian A. Waite, M.D.'s request for approval of *Prescribing Controlled Drugs*, administered by Vanderbilt University School of Medicine, to fulfill the controlled substance prescribing course requirement.

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

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

The motion carried.

The Board took a brief recess at 2:40 p.m. and returned at 2:55 p.m. Dr. Saferin was present when the meeting reconvened.

REINSTATEMENT REQUEST

ERICA L. FORNEY, M.T.

Dr. Steinbergh moved that the request for the reinstatement of the license of Erica L. Forney, M.T., be approved, effective immediately, subject to the probationary terms and conditions as outlined in the September 12, 2013 Order for a minimum of two years. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion carried.

FINAL PROBATIONARY APPEARANCE

JANET E. DESPOT, M.D.

Dr. Despot had planned to appear before the Board pursuant to her request for release from the terms of the Board's Order of May 11, 2011. Dr. Soin reviewed Dr. Despot's history with the Board.

Mr. Groeber stated that Dr. Despot had planned to appear before the Board today by electronic means. Mr. Groeber stated that although the tests with Dr. Despot's system worked yesterday, there seems to be a technical connection issue today. Ms. Murray stated that Dr. Despot was to have appeared via Skype because she currently resides in Washington state. Ms. Murray noted that in accordance with Dr. Despot's Board Order, the Board can choose to release Dr. despot without an appearance. Dr. Steinbergh opined that Dr. Despot should appear before the Board prior to her release.

Dr. Steinbergh moved to table that matter of Dr. Despot's release until the June 8, 2016 Board meeting. Mr. Giacalone seconded the motion.

Mr. Giacalone asked if a simple telephone call can be arranged so that the Board can converse with Dr.

Despot. Ms. Murray stated that she will try to arrange a telephone call with Dr. Despot. Dr. Soin stated that the Board will continue with the rest of the agenda while the telephone call is arranged.

RICHARD W. HERTLE, M.D.

Dr. Hertle was appearing before the Board pursuant to his request for release from the terms of his December 9, 2010 Consent Agreement. Dr. Soin reviewed Dr. Hertle's history with the Board.

In response to questions from Dr. Steinbergh, Dr. Hertle stated that the most important change in his life has been his participation in a recovery program, especially Alcoholics Anonymous (AA). Dr. Hertle stated that AA will be part of his life for as long as he is alive. Dr. Hertle also planned to continue with monitoring by the Ohio Physician's Health Program (OPHP), which protects him and his hospital. Dr. Steinbergh commented that it is very astute of Dr. Hertle to continue monitoring by OPHP.

Mr. Giacalone noted that Dr. Hertle had three separate events of tolling due to non-compliance during his probation. Dr. Hertle stated that he failed call in to FirstLab on nine days out of the 2,737 days he was on probation, which he calculated amounted to 99.78% compliance. Dr. Hertle stated that he had had trouble calling in for various reasons, including being on an airplane, being up all night with surgery, and simply forgetting on one occasion due to a change in his routine. Dr. Hertle stated that whenever he realized he missed a call-in, he went to the lab and provided a urine screen within 24 hours. Dr. Hertle commented that some of the requirements of the Board's probation are almost humanly impossible, including calling in every day for 2,737 days.

Mr. Giacalone asked, given his addiction to Percocet and history of self-prescribing, if Dr. Hertle thinks the probationary terms are the price he has to pay to make sure the public is protected and that Dr. Hertle had not relapsed. Dr. Hertle asked if he was expected to be perfect. Mr. Giacalone replied that he expected Dr. Hertle to make assurances to the public that he is not a drug addict. Dr. Hertle stated that he is not actively a drug addict. Mr. Giacalone asked Dr. Hertle what will change so that he remains compliant with his recovery program in the future. Dr. Hertle answered that he will continue what he has done for the last five years for the rest of his professional and personal career.

Dr. Steinbergh commented that despite Dr. Hertle's assertion that the Board's probationary terms are almost impossible to comply with, the overwhelming majority of impaired probationers complete five years of probation without any issues. Dr. Steinbergh commended Dr. Hertle for providing a urine sample every time he realized his missed a call-in.

Dr. Schottenstein commented that the best thing for Dr. Hertle is to continue working his recovery program, as he has stated he will do. Dr. Schottenstein noted that Dr. Hertle has also had other mental health problems and asked if his treatment with his psychiatrist and psychologist is going well. Dr. Hertle replied that his treatment is excellent and that his mental health issues had been connected to his addiction. Dr. Hertle commented that his psychiatrist has suggested that he stop medication treatment. Dr. Hertle stated that everything he has done in the last five years has made his life better and he does not want to change anything.

Dr. Steinbergh asked about Dr. Hertle's family support. Dr. Hertle stated that his wife accompanied him to today's meeting. Ms. Hertle stated that she has been a staunch member of Al-Anon for 30 years. In response to further questions from Dr. Steinbergh, Dr. Hertle stated that AA is part of his family dynamics and that he and his son go to meetings together.

Dr. Steinbergh moved to release Dr. Hertle from the terms of his December 9, 2010 Consent Agreement, effective May 28, 2016. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

Dr. Hertle thanked Ms. Jones, Ms. Moore, and Ms. Bickers for contributing a great deal to his compliance over the last five years.

KRZYSZTOF J. KUBICKI, M.D.

Dr. Kubicki was appearing before the Board pursuant to his request for release from the terms of his February 9, 2011 Consent Agreement. Dr. Soin reviewed Dr. Kubicki's history with the Board.

Mr. Giacalone asked if Dr. Kubicki would address the medical students in attendance about how he came to the Board's attention and what he has learned from the process. Dr. Kubicki agreed.

Dr. Kubicki told the medical students that he is an alcoholic. Dr. Kubicki stated that he had been a very busy physician, accepted in society, and he thought that he was better than others. Dr. Kubicki did not realize that he had a problem until he entered a rehabilitation program. Dr. Kubicki stated that when his friends first confronted Dr. Kubicki in an intervention he thought they were crazy. Dr. Kubicki stated that he would never have stopped drinking if not for his friends, particularly one persistent friend who was also a physician.

Dr. Soin asked how this has impacted Dr. Kubicki's career. Dr. Kubicki stated that he was surprised that he was able to practice as long as he did without consequences. Dr. Kubicki stated that despite his success, he reached a point in his alcoholism where he was ready to die. Dr. Kubicki stated that although he never went to work while intoxicated, he had put his patients at risk because he was impaired.

In response to questions from Mr. Giacalone, Dr. Kubicki stated that he is currently in private practice as an internist and he covers for other physicians as a hospitalist. Dr. Kubicki stated that he now has peace of mind. Dr. Kubicki stated that as long as he knows who is his, namely an addict and an alcoholic, he will know what to do to protect himself. Dr. Kubicki stated that he protects himself by abstaining from alcohol, attending Alcoholics Anonymous meetings, and engaging in other recovery activities. Dr. Kubicki stated that he has an AA sponsor and he is a sponsor to other people.

Mr. Giacalone asked if anything will change after the Board releases him from his probationary terms. Dr. Kubicki replied that he will continue doing the same things and participating in recovery. Dr. Kubicki stated that he will continue to be monitored by the West Virginia Medical Professionals Health Program. Dr. Kubicki stated that being monitored probably saved him.

Dr. Schottenstein asked if Dr. Kubicki feels emotionally healthy and stable at this time. Dr. Kubicki replied that his emotions feel healthy and he has no issues with anxiety or depression.

Dr. Steinbergh moved to release Dr. Kubicki from the terms of his February 9, 2011 Consent Agreement, effective immediately. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

POORANAND PALAPARTY, M.D.

Dr. Palaparty was appearing before the Board pursuant to his request for release from the terms of the Board's Order of May 13, 2015. Dr. Soin reviewed Dr. Palaparty's history with the Board.

Dr. Steinbergh noted that Dr. Palaparty is one of several physicians who were cited at about the same time for a similar issue. Dr. Steinbergh asked if Dr. Palaparty would address the medical students in attendance regarding his situation. Dr. Palaparty agreed.

Dr. Palaparty stated that in his prior practice as a medical oncologist he had purchased oncology medications to be used on his patients. Dr. Palaparty stated that he was approached by a representative from a Canadian company which offered the same medications for a lower price. Dr. Palaparty was assured that the practice was legal and that the medications were exactly the same and produced by the same manufacturer. Dr. Palaparty agreed and began to purchase medication from this company.

Dr. Palaparty continued that the Food and Drug Administration (FDA) sent him notices stating that the medications he was purchasing were not FDA-approved and did not meet the criteria for FDA labeling. Dr. Palaparty stated that he should have consulted with an attorney at that time. Instead, Dr. Palaparty called the company and was told that the FDA notices were routine and were not a cause for worry. Dr. Palaparty stated that he continued this practice for four to five years.

Dr. Steinbergh advised the students that they will be involved in a variety of ethical decisions in their careers and Dr. Palaparty's situation is an example of that. Dr. Palaparty imparted advice that he had received as he graduated medical school: Do not purchase million-dollar homes and expensive cars, because you will be working for them instead of for your patients.

Dr. Soin advised the students that they will encounter many representatives from companies and that they should be careful. Dr. Soin stated that physicians should not take a sales representative's word that something is FDA-approved. Dr. Soin also advised the students to be careful of entering into agreements that are kickback schemes. Dr. Soin stated that it is the physician's responsibility to properly vet their business practices. Dr. Soin stated that being disciplined by the Medical Board affects a physician's insurance credentialing, contracting, and other aspects of their careers.

Dr. Schottenstein stated that he recalled Dr. Palaparty's last appearance before the Board because of the extreme regret he had expressed. Dr. Schottenstein advised the students about the importance of educating oneself about the Board's rules, stating that many physicians commit infractions without realizing it.

May 11, 2016

Dr. Steinbergh moved to release Dr. Palaparty from the terms of the Board's Order of May 13, 2015, effective May 14, 2016. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

JANET E. DESPOT, M.D.

Ms. Murray stated that attempts to establish a telephone call with Dr. Despot have been unsuccessful for unknown reasons.

A vote was taken on Dr. Steinbergh's previous motion to move Dr. Despot's personal appearance to the June 8, 2016 Board meeting. All members voted aye. The motion carried.

ADJOURNMENT

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

Thereupon, at 3:35 p.m., the May 11, 2016 session of the State Medical Board of Ohio was adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on May 11, 2016, as approved on June 8, 2016.



Michael L. Gonidakis, President



Kim G. Rothermel, M.D., Secretary

(SEAL)

