

MINUTES**THE STATE MEDICAL BOARD OF OHIO****June 13, 2018**

Robert P. Giacalone, President, called the meeting to order at 10:20 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: Andrew P. Schachat, Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Amol Soin, M.D.; Michael Schottenstein, M.D.; Richard Edgin, M.D.; Mark A. Bechtel, M.D.; Betty Montgomery; and Sherry L. Johnson, D.O. The following member arrived at a later time: Michael L. Gonidakis. The following member did not attend: Ronan M. Factora, M.D.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; Sallie Debolt, Senior Counsel; Bill Schmidt, Chief of Investigations; Susan Loe, Director of Human Resources and Fiscal; Jonithon LaCross, Public Policy & Governmental Affairs Program Administrator; Teresa Pollock, Director for Communications; Joan K. Wehrle, Education and Outreach Program Manager; Nathan Smith, Staff Attorney; Rebecca Marshall, Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Cheryl Pokorny, Angela McNair, James Roach, and Adam Meigs, Enforcement Attorneys; Kyle Wilcox, Melinda Snyder, and Emily Pelphrey, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Kimberly Lee, Hearing Examiner; Alexandra Murray, Managing Attorney, Standards Review and Compliance; Annette Jones and Angela Moore, Compliance Officers; Colin DePew, Legal and Policy Staff Attorney; Cathy Hacker, Physician Assistant Program Administrator; Jacqueline A. Moore, Legal/Public Affairs Assistant; Morgan Willison, Payroll Manager; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Saferin moved to approve the draft minutes of the May 9-10, 2018, Board meetings, as written. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

APPLICANTS FOR LICENSURE

Dr. Saferin moved to approve for licensure, contingent upon all requested documents being

received and approved in accordance with licensure protocols, the physician applicants listed in Exhibit “A” and the allied professional applicants in Exhibit “B,” as listed in the Agenda Supplement and handouts. Dr. Bechtel seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Dr. Saferin moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the applicants listed in Exhibit “C” for the Certificate to Recommend Medical Marijuana, as listed in the Agenda Supplement and handouts. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

REPORTS AND RECOMMENDATIONS

Mr. Giacalone announced that the Board would now consider the Reports and Recommendations appearing on its agenda.

Mr. Giacalone 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: Jayaprakash A. Gosalakkal; Muyuan Ma, M.D.; and William George Paloski, D.O. A roll call was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye

Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Dr. Edgin	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

Mr. Giacalone 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
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

Mr. Giacalone 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, Dr. Saferin served as Supervising Member, and Dr. Bechtel served as Secretary and/or Supervising Member.

Mr. Giacalone 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.

MUYUAN MA, M.D.

Mr. Giacalone directed the Board's attention to the matter of Muyuan Ma, M.D. Objections to Ms. Blue's Report and Recommendation have been filed and were previously distributed to Board members.

Mr. Giacalone stated that a request to address the Board has been filed on behalf of Dr. Ma. Five minutes will be allowed for that address.

Dr. Ma was represented by her attorney, Elizabeth Collis.

Ms. Collis stated that the matter of Dr. Ma comes down to whose opinion one supports. Ms. Collis stated that one could support the opinion of Dr. Ma's psychiatrist, Thomas Thysseril, M.D., who has treated her for four years and met with her on a monthly basis; Leanne Chrisman-Khawam, M.D., Dr. Ma's program director who worked with her on a daily basis; or Stephen Noffsinger, M.D., the State's expert who met

with Dr. Ma for one hour and did not speak with her psychiatrist or any of her colleagues. Ms. Collis stated that Dr. Thysseril testified that Dr. Ma is fit to continue to practice and provide direct patient care, albeit in a low-stress outpatient setting. Dr. Chrisman-Khawam testified that Dr. Ma is an excellent physician who handles even the most difficult cases well.

Ms. Collis stated that Dr. Noffsinger alone changed Dr. Ma's diagnosis from bipolar disorder to schizophrenia, and he alone has testified that Dr. Ma is not safe to continue practicing direct patient care. Ms. Collis noted that there was a great deal of testimony about whether Ms. Ma's correct diagnosis was bipolar disorder or schizoaffective disorder. Ms. Collis asserted that the diagnosis in this case is irrelevant because the Board has never defined any specific diagnosis that would bar a physician from practice. Rather, the Board has based its actions on a physician's conduct. Ms. Collis pointed out that Dr. Ma has successfully completed 34 months of her 36-month residency program, she has followed all the recommendations of her treatment provider, and she was in full compliance with her Board Order. Ms. Collis acknowledged that the evidence shows that Dr. Ma also struggled with inter-personal relationships with colleagues.

Ms. Collis continued that Dr. Noffsinger testified that Ms. Ma was delusional and paranoid. Ms. Collis asserted that while Dr. Ma was paranoid on occasion, she was never delusional and that she actually was threatened and physical assaulted by a co-worker. Dr. Ma also testified that she did not return to her residency program following her termination because she did not feel it was a safe environment for her.

Ms. Collis opined that it is important to consider the recommendation of Dr. Thysseril and Dr. Chrisman-Khawam, who worked with Dr. Ma on a daily basis and who traveled to Columbus to testify that she is fit to practice. Ms. Collis stated that if Dr. Ma is allowed to continue to practice, she will remain under the terms of her 2015 Consent Agreement. Ms. Collis commented that the terms of Dr. Ma's Agreement could be enhanced by allowing Dr. Thysseril to communicate with Dr. Chrisman-Khawam.

Dr. Ma stated that she sought treatment for depression in high school and she was diagnosed with bipolar disorder in 2011. Dr. Ma stated that she was able to consistently perform well in school and she completed college at Case Western Reserve University with a degree in biomedical engineering and medical school at The Ohio State University. Dr. Ma stated that when she applied for her training certificate, she fully disclosed her bipolar disorder diagnosis.

Dr. Ma continued that her residency program was her first job and, as with many first jobs, it was a difficult adjustment. Dr. Ma felt that, for the most part, she got along with the staff and the other residents. However, when faced with difficult rotations the stress made things more difficult for Dr. Ma and she sometimes struggled when she had to work cooperatively with other residents. Dr. Ma stated that in hindsight, she realizes that many of the inter-personal challenges she experienced were due to the stress of the job, her bipolar disorder, and her lack of coping skills.

Dr. Ma stated that during her third year of residency, Dr. Thysseril contacted the medical board and her then-current program director, Amy Zack, M.D., and reported that she should only work in low-stress outpatient settings. Dr. Zack determined that the residency program was not amenable to meeting these requirements, and Dr. Ma was therefore terminated from the program. Dr. Ma stated that she had agreed with Dr. Thysseril's recommendations and she therefore sought work in a less stressful environment. Subsequently, Dr. Ma found employment with Visiting Physicians Association, where she is able to focus on one patient at a time and not feel rushed. Dr. Ma also had a medical assistant in this job who drove Dr. Ma to each patient home, helped with the patients, and allowed Dr. Ma to focus solely on patient care.

Dr. Ma stated that she performed well in this position and has continued to be employed by Visiting Physicians Association in a non-clinical scheduling role while her license has been suspended.

Dr. Ma stated that she has continued to work with her counselor to develop stronger coping skills so she will have the tools to handle challenging situations in the future. Dr. Ma believed that with her counselor's and psychiatrist's guidance and medical management, she can continue to safely practice medicine with her bipolar disorder diagnosis. Dr. Ma asked the Board to give me the opportunity to resume the practice of direct patient care and stated that she would gladly continue with the proper monitoring conditions.

Mr. Giacalone asked if the Assistant Attorney General wished to respond. Ms. Pelphrey stated that she did not wish to respond.

Dr. Schottenstein moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Muyuan Ma, M.D. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Ma.

Dr. Soin stated that this case involves an alleged violation of Section 4731.22(B)(19), Ohio Revised Code, which relates to "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills."

Dr. Soin continued that in March 2015, the Board ordered Dr. Ma to submit to a psychiatric evaluation with Stephen Noffsinger, M.D., based on, among other things, Dr. Ma's disclosure of mental illness on her training certificate application. As a result of that evaluation, Dr. Noffsinger diagnosed Dr. Ma with Bipolar I Disorder, most recent episode depressed, in full remission. Dr. Noffsinger opined that Dr. Ma was incapable of practicing medicine according to acceptable and prevailing standards of care. Dr. Noffsinger added that Dr. Ma was amenable to treatment and he recommended a plan of treatment. In June 2015, Dr. Ma entered into a Consent Agreement with the Board.

Dr. Soin stated that the following items were noted on the quarterly compliance reports submitted by Leanne Chrisman-Khawam, M.D., Dr. Ma's monitoring physician:

- On November 23, 2015, it was noted that Dr. Ma appropriately engaged in clinical activities and was a strong intern.
- On February 16, 2016, it was noted that Dr. Ma had had two emotional responses to stress. During one event, a teacher from the Graduate Medical Education office felt Dr. Ma was "acting out in a rude way. She was felt to have responded immaturely and rudely and impacted those around her ..."
- On February 29, 2016, it was noted that Dr. Ma made several serious allegations towards unnamed individuals. These allegations included that staff were "harming" patients, "putting [patients] in harm's way," and implied that staff was killing patients to retaliate against her actions.
- On May 25, 2016, it was noted that Dr. Ma had received a "critical deficiency rating in inter-professional communications and professionalism related to her inability to consistently act in ways that we hope that she will." The report noted several issues for Dr. Ma, including

jumping from one idea to another during presentations without logical connections; speaking loudly and repeating the same concerns multiple times to IT; and yelling an obscenity loudly in the clinic twice which disrupted the clinic.

- On August 26, 2016, it was noted that Dr. Ma had had no issues over the last quarter.
- On November 30, 2016, it was again noted that Dr. Ma had had no issues over the last quarter.

Dr. Soin stated that in October 2017, the Board sent a letter ordering Dr. Ma to submit to a psychiatric evaluation due to the determination that there was reason to believe she was in violation of Section 4731.22(B)(19), Ohio Revised Code. The Board's determination was based on, among other things, Dr. Ma's behavior on or about May 2017 that included a physical altercation with another resident physician which resulted in her being placed on administrative leave from the residency program; Dr. Ma's instructions to her psychiatrist that he no longer had to send reports to the Medical Board, despite the requirements of her 2015 Consent Agreement; Dr. Ma's psychiatrist's opinion that she should not practice in a high-stress, high-intensity inpatient environment, but that she may be able to practice in low-stress environments; and Dr. Ma's unfounded claim in or about 2016 that staff members at her residency program were harming and possibly killing patients in order to retaliate against her.

By letter dated January 16, 2018, Dr. Noffsinger notified the Board that based on his evaluation he had diagnosed Dr. Ma with Schizoaffective Disorder, Bipolar Type. Dr. Noffsinger opined that Dr. Ma is incapable of practicing medicine according to acceptable and prevailing standards of care due to this condition. Dr. Noffsinger further opined that Dr. Ma's practice should be limited so as not to involve direct patient care and/or leading a treatment team engaging in direct patient care. Instead, Dr. Noffsinger stated that Dr. Ma's practice should be limited to a low-stress administrative type of practice in which she will not engage in direct patient care.

Dr. Soin noted that Dr. Ma also had multiple colleagues who testified on her behalf at her hearing. Specifically, Dr. Chrisman-Khawam, Sheng Liu, M.D., Anne Marie Daly, M.D., and Karen Braman, North Ohio Director of Operations for Visiting Physicians Association, testified in support of Dr. Ma.

Dr. Soin stated that he agreed with the Hearing Examiner's Findings of Fact and Conclusions of Law. Regarding the Proposed Order, Dr. Soin asked Dr. Schottenstein to provide feedback in this matter.

Dr. Schottenstein stated that Dr. Ma's inability to control her emotions and behavior despite treatment gives him pause because providing medical care is inherently stressful whether it is in a residency, an inpatient unit, or an outpatient setting. However, Dr. Schottenstein stated that mood instability and paranoia are treatable, and just because those conditions have not been consistently adequately treated for Dr. Ma thus far does not mean they are definitively untreatable going forward. Dr. Schottenstein noted that another physician, Dr. Bangert, is currently practicing under a Step II Consent Agreement and is being treated for schizophrenia. Dr. Schottenstein stated that, if anything, schizophrenia has a worse prognosis than either schizoaffective disorder or bipolar disorder.

Dr. Schottenstein stated that stress is unpleasant for everyone, but he has found in his experience that people with mental health issues have an almost allergic reaction to stress, which can lead to substantial break-through symptoms. Dr. Schottenstein felt that Dr. Ma can be productive if she is prudent about the levels of stress she is exposed to and continues her psychiatric and psychological care. Dr. Schottenstein observed that there is no indication in the record that Dr. Ma has had any altercations with a patient and

there is no history of patient complaints about Dr. Ma. Dr. Schottenstein opined that Dr. Ma has displayed good judgment in choosing her current job, which is fairly low-stress and she does not have to rush or have stressful interactions with residents or nurses. Dr. Schottenstein noted that Dr. Ma had been working at her current job prior to her summary suspension and her employer has been pleased with her performance.

Dr. Schottenstein stated that according to testimony, Dr. Ma is a technically competent physician and she can practice medicine when her mood and behavior are not issues. Dr. Schottenstein wished to offer an amended order which would limit Dr. Ma from practicing in an inpatient setting. The amended order would suspend Dr. Ma's medical license indefinitely until two Board-approved psychiatrists recommend that she is able to safely and competently practice medicine in an outpatient and/or administrative setting. Following reinstatement, the amended order would establish probationary terms for a minimum of three years and would require a practice plan and monitoring physician approved by the Board. Dr. Schottenstein noted that for the first year of probation, the amended order would increase the frequency of office conferences to monthly and would require Dr. Ma to appear before the Board's Compliance Committee every three months. Dr. Schottenstein stated that he is comfortable with quarterly declaration of compliance from Dr. Ma because non-compliance has not historically been an issue for her. Dr. Schottenstein also supported the disruptive physician courses, the professional ethics courses, and the continued psychiatric care stipulated in the original Proposed Order.

Dr. Schottenstein commented that the Hearing Examiner had recommended that Dr. Ma be restricted from all direct patient care, both inpatient and outpatient, which would effectively limit Dr. Ma to administrative medicine. Dr. Schottenstein stated that the administrative setting is something one goes into when one has had many years of clinical experience treating patients. Dr. Schottenstein questioned whether someone could enter an administrative care setting fresh from medical school or residency and do an adequate job.

Dr. Schottenstein moved to amend the Proposed Order to read as follows:

It is hereby ORDERED that:

- A. **PERMANENT LIMITATION/RESTRICTION:** The license of Muyuan Ma, M.D., to practice medicine and surgery in the State of Ohio shall be permanently LIMITED and RESTRICTED as follows:
 - Dr. Ma's medical practice shall not involve direct patient care in an inpatient setting.
- B. **SUSPENSION OF LICENSE:** Dr. Ma's license to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.
- C. **INTERIM MONITORING:** During the period that Dr. Ma's license to practice medicine and surgery in Ohio is suspended, Dr. Ma shall comply with the following terms, conditions, and limitations:
 1. **Obey the Law:** Dr. Ma 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. Ma 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 date her quarterly declaration would have been due pursuant to her June 2015 Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances:** Dr. Ma shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date her appearance would have been scheduled pursuant to her June 2015 Consent Agreement. Subsequent personal appearances shall occur every three months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Continue Psychiatric Treatment:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Ma shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Ma's choice. The Board may consider Dr. Ma's current psychiatrist, Thomas Thysseril, M.D., as an approved provider.

Dr. Ma 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. Ma's current treatment plan and any changes that have been made to the treatment plan since the prior report; her compliance with the treatment plan; her psychiatric status; her progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report. Dr. Ma 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. Ma's declarations of compliance. **The frequency of Dr. Ma's visits shall be determined by the approved treating psychiatrist unless otherwise directed by the Board.**

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

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Ma shall immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Ma 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. Ma's designated treating psychiatrist, or may withdraw its approval of any psychiatrist previously approved to serve as Dr. Ma'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.

5. **Releases:** Dr. Ma 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. Ma'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. Ma shall also provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event Dr. Ma fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

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

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

1. **Application for Reinstatement or Restoration:** Dr. Ma shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Ma shall have maintained compliance with all the terms and conditions set forth in Paragraph C of this Order.
3. **Psychiatric Reports Evidencing Fitness to Practice; Recommended Limitations:** At the time Dr. Ma submits her application for reinstatement or restoration, Dr. Ma shall provide the Board with written reports of evaluation by two psychiatrists acceptable to the Board indicating that Dr. Ma's ability to practice has been assessed and that she has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such evaluations shall have been performed within 60 days prior to Dr. Ma's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the basis for the determination that Dr. Ma has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon her practice.
4. **Disruptive Physician Course(s):** At the time she submits her application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Ma shall provide acceptable documentation of successful completion of a course or courses dealing with disruptive physicians. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

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

5. **Professional Ethics Course(s):** At the time she submits her application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Ma shall provide acceptable documentation of successful completion of a course or courses dealing with 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.

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

6. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Ma 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 her fitness to resume practice.
- E. **PROBATION**: Upon reinstatement or restoration, Dr. Ma's license 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. Ma shall continue to be subject to the terms, conditions, and limitations specified in Paragraph C of this Order, with the following modification to Subparagraph C.3 regarding personal appearances:

Personal Appearances: During the first year of probation, or as otherwise determined by the Board, and beginning the first month after the month in which Dr. Ma's license is restored or reinstated, Dr. Ma shall appear in person for office conferences on a monthly basis, or as otherwise determined by the Board. Dr. Ma shall also continue to appear in person for interviews before the full Board or its designated representative every three months, as set forth in Subparagraph C.3, which remains in full force and effect.
 2. **Practice Plan; Monitoring Physician**: Prior to Dr. Ma's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Ma shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Ma's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Ma shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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

The monitoring physician shall monitor Dr. Ma and her medical practice, and shall review Dr. Ma'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. Ma and her medical practice, and on the review of Dr. Ma's patient charts. Dr. Ma 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. Ma's declarations of compliance.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Ma shall immediately so notify the Board in writing. In addition, Dr. Ma 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. Ma 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. Ma's monitoring physician, or may withdraw its approval of any physician previously approved to serve as Dr. Ma'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. Ma 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.

F. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Ma's certificate will be fully restored, but shall thereafter be permanently LIMITED and RESTRICTED as specified in Paragraph A above.

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

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

In the event that Dr. Ma 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, she shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

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

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

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

Additionally, within 30 days of the effective date of this Order, Dr. Ma shall provide a copy of this Order to any specialty or subspecialty board of the American Board of Medical Specialties or the American Osteopathic Association Bureau of Osteopathic Specialists under which she currently holds or has previously held certification.

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

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

3. **Required Reporting to Treatment Providers/Monitors:** Dr. Ma shall promptly provide a copy of this Order to all persons and entities that provide her treatment or monitoring for alcohol and/or chemical use disorder. Further, within 30 days of the date of each such notification, Dr. Ma shall provide documentation acceptable to the Secretary and Supervising Member of the Board demonstrating that the required notification has occurred. This requirement shall continue until Dr. Ma receives from the Board written notification of the successful completion of her probation.

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

I. **SUPERSEDE PREVIOUS PROBATIONARY CONSENT AGREEMENT:** Upon becoming effective, this Order shall supersede the terms and conditions set forth in the June 10, 2015, Probationary Consent Agreement between Dr. Ma and the Board.

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

Dr. Soin seconded the motion.

Ms. Montgomery noted the incident from May 24, 2017, in which Dr. Ma argued with an intern about a cardiac patient and she did not listen to the intern about new information and instructions from the cardiologist. Ms. Montgomery stated that she is not a physician and so she is not certain how much risk of harm this represented for the patient, but she was deeply concerned given Dr. Ma's history. Ms. Montgomery stated that she is not unsympathetic to mental illness, but she noted that Dr. Ma has been unable to cope with each new segment of her life, which has led not only to difficulties at work but also

suicide attempts. Ms. Montgomery acknowledged that Dr. Ma is at the beginning of her career, but she stated that there is no consistent track record to indicate that Dr. Ma can treat patients. Ms. Montgomery opined that there are too many signals that indicate that accommodating Dr. Ma could put patients and systems at risk, and she therefore would be supportive of the original Proposed Order.

Dr. Schottenstein appreciated Ms. Montgomery's comments and stated that he had also struggled with similar concerns. Dr. Schottenstein stated that Dr. Ma's overall track record indicates an ability to provide technically good medical care to patients. Dr. Schottenstein stated that the incidents in question represent times when Dr. Ma's issues break through her treatment, and therefore they are break-through symptoms. Dr. Schottenstein stated that his proposed amended order gives Dr. Ma the benefit of the doubt that her symptoms could be adequately managed with ongoing treatment and a lower-stress work environment. Dr. Schottenstein stated that Dr. Ma's past work evaluations show substantial inconsistencies, with some evaluations being very glowing and others almost the opposite in terms of professional issues. Dr. Schottenstein felt that this indicated a potential for Dr. Ma to provide adequate care in a low-stress setting. Dr. Schottenstein added that Dr. Ma's track record has been very good since she left residency, according to the testimony of her current employer.

Dr. Soin also appreciated Ms. Montgomery's comments. Dr. Soin stated that he would like Dr. Ma to have the opportunity to be adequately treated. Dr. Soin also noted that the proposed amended order requires that two psychiatrists attest that Dr. Ma is being adequately treated before she can practice again. Dr. Soin opined that if Dr. Ma receives adequate treatment, she could be productive in a work environment without harming patients.

Mr. Giacalone commented that there seems to be a disconnect between Dr. Noffsinger and Dr. Ma's current psychiatrist, Dr. Thysseril, regarding the schizoaffective disorder diagnosis. Dr. Schottenstein stated that schizoaffective disorder and bipolar disorder have some things in common, including mood instability and the potential for psychotic features. Dr. Schottenstein stated that the difference between the two diagnoses is essentially emphasis. Dr. Schottenstein elaborated that one with bipolar disorder can only experience psychotic features in the context of an unstable mood, while one with schizoaffective disorder can have a stable mood but still be prone to psychotic features. Dr. Schottenstein added that one must have consistent psychosis like paranoia for at least a couple of weeks to qualify for a diagnosis of schizoaffective disorder. Dr. Schottenstein stated that schizoaffective disorder has a worse prognosis than bipolar disorder. Dr. Schottenstein reiterated that one physician is currently practicing under a Step II Consent Agreement with a diagnosis of schizophrenia, which has a worse prognosis than schizoaffective disorder.

Dr. Schottenstein echoed earlier comments that the Board takes action based on behavior, not based on diagnosis. Dr. Schottenstein opined that Dr. Ma's behavior is controllable with additional treatment and additional consideration given to her practicing environment.

Mr. Giacalone stated that a comment was made in this case that while residency and inpatient practice can be very stressful, outpatient practice can also be stressful. Dr. Schottenstein agreed that outpatient settings can also be very stressful. Dr. Schottenstein opined that, while there is some variability, the average level of stress in outpatient settings is less than in inpatient settings. Dr. Schottenstein appreciated that Dr. Ma used good judgment in finding an outpatient setting that was relatively low-stress. Dr. Schottenstein was cautiously optimistic that Dr. Ma will continue to use good judgment and look for outpatient settings that are not highly provocative to her. Mr. Giacalone asked if the Order should limit Dr. Ma's outpatient settings in some way. Dr. Schottenstein opined that the outpatient settings should not be

limited because too much of a limitation could narrow Dr. Ma's scope of practice to the point that, for all intents and purposes, she cannot find employment.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to amend carried.

Dr. Edgin moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Muyuan Ma, M.D. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to approve carried.

JAYAPRAKASH A. GOSALAKKAL, M.D.

Mr. Giacalone directed the Board's attention to the matter of Jayaprakash A. Gosalakkal, M.D. Objections to Mr. Porter's Report and Recommendation have been filed and were previously distributed to Board members.

Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Jayaprakash A. Gosalakkal, M.D. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Gosalakkal.

Mr. Giacalone stated that the Medical Board had revoked Dr. Gosalakkal's medical license in January

2017. Dr. Gosalakkal has recently applied for new license, as permitted under Rule 4731-13-36(B).

Mr. Giacalone noted that the Hearing Examiner found that Dr. Gosalakkal made several false statements, as set forth in the Report and Recommendations' Findings of Fact #4, which make him appear "very uncooperative and, with respect to 4.b [of the Findings of Fact], include a new falsehood." Mr. Giacalone assumed that the new falsehood referred to by the Hearing Examiner pertained to whether Dr. Gosalakkal's original issue in the United Kingdom was actually rescinded or was just followed through. The Hearing Examiner also found that Dr. Gosalakkal did not present any significant or convincing mitigating evidence that had not already been presented in his previous hearing.

Mr. Giacalone stated that the Proposed Order is to permanently deny Dr. Gosalakkal's application for licensure.

Dr. Soin stated that he supports the Proposed Order to permanently deny Dr. Gosalakkal's application. Dr. Soin commented that it appears that the Board should have permanently revoked Dr. Gosalakkal's license when his case first came before the Board.

Dr. Schottenstein found it curious that Dr. Gosalakkal felt that the Medical Board was "perilously close to a state body targeting an individual due to personal animosity." Dr. Schottenstein commented that if that had been the Board's agenda, it could have permanently revoked Dr. Gosalakkal's license in 2017. Instead, the Board ordered a non-permanent revocation with the implicit possibility for a second chance for Dr. Gosalakkal to regain licensure. Dr. Schottenstein felt that, regrettably, Dr. Gosalakkal's statement is representative of his difficulty in owning his mistakes, his trouble with self-reflection, and his inability to appreciate the fact that the Board has a legitimate concern based on the report from the Fitness to Practise Panel of the United Kingdom's Medical Practitioners Tribunal Service. Dr. Schottenstein appreciated that this has been a frustrating experience for Dr. Gosalakkal, but he expressed concern that Dr. Gosalakkal's emotions on this matter have blinded him to very real concerns that have been raised.

Dr. Schottenstein stated that there are multiple aggravating factors in this matter, including Dr. Gosalakkal's prior disciplinary action, his pattern of misconduct, multiple violations, submission of false statements, refusal to acknowledge the wrongful nature of his conduct, the adverse impact of his conduct on others, and a failure to fulfill his duty to disclose information to the Board. Dr. Schottenstein noted that the Fitness to Practise report had also referred to Dr. Gosalakkal's absence of evidence of insight and remediation, which is very much like the case before the Board today.

Dr. Schottenstein opined that Dr. Gosalakkal had a second chance with the Medical Board, but he has unfortunately squandered it. Dr. Schottenstein agreed with the Proposed Order.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye

Dr. Johnson - aye
Dr. Bechtel - abstain

The motion to approve carried.

WILLIAM GEORGE PALOSKI, D.O.

Mr. Giacalone directed the Board's attention to the matter of William George Paloski, D.O. Objections to Ms. Shamansky's Report and Recommendation have been filed and were previously distributed to Board members.

Mr. Giacalone stated that a request to address the Board has been filed on behalf of Dr. Paloski. Five minutes will be allowed for that address.

Dr. Paloski was represented by his attorney, David Betras.

Mr. Betras stated that Dr. Paloski entered into an Alford plea to five felony counts and eight misdemeanor counts, resulting in a term of probation and the forfeiture of \$250,000, a Ford Expedition vehicle, and a piece of real estate that his practice was on. Mr. Betras stated that Dr. Paloski served the city of Youngstown for 40 years, and the last 20 years in an under-privileged, underserved part of the community in which the patient population was primarily African-American and on CareSource. Mr. Betras stated that Dr. Paloski was the "last man standing" in the community. Mr. Betras stated that Dr. Paloski became so busy that he could not make appointments and he saw patients on a first-come first-served basis.

Mr. Betras continued that unbeknownst to Dr. Paloski, some of his prescriptions ended up in a drug house. Mr. Betras stated that the authorities, instead of informing Dr. Paloski that some of his prescriptions are being sold on the street, began a three-year investigation of Dr. Paloski. In August 2015 Dr. Paloski's office was raided and the authorities seized \$1,300,000 of his money, in addition to his wife's jewelry and a coin collection from their house, and held it for 18 months. Mr. Betras stated that he was told that Dr. Paloski must plead to something. Mr. Betras stated that he and Dr. Paloski fought this action. Mr. Betras asked who on the Medical Board, if a prosecutor threatens to indict their wife if they do not plead, would not agree to an Alford plea in order to protect his wife. Mr. Betras stated that the prosecutors also threatened to seize Dr. Paloski's house and all of his money. Mr. Betras stated that this is why Dr. Paloski made the Alford plea. Mr. Betras stated that Dr. Paloski maintains that he did nothing criminally wrong, despite the fact that there has been a judicial finding of guilty against him.

Mr. Betras further commented that out of the 4,000 patient records seized from Dr. Paloski's office, his indictment was based on 12 patient records. Mr. Betras stated that no one could get a refill in Dr. Paloski's office unless Dr. Paloski saw and examined them, but he was manipulated by these 12 patients in the later part of his life. Mr. Betras stated that if the authorities has just informed Dr. Paloski of these troubles with his prescriptions, he would have changed some of his prescribing habits.

Mr. Betras added that prior to these events, Dr. Paloski had been in active negotiations with a local hospital that wanted to buy his practice because he was the "last man standing" on the south side of Youngstown.

Mr. Betras stated that this process has robbed Dr. Paloski of his dignity. Mr. Betras stated that Dr. Paloski does not want to return to the full practice of medicine, but he does not want to leave the profession in this

fashion. Mr. Betras stated that Dr. Paloski would like to retain the ability to practice part-time, and to have some mercy and some dignity.

Mr. Giacalone asked if the Assistant Attorney General wished to respond. Ms. Snyder stated that she did wish to respond.

Ms. Snyder stated that Dr. Paloski let his patients down by letting dangerous drugs go onto the streets, thereby jeopardizing his patients and many innocent people. Ms. Snyder also commented that it does not take more than 12 patients to establish the facts in this case.

Ms. Snyder stated that the first time the Board considered Dr. Paloski, the Board chose not to revoke his medical license. However, since that time Dr. Paloski has been convicted of drug trafficking. Ms. Snyder stated that Dr. Paloski has forfeited his right to be a physician by created a dangerous environment. Ms. Snyder stated that a physician in an underserved population knows how to recognize a drug-seeker. Ms. Snyder stated that Dr. Paloski did not take responsibility for his actions in his hearing. Ms. Snyder further stated that Dr. Paloski's plea is a complete admission of guilty to four felony counts of drug trafficking, one felony count of attempted drug trafficking, and eight misdemeanor counts of possession of dangerous drugs. Ms. Snyder stated that Dr. Paloski cannot be guilty in criminal court and yet be innocent before the Medical Board.

Ms. Snyder supported the Proposed Order to permanently revoke Dr. Paloski's Ohio medical license.

Dr. Schottenstein moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of William George Paloski, D.O. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Paloski.

Dr. Edgin stated that on June 14, 2017, the Board issued an immediate suspension of Dr. Paloski's Ohio medical license. This action was taken pursuant to Ohio Revised Code Section 3719.121(C), which requires the Board to suspend the license of a physician immediately upon receiving notice that he or she has been convicted of a felony drug abuse offense. Dr. Edgin stated that on or about May 23, 2017, in the Mahoning County Court of Common Pleas, Dr. Paloski entered an Alford plea, was found guilty, and was sentenced on four counts of Trafficking in Drugs, fifth degree felonies; one count of Attempted Trafficking in Drugs, also a fifth degree felony; and eight counts of Possession of Dangerous Drugs, first degree misdemeanors.

Dr. Edgin briefly reviewed Dr. Paloski's medical education and career. Dr. Edgin stated that Dr. Paloski served a very under-privileged, underserved area with a largely African-American population. Many of Dr. Paloski's patients had respiratory problems and over 50% of his patient smoked. Dr. Paloski saw about 40 patients per day and he charged an average of \$70 per office visit. Dr. Edgin noted that Dr. Paloski always examined his patients and he always had a diagnosis before writing a prescription. Dr. Edgin stated that many of Dr. Paloski's patients were initially prescribed Phenergan DM, and later Phenergan with codeine. Dr. Edgin commented that these prescriptions are not the standard treatment for smoking coughs. Dr. Paloski testified that he spoke to his patients about addiction.

Dr. Edgin continued that Dr. Paloski had applied for a Terminal Distributor of Dangerous Drugs (TDDD) license from the Board of Pharmacy, although he was uncertain if he needed that license because he did

not know if more than 50% of his patients required controlled substances. Dr. Paloski has indicated that he thought some of his patients may be coming to him looking for narcotics, but he thought it was a very small number. Dr. Paloski further indicated that he turned away about 20 to 25 patients per year because they displayed drug-seeking behavior.

Dr. Edgin stated that when Dr. Paloski's practice was raided, the authorities seized about \$250,000 in funds, five guns, and the property that his practice was located on. The Board of Pharmacy summarily suspended Dr. Paloski's TDDD license due to these actions, and subsequent action by the Medical Board restricted his medical license so that he could not prescribe controlled substances. Dr. Paloski has stated that he felt he was being persecuted because of where he practiced. In October 2016, Dr. Paloski entered into a Consent Agreement with the Medical Board which required Dr. Paloski to adhere to certain terms and conditions.

On March 24, 2017, Dr. Paloski appeared in Mahoning County Court of Common Pleas and withdrew his pleas of Not Guilty and entered an Alford plea. Dr. Edgin noted that the documentation includes a statement that Dr. Paloski freely offered the Alford plea. However, Dr. Paloski has stated that he entered the Alford plea due to a threatened indictment of his wife. Dr. Edgin agreed with Dr. Paloski's attorney that if Dr. Edgin's wife had been threatened with indictment, Dr. Edgin would probably have entered the plea also. Dr. Edgin stated that despite the fact that both the defending and prosecuting attorneys recommended a three-year probation, the judge elected to give Dr. Paloski five years of probation. The judge had also commented that Dr. Paloski should have gone to prison.

Dr. Edgin stated that Dr. Paloski has maintained his innocence throughout these proceedings. However, Dr. Edgin noted that in one 22-month period Dr. Paloski wrote for 281 gallons of Phenergan with codeine, which averages to more than 10 gallons per month. Dr. Edgin stated that regardless of the fact that there are only 12 patients involved in this case, a physician cannot prescribe 10 gallons of Phenergan per month for 12 patients. Dr. Edgin speculated that Dr. Paloski must have been prescribing Phenergan for a large number of patients, not just 12.

Dr. Edgin stated that Dr. Paloski did a great thing by practicing in an underserved, under-privileged area where no one else would see these patients. However, Dr. Edgin stated that Dr. Paloski prescribed Phenergan with codeine to many patients who had respiratory complaints, and that is not the only treatment for such complaints. Dr. Edgin added that prescribing 281 gallons of Phenergan in 22 months is excessive. Dr. Edgin stated that although Dr. Paloski was doing a good thing and trying to help a lot of people, he supports the Proposed Order of permanent revocation.

Dr. Schottenstein opined that the only reason Dr. Paloski did not lose his medical license when he first came before the board is because the allegations against him had not been proven at that time. Dr. Schottenstein pointed out that Dr. Paloski has now been found guilty of five felonies related to trafficking in drugs and eight misdemeanors for possession of dangerous drugs, all in the context of a patient population that is at high risk for substance use disorder and a society that is experiencing a drug epidemic. Dr. Schottenstein stated that Dr. Paloski arguably caused societal harm with his prescribing habits.

Dr. Schottenstein observed that Dr. Paloski's attorney has commented that Dr. Paloski may have been unfairly targeted because he served in an under-privileged area. In response, Dr. Schottenstein stated that it is incumbent upon the practitioner to be that much more careful to not contribute to the drug problem in that patient population. Dr. Schottenstein sympathized with Dr. Paloski regarding his health

issues, his desire to have a dignified end of his medical career, and the confiscation of his assets. However, Dr. Schottenstein opined that these are separate issues and are not adequately mitigating in the context of Dr. Paloski's prescribing pattern. Dr. Schottenstein also stated that one aggravating factor was the fact that Dr. Paloski does not appear to accept responsibility for his behavior or believe that he has done anything wrong.

Dr. Schottenstein stated that in the objections to the Report and Recommendation, Dr. Paloski's attorney objects to the notion that Dr. Paloski's Alford plea constitutes a plea of guilty. Dr. Schottenstein recalled that an Alford plea is a type of plea in which the defendant pleads guilty while maintaining his or her innocence. Therefore, Dr. Paloski argues through counsel that since there is no express admission of guilt in the Alford plea, this is not consistent with 4731.22(B)(9), Ohio Revised Code, which references a plea of guilty to a felony. Although the objections referenced several cases to this effect, Dr. Schottenstein opined that each of those cases are distinguishable from the matter of Dr. Paloski.

Dr. Schottenstein pointed out that 4731.22(B)(9), Ohio Revised Code, does not reference the defendant's state of mind as to his or her innocence while entering a plea; it only references the plea itself. Dr. Schottenstein stated that an Alford plea is a plea of guilty and is therefore consistent with the statute. Dr. Schottenstein noted that the statute also references a judicial finding of guilt of a felony, which clearly occurred in this case. Dr. Schottenstein also observed that Dr. Paloski signed a statement which reads, "I understand that an Alford plea is a complete admission of my guilt as to the charges contained herein." Dr. Schottenstein opined that this statement constitutes an express admission of guilt, as well as reliable, probative, and substantial evidence of guilt. Dr. Schottenstein stated that adopting the defense counsel's position would mean that an Alford plea would have a preclusive effect on subsequent proceedings and that any licensed individual facing felony charges immunize themselves from subsequent administrative proceedings by making an Alford plea. Dr. Schottenstein stated that this would lead to an unhealthy outcome for society.

Dr. Schottenstein did not know how the Board could justify allowing Dr. Paloski to retain his medical license in the context of felony drug convictions. Dr. Schottenstein opined that Dr. Paloski violated the trust of the citizens of Ohio and caused them harm, and he therefore agreed with the Proposed Order of permanent revocation.

Ms. Montgomery clarified that an Alford plea allows a defendant to not admit guilt but to acknowledge that there is enough evidence to find the defendant guilty, and it therefore constitutes a kind of no-contest finding of guilt. With regard to the fact that only 12 patients were involved in this case, Ms. Montgomery stated that it is not uncommon for there to be many more than 12 cases but only 12 are chosen to take to court because that is sufficient for the purposes of the trial. With regard to the issue of confiscation of assets, Ms. Montgomery stated that there are questions about how law enforcement handles such confiscations. However, Ms. Montgomery agreed with Dr. Schottenstein that this is something that does not concern the Board.

Dr. Soin appreciated that Dr. Paloski worked in an underserved area and was seemingly committed to his patients. Dr. Soin stated that Dr. Paloski may have truly thought he was helping his patients and he had an inability to say "no." Dr. Soin stated that physicians must be more vigilant and that sometimes a physician must say "no" for the benefit of the patient. Dr. Soin stated that Dr. Paloski may not have realized that the medications he was prescribing were ending up in drug houses, getting people addicted, and leading to a great deal of societal harm. Dr. Soin stated that he could understand how a physician like Dr. Paloski may feel like he had done nothing wrong, but he opined that Dr. Paloski's actions were

wrong when looked at objectively. Dr. Soin agreed with the Proposed Order of permanent revocation.

Mr. Giacalone stated that it was admirable for Dr. Paloski to have treated an underserved population. However, given that population, Mr. Giacalone felt that Dr. Paloski should have been sensitized to the fact that there are elements in the population that will abuse drugs and are addicts. Mr. Giacalone stated that treating every patient as well-intentioned seemed naïve, especially when one is prescribing 281 gallons of promethazine with codeine in 22 months. Mr. Giacalone questioned Dr. Paloski's treatment of respiratory issues by prescribing promethazine with codeine and promethazine DM.

Mr. Giacalone noted that, regardless of the issues surrounding the nature of an Alford plea, the court went out of its way to make the following statement:

I do take your conduct into account and find that such conduct merits a prison sentence, and so you contribute to the malaise of our community by conducting your affairs the way that you did. So it is appropriate that you do pay a significant penalty. ... In the opinion of this court, it [Dr. Paloski's medical license] should be surrendered for the rest of your life, and I'm stating so publically.

Mr. Giacalone commented that these are strong words from a court that had looked into this matter in minute detail. Mr. Giacalone found it ironic that Dr. Paloski has expressed a desire to practice part-time in a Suboxone clinic; Dr. Paloski has essentially proposed to address the problem that he had created. Mr. Giacalone agreed with the Proposed Order of permanent revocation.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- abstain
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to approve carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Mr. Giacalone stated that in the following matter, the Board issued a Notice of Opportunity for Hearing, and documentation of Service was received. There was no timely request for hearing filed, and more than 30 days have elapsed since the mailing of the Notice. This matter is therefore before the Board for final disposition. This matter is non-disciplinary in nature, and therefore all Board members may vote.

LISA MARIE KELSO

Mr. Giacalone stated that Ms. Kelso has applied for restoration of her Ohio massage therapy license. The Board notified Ms. Kelso that it proposed to approve her application, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) due to the fact that she has not engaged in the active practice of massage therapy for more than two years.

Dr. Saferin moved to find that the allegations set forth in the April 11, 2018 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Kelso's application for restoration of her Ohio massage therapy license, pending successful completion of the MBLEX within six months of the mailing of the Notice of Opportunity for Hearing. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

EXECUTIVE SESSION

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

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- 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, Ms. Loe, Ms. Debolt, Mr. Schmidt, Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Mr. Smith, Ms. Moore, Mr. DePew, and Mr. Taylor in attendance.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

ERIN ENGEL, D.P.M. – ONE-BITE CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed One-Bite Consent Agreement with Dr. Engel. Dr. Edgin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- abstain
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to ratify carried.

JAMES ALAN GIDEON, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Dr. Gideon. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

SAMUEL GETACHEW, M.D. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Consent Agreement with Dr. Getachew. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

LARAINA A. RIMKO, P.A. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Consent Agreement with Ms. Rimko. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

HARRISON LEE KUNZ, JR., R.C.P. – STEP I CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Step I Consent Agreement with Mr. Kunz. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye

Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

JENNIFER R. MCCANN, L.M.T. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
MASSAGE THERAPY

Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Ms. McCann. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

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

Ms. Marshall reviewed the proposed citations for the members of the Board.

Ms. Montgomery asked about proposed citation #1, to be issued to Michael Herman Anikeev, M.D. Ms. Montgomery noted that the physician has indicated that he could not afford to pay over \$5,000 for the evaluation that the Board had ordered him to. Ms. Marshall stated that under statute, licensees must attend an evaluation when ordered to do so by the Board, unless they are unable to do so due to circumstances beyond their control. Ms. Marshall stated that historically, the Board has considered one's personal finances to be within one's control. Ms. Marshall stated that if the cite is issued, the case will eventually come before the Board and the Board can determine if it wants to continue the precedent of considering personal finances to be within one's control, or whether there is an exceptional circumstance in this case that could lead to another conclusion. Ms. Marshall stated that if the Board determines that the circumstances were within the physician's control, there will be a default determination of impairment. If the Board determines that the circumstances were beyond the physician's control, the matter would go back to Enforcement so that another evaluation could be scheduled.

Ms. Montgomery noted that several of the proposed citations on today's agenda involve action taken by a medical board in another state several months prior. Ms. Montgomery asked why there is a delay

between the out-of-state action and the Ohio Board's citation. Ms. Marshall replied that there can be several sources of the delay. Ms. Marshall stated that the Ohio Board receives out-of-state reports from the Federation of State Medical Boards (FSMB), but the FSMB can only report an action after a medical board first reports it to the FSMB. Ms. Marshall stated that some medical boards are not punctual with reporting actions to the FSMB. Ms. Marshall also stated that an action may not be reported due to clerical error and the Ohio Board may not find out about it until the licensee discloses it on an application to review their Ohio medical license. Ms. Marshall briefly described the process of addressing out-of-state actions in the Enforcement section and the process of obtaining certified copies of documents from out-of-state.

Ms. Montgomery thanked Ms. Marshall for the information.

Dr. Schottenstein moved to enter an Order of Summary Suspension in the matter of Michael Herman Anikeev, M.D., in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based upon Presumption of Impairment. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Dr. Schottenstein moved to enter an Order of Immediate Suspension in the matter of Timothy Scott Manuel, M.D., in accordance with Section 3719.121(C), Ohio Revised Code, and to issue the Notice of Immediate Suspension and Opportunity for Hearing. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion carried.

Dr. Schottenstein moved to send the Notice of Automatic Suspension and Opportunity for Hearing to Mohsin Mazhar Syed, M.D. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion carried.

Dr. Soin moved to send the Notices of Opportunity for Hearing to Michael Cozzi, M.D.; Tina Davis, L.M.T.; Gerry Victor Hsu, P.A.; and Sreelatha Pulakhandam, M.D. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Dr. Soin moved to send the Notices of Opportunity for Hearing to Steven Scott McNutt, M.D.; and Scott Robert Welden, M.D. Dr. Schottenstein seconded the motion. A vote was taken:

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

Dr. Edgin	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- abstain

The motion carried.

PROPOSED REVISIONS TO DISCIPLINARY GUIDELINES

Ms. Marshall stated that at the Board's May 2018 Retreat, the Board asked the staff to develop suggested amendments to the disciplinary guidelines in order to give the Secretary and Supervising Member more flexibility with regard to probationary terms. Ms. Marshall stated that several suggestions were developed based on the Board's discussion and have been previously distributed to Board members.

Ms. Marshall stated that in cases of impairment, the Board's rules specify probationary requirements. Ms. Marshall stated that if the Board wishes to change the guidelines regarding impairment, it would have to first go through the rule-making process to change the existing rules.

Ms. Marshall continued that the recommendation is to not change the guidelines for cases involving a violation of terms of probation. Ms. Marshall stated that any such changes could create an incentive of actually rewarding people who violate probation by reducing the probationary period.

Ms. Marshall stated that for cases that do not involve impairment or violation of probation, the recommendation is to change the guidelines to grant discretionary probation as appropriate. Ms. Marshall stated that this would give the Secretary and Supervising Member discretion to tailor probationary terms to each individual case. Ms. Marshall stated that the Board would retain the right to accept or reject the agreements that are negotiated. Ms. Marshall commented that the revised guidelines would also give the Hearing Unit greater flexibility in proposed orders which the Board could either adopt or modify.

The Board members thanked Ms. Marshall for her work in this matter.

Dr. Saferin moved to approve the proposed revisions to the disciplinary guidelines as drafted. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

OARRS NON-CHECK PROJECT

Ms. Marshall stated that following a discussion at the Board's May 2018 Retreat, she and other members of the staff produced de-identified data regarding the process of investigating physicians who have not adhered to the laws and rules for checking the Ohio Automated Rx Reporting System (OARRS) under specified circumstances. Ms. Marshall noted that many cases brought to the Board specified approximately 10 patients in order to make the case manageable, but had actually many more patients and, in some cases, hundreds of patients.

Dr. Soin thanked Ms. Marshall for providing this data, stating that he appreciates the transparency in this process. Dr. Soin stated that he has had concerns about data mining on OARRS and how it is used in these cases. Dr. Soin opined, based on the information provided, that it appears to be used very appropriately. Dr. Soin stated that he had been concerned about cases that clearly only involved fewer than five patients and no more. Dr. Soin stated that he had thought that these case has resulted from data-mining of OARRS. However, Dr. Soin learned that they had been uncovered in the process of investigating other violations and that the OARRS non-check issue became the focus during the consent agreement negotiating process.

Dr. Soin stated that he will continue to be vigilant in these cases and will likely vote "no" in situations that have OARRS non-checks as the primary reason for the citation, involves less than five occurrences, and does not involve an opioid.

Dr. Soin noted that the data shows some cases with hundreds of patients and no action has been taken, whereas another case involves three patients not being checks when prescribing non-opioids. Dr. Soin questioned how the Board can take action in a case with three patients but no action in a case with 700 patients. Dr. Soin hoped that if the case with three patients also involved other violations, those other violations could be potentially highlighted by those involved in the negotiation process. Dr. Soin questioned whether the physician should be sanctioned for non-OARRS checks on three patients if the other violations were not considered serious enough to be the basis of an action.

Dr. Soin stated that Ms. Marshall, Mr. Groeber, and other Board staff, as well as the Board of Pharmacy, have done an amazing job encouraging OARRS checks. Dr. Soin commented that he recently attended a meeting of pain management specialists in Miami, Florida, and learned that Ohio leads the nation in the number of checks per capita. In addition to the Board staff, Dr. Soin also credited the physicians themselves for performing the checks. Dr. Soin thanked Ms. Marshall for the information and stated that he is now much more comfortable with the process. Mr. Giacalone echoed Dr. Soin's comments.

Mr. Groeber stated that the Board has never taken an action based solely on OARRS data that involved fewer than approximately 50 patients, and those who are below that approximately number become educated on the issue in a non-disciplinary manner.

REPORTS BY ASSIGNED COMMITTEESLICENSURE COMMITTEEBOARD FOR CERTIFICATION OF NUTRITION SPECIALISTS

Dr. Saferin stated that the Committee entertained a very good presentation by the Board for Certification

of Nutrition Specialists (BCNS). Dr. Saferin stated that BCNS would like nutrition specialists to be licensed by the Board, which would require a change in statute.

RESPIRATORY CARE CONTINUING EDUCATION INQUIRY

Dr. Saferin stated that the Licensure Committee and the Respiratory Care Advisory Council have recommended approval of a draft response to an inquiry regarding what constitutes relevant college credit under 4761-9-05, Ohio Administrative Code.

Dr. Saferin moved to approve the draft response to the inquiry regarding relevant college credit under 4761-9-05, Ohio Administrative Code. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

REQUEST FOR APPROVAL OF JURISPRUDENCE PROGRAM FOR 2018-2020

Dr. Saferin moved to approve the basic content of the dietetics jurisprudence program and quiz as presented. Dr. Bechtel seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

DIETETICS CONTINUING EDUCATION PORTFOLIOS

Dr. Edgin moved that the continuing education portfolios for the identified seventeen licensees be

approved for the period of July 1, 2013 to June 30, 2018 pursuant to 4759-4-04, Ohio Administrative Code. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

RULE 4731-1-16, MASSAGE THERAPY CURRICULUM REQUIREMENTS

Dr. Saferin stated that the Licensure Committee reviewed proposed changes to the massage therapy curriculum requirements which has been requested by members of the Board. The proposed changes would allow the Board to exercise discretion with regard to the required minimum of nine months of massage therapy education. The Licensure Committee approved sending the proposed changes to interested parties for comment.

CHAPTER 4731-6, OAC, MEDICAL AND OSTEOPATHIC LICENSURE

Dr. Saferin moved that Rules 4731-6-01(L); 4731-6-05(C)(1); and 4731-6-30(B)(1); and 4731-6-30(B), (C), and (D) be approved as amended or further amended and be filed with the Common Sense Initiative office. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

GENETIC COUNSELOR RULES

Dr. Edgin moved that the Rules in Chapters 4778-1 and 4778-2, Ohio Administrative Code, be

approved as presented for filing with the Common Sense Initiative office. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

LICENSURE APPLICATION REVIEWS

VLADIMIR BOLSHINSKY, M.D.

Dr. Schottenstein moved to approve Dr. Bolshinsky's request to deem his training and experience in Australia and the United States be equivalent to the twenty-four months of graduate medical education through the second-year level of graduate medical education so that he may be granted a license. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- abstain
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

ANNA MARIE BOWERS, M.T.

Dr. Schottenstein moved to approve Ms. Bower's request for restoration of her Ohio massage therapy license, pending successful completion of the Massage and Bodywork Licensing Examination within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
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Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion carried.

CHERYL ELIZABETH CHILTON, D.P.M.

Dr. Schottenstein moved to approve Dr. Chilton's request for restoration of her Ohio podiatric medical license as presented. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

MELVIN ORLANDO HOLLIS, M.T.

Dr. Schottenstein moved to approve Mr. Hollis' request for restoration of his Ohio massage therapy license, pending successful completion of the Massage and Bodywork Licensing Examination within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Ms. Montgomery	- aye

Dr. Johnson - aye
Dr. Bechtel - aye

The motion carried.

The Board recessed at 12:15 p.m. and resumed the meeting at 1:15 p.m.

EXECUTIVE SESSION

Dr. Schottenstein moved to go into Executive Session for the purpose of preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- 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, and Ms. Loe in attendance.

The Board returned to public session.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that a candidate has been selected to fill the south area vacancy and the background check process is underway. Mr. Groeber stated that, unfortunately, the candidate's drug test came back with a mistake on it. Mr. Groeber stated that the candidate did nothing wrong, but the testing lab's mistake has set the process back somewhat.

Mr. Groeber reported that Enforcement Attorney James Roach has been promoted to Assistant Chief Enforcement Attorney. Mr. Groeber also reported that Kimberly Lee has left Enforcement and has joined the Board's Hearing Unit as a Hearing Examiner.

Investigator Firearms: Mr. Groeber stated that the Board staff is continuing to work with the union to implement the changes directed by the Board. Management has continued to work with the union to

prepare for the return of firearms should the Board vote to rescind investigator authority to carry firearms at the July 2018 meeting. Mr. Groeber stated that until such time as the Board takes a formal vote, the Board will maintain the investigators' authority to carry firearms.

Agency Operations: Mr. Groeber stated licensure figures are up by 4% year-to-date. Mr. Groeber noted that the small decrease in MD and DO licenses issued compared to last year is attributable to the strong push last year to have physicians renew their licenses early before the migration to the eLicense system. Mr. Groeber reported that the cases in Compliance is down 4% year-to-date and the total number of cases is down 3% year-to-date. Mr. Groeber stated that the only increase is a small increase in investigations which is related to the fact that the Board gained 11,000 new licensees when it merged with the Dietetics Board and the Respiratory Care Board earlier this year.

License Limitations and Medicaid Terminations: Mr. Groeber stated that he and Ms. Anderson have had several discussions with the Ohio Department of Medicaid regarding the Medicaid policy of considering a licensee's probation to be a limitation, leading to termination of that licensee's provider agreement with Medicaid. Mr. Groeber stated that Medicaid appears to be shifting its interpretation of its rule. Ms. Anderson elaborated that Medicaid will no longer consider probation alone to be a limitation on a practitioner's license. Ms. Anderson believed that Medicaid will also allow previously terminated physicians to reapply if the physician is on probation with no license limitation. Ms. Anderson stated that Medicaid will continue to pursue termination for physicians who's Board actions are based on Medicaid fraud.

In response to questions from Board members, Ms. Anderson stated that she will conduct further follow-up to determine if Medicaid would consider a required practice plan or a reprimand to be a limitation that could lead to termination. Ms. Anderson stated that stayed suspensions are not reported by the Board and should not lead to termination.

Dr. Schottenstein stated that the Board should keep Medicaid's termination policies in mind, but ultimately the Board must issue orders that it feels are appropriate regardless of Medicaid's subsequent actions.

Fining Guidelines: Mr. Groeber stated that he is still gathering comments regarding what Board members feel fine amounts should be for specific violations. Mr. Groeber stated that he will take these comments to Finance Committee, which will make a recommendation for the Board's consideration.

Final Probationary Appearances: Mr. Groeber stated that there will be continued follow-up on the Board's discussion on whether final probationary appearances should be required for all probationers. Dr. Soin commented that he supports the elimination of the required final appearance before the full Board except in cases of impairment and for licensees who have a more extensive prior disciplinary history with the Board. Dr. Saferin agreed.

Executive Director Annual Review: Mr. Groeber asked that a committee be formed to perform his annual review as Executive Director.

Dr. Saferin moved that the *Ad Hoc* Executive Director Review Committee include Mr. Giacalone, Dr. Schachat, Dr. Rothermel, and Dr. Soin. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel

- aye

Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion carried.

Requests for Board Member Intervention in Licensure: Mr. Groeber stated that there have been some instances of Board members being approached by outside parties to expedite an individual's licensure process. Mr. Groeber cautioned the Board members to follow the routine processes and to refer such individuals to himself or Mr. Turek. Mr. Groeber stated that it is important to avoid an appearance of favoritism.

Medical Marijuana New Condition Petition and Review Process: Mr. Groeber stated that this year's window for the Board to accept petitions to add new conditions for treatment with medical marijuana will be from November 1 to December 31. Mr. Groeber stated that Ms. Murray is beginning the process of searching for experts to advise the Board in considering the petitions. Ms. Murray asked the Board to form a committee to provide the staff with guidance in the expert search, as well as guidance on the new condition petitions themselves.

Dr. Saferin moved that Mr. Giacalone, Dr. Soin, Dr. Schottenstein, Dr. Bechtel, and Ms. Montgomery to the Medical Marijuana Expert Review Committee. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- abstain
	Dr. Edgin	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Board Meeting Agenda Materials: Following up on items discussed at the Board's May 2018 Retreat, Mr. Groeber asked for feedback regarding the new page numbering system for Board meeting materials. Board members expressed satisfaction with the new numbering system.

The Board thoroughly discussed the timing of delivery of Board materials, particularly those materials that are received one or two days prior to the scheduled Board meeting. The Board determined that all Board materials should be provided to Board members no later than the Friday before the Board meeting, with the exception of legally required items and certain high-priority citations and settlement agreements; any non-exempted items received after that deadline will be considered at the following Board meeting. The Board further determined that items should be made available to Board members as they are ready and not sent out all at once or in batches.

Meet the Staff: Mr. Groeber stated that this month the Board's Legal Services Department is appearing before the Board to introduce themselves and describe their duties.

Ms. Anderson listed the Legal Services Department's duties, including complaint entry and triage, rules, public records request, issuing Board actions, reporting Board actions to outside entities, general litigation, legal research, and legislative review.

Ms. Anderson introduced Sallie Debolt, who has been with the Board for nearly 15 years. Ms. Debolt focuses on rules and legal research including scope of practice inquiries, public records requests, and legislative review. Ms. Debolt also serves as the ethics officer for Board members and staff and deals with matters involving physician assistants.

Ms. Anderson introduced Nathan Smith, who has been with the Board since March 2017. Mr. Smith focuses on legislative reviews, complaint triage, rules, and legal research. Mr. Smith also deals with matters involving respiratory care and dietetics.

Ms. Anderson introduced David Katko, who has been with the Board for 21 years. Mr. Katko focuses on public records requests and records retention.

Ms. Anderson introduced Colin DePew, who has been with the Board since January 2017. Mr. DePew focuses on Board actions and preparing Findings, Orders and Journal Entries (FOJE) and Proposed Findings and Proposed Orders (PFPO) for review by the Board and the Hearing Unit, respectively. Mr. DePew also conducts legal research and contract review.

Ms. Anderson introduces Judy Rodriguez, who has been with the Board for 12 years. Ms. Rodriguez supervises the public services group, coordinates scheduling and the complaint workload for the Secretary and Supervising Member, and oversees the complaint process.

Ms. Rodriguez introduces Jaqueline Moore, who has been with the Board for 21 years. Ms. Moore mails the Board actions following each Board meeting, reports Board actions to the Federation of State Medical Boards (FSMB) and the National Practitioner Databank (NPDB), processes appeals, maintains records, and processes hearing requests and subpoenas for the Board's Hearing Unit.

Ms. Rodriguez introduced Angela Fields, who has been with the Board for 21 years. Ms. Fields enters complaints, assigns complaints to an attorney for triage, answers public inquires, and manages the Board's desk investigation process.

Ms. Rodriguez introduced Ruth Pologruto, who has been with the Board for nine years. Ms. Pologruto enters complaints, assigns complaints to an attorney for triage, answers public inquires, manages referrals to other agencies, and handles complaints from those having difficulty obtaining medical records.

The Board thanked the Legal Services Department for their hard work on behalf of the Board. Mr. Groeber opined that no other agency in Ohio has such a dedicated and focused legal unit.

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

Dr. Schottenstein stated that the Board's review in April 2018, revenue was \$1,223,996, which is another good month for the Board. Dr. Schottenstein noted that training certificates, respiratory care licenses, and dietetics licenses will be due for renewal soon. Dr. Schottenstein further noted that this is the first month that the Board has broken even compared to the prior two-year fiscal year comparison. Dr. Schottenstein stated that the Board's cash balance in April 2018 was \$3,797,007 and it was expected to be above \$4,000,000 in the May numbers.

Regarding expenditures, Dr. Schottenstein stated that there was a 5% increase year-to-date, which is consistent with the typical yearly 4% increase expenditure in payroll plus the addition of two new employees from the absorption of staff from the Respiratory Care and Dietetics Boards.

Dr. Schottenstein stated that the Board has collected fine payments totaling \$15,000 since the last report, plus \$601 from collections. In total, the Board has received \$251,500 in fines and \$139,000 are still outstanding.

COMMUNICATIONS UPDATE

Dr. Schottenstein stated that because of cost and performance issues, the Board will end its contract with The Marketing Cloud and begin a new contract with Benchmark beginning July 1, 2018, for email marketing service. Dr. Schottenstein stated that the cost of these services will reduce substantially from \$23,000 per year to \$5,000 per year, and usability will improve.

Dr. Schottenstein stated that the Communications staff is working on several education and outreach projects, including cultural competency materials, materials for trauma informed care regarding victims of sexual assault, jurisprudence for dietitians, and ethics for respiratory care professionals.

Dr. Schottenstein stated that the Spring 2018 HealthScene Ohio magazine will feature articles about Dr. Steinbergh and Dr. Saferin.

SUBMISSION OF PUBLIC LICENSEE DATA

Dr. Schottenstein stated that the Medical Board is frequently requested to send information related to licensees and other public information to the Ohio Board of Pharmacy, American Medical Association, and the Federation of State Medical Boards. The manual creation of these reports can be extremely labor-intensive and lends itself to data errors. The Department of Administrative Services has quoted a figure of \$14,979.20 to automate the submission of public licensee data to these entities, saving significant staff time and ensuring the highest quality of data available sent in real-time. The Finance Committee has recommended approval of this expenditure.

Dr. Saferin moved to approve the requested expenditure to automate the submission of public

licensee data to the Ohio Board of Pharmacy, American Medical Association, and the Federation of State Medical Boards. Dr. Edgin seconded the motion. All members vote aye. The motion carried.

COUNCIL ON LICENSURE ENFORCEMENT AND REGULATION CONFERENCE

Dr. Saferin moved to approve Susan Loe to attend the Council on Licensure Enforcement and Regulation (CLEAR) conference September 26 to September 29 in Philadelphia, Pennsylvania, with travel expenses to be paid by the Medical Board in accordance with the state travel policy; and that Ms. Loe's attendance at the conference is in connection with her duties as, and is related to her position as, the head of Human Resources for the State Medical Board of Ohio; at an approximate cost of \$1,500. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

FEDERATION OF STATE MASSAGE THERAPY BOARDS

Dr. Saferin moved to approve Ms. Chantelle Scott to attend the Federation of State Massage Therapy Boards (FSMTB) License Renewal Committee Annual Meeting, which will be held July 20 to 22 in Overland Park Kansas; with any travel expenses not paid by the FSMTB to be paid by the Medical Board in accordance with state travel policy; and that Ms. Scott's attendance at the conference is in connection with her duties as, and is related to her position as, the head of license renewal for the State Medical Board of Ohio. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

FOOD AND DRUG ADMINISTRATION OPIOID MEETING

Dr. Saferin moved to approve Mr. Giacalone, Dr. Soin, Mr. Groeber, and Ms. Anderson to attend a meeting with the Food and Drug Administration (FDA) in the last week of June in Silver Springs, Maryland, with travel expenses to be paid by the Medical Board in accordance with state travel policy; and that attendance at the conference is in connection with their respective duties as, and is related to their member and staff positions for the State Medical Board of Ohio, with an approximate cost of \$2,600. Dr. Edgin seconded the motion. All members vote aye, except Mr. Giacalone and Dr. Soin, who abstained. The motion carried.

ADOBE PRO

Dr. Saferin moved to approve the expenditure of \$20,064.60 for an annual software purchase of Adobe Acrobat DC, Adobe creative cloud, and Adobe Photoshop. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

UPDATE TO ROUTINE PURCHASE AUTHORITY

Dr. Schottenstein stated that as the Board migrates away standalone IT software purchases and into software as a service model, it would ease the administrative burden to add "software" into our current list of replenishment items that do not require Committee approval. Dr. Schottenstein stated that this would only apply to renewal of software purchases; new software purchases over the approval thresholds would still come to the Finance Committee for approval.

Dr. Saferin moved to approve the proposed update to the purchasing and invoice approval

processing procedure. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

POLICY COMMITTEE

LEGISLATIVE UPDATE

Mr. LaCross stated that several amendments have been included in House Bill 111 at the Board's request, including the following:

- Requiring attestations and certifications with licensure applications rather than documents from the applicant;
- Limited permits for respiratory care will be valid for three years;
- The training certificate extended to out-of-state residents who enter Ohio training programs;
- Equivalency for podiatric medicine in training programs;
- Physician Assistant supervision agreements will now be filed at the site of practice rather than with the Board; the supervising physician will be required to maintain and update the agreements and there will be an administrative fine of up to \$5,000 for non-compliance.

Mr. LaCross stated that this summer the Board work to reduce continuing medical education (CME) requirements to 50 hours and to streamline the licensee approval process.

Mr. LaCross stated that the medical associations have been very supportive of the changes the Board has requested in Senate Bill 259. Among other changes, the Board has requested that the physician assistant formulary be eliminated and that physician assistants be allowed to prescribe anything that the supervising physician allows in the supervision agreement. Mr. LaCross stated that Mr. Groeber and Mr. Turek are developing a robust audit process for the supervision agreements. Ms. Debolt pointed out that regardless of the supervision agreement, physician assistants will not be allowed to prescribe short-term weight-loss medications, pursuant to the Board's rules.

Dr. Schottenstein opined that eliminating the physician assistant formulary may make Ohio a more attractive state for out-of-state physician assistants.

Mr. Gonidakis exited the meeting at this time.

NATIONAL TRANSPORTATION SAFETY BOARD RECOMMENDATIONS

Ms. Anderson stated that in 2014 the National Transportation Safety Board recommended that states ask prescribers and healthcare providers to discussion information with their patients regarding the effects of controlled substance prescriptions on their ability to safely operate a motor vehicle. In response, the Board has drafted a resolution and a newsletter article on that topic.

Dr. Saferin exited the meeting at this time.

Dr. Schottenstein moved to approve the draft resolution and the draft newsletter article. Dr. Soin seconded the motion. All members voted aye. The motion carried.

PRESCRIBING RULES FOR SUBACUTE AND CHRONIC PAIN

Ms. Anderson stated that the proposed rules for subacute and chronic pain rules were initially circulated to interested parties for comment in May and 17 comments have been received. Based on the comments, the Policy Committee is recommending two changes. First, the Committee recommends language changes to clarify that the term “subacute” refers to pain that is expected to last more than six weeks and less than 12 weeks, while the term “acute” refers to pain that is expected to last not more than 6 weeks.

Ms. Montgomery exited the meeting at this time.

Second, the Committee recommends the addition of language that the physician consider whether a naloxone prescription is necessary at 50 MED to mitigate overdose concerns.

Mr. Gonidakis returned to the meeting at this time.

Ms. Anderson noted that these proposed rules would also rescind the Board’s old chronic pain rules.

Responding to comments from Dr. Schottenstein, Ms. Anderson stated that the proposed rules include exemptions for hospice and for terminal conditions, but not for palliative care. Mr. Groeber commented that there is a pending bill in the legislature that would greatly expand the definition of “palliative care,” so the inclusion of that term in these rules would have a significant impact.

Responding to questions from Mr. Giacalone, Ms. Anderson stated that inpatients are exempt from these rules.

Dr. Schottenstein noted some of the comments received regarding the requirement to had written informed consent in these situations. Dr. Schottenstein stated that oftentimes a patient in extreme pain will have trouble focusing on a verbal informed consent being read to them, and he opined that it is appropriate to require written informed consent for the patient to refer to.

Dr. Rothermel moved to file the proposed rule, as discussed, with the Common Sense Initiative. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- abstain
	Dr. Edgin	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

RULE 4731-34-01, PRESCRIPTIONS FOR INJECTION BY PHARMACIST

Ms. Anderson stated that the Policy Committee has recommended approval of this rule, with some edits suggested by the Board of Pharmacy.

Dr. Schottenstein stated that he favors this rule because it allows pharmacists to prescribe long-acting anti-psychotic medication. Dr. Schottenstein stated that in general, compliance is a significant problem for those with schizophrenia and this rule can potentially increase those patients' ability to be compliant with their medications and stay healthy.

Dr. Schottenstein moved to approve proposed Rule 4731-34-01, as discussed by the Policy Committee, for filing with the Common Sense Initiative. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

CHAPTER 4731-27, OHIO ADMINISTRATIVE CODE, TERMINATION OF THE PHYSICIAN/PATIENT RELATIONSHIP

Anderson—out for comments, no comments

Dr. Schottenstein moved to file Chapter 4731-27, Ohio Administrative Code, with the Common Sense Initiative. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEEPROPOSED STATEMENT ON MASSAGE THERAPIST ACTIVITIES

Dr. Schachat stated that under chiropractic rules, chiropractors can delegate procedures to unlicensed individuals. However, under the Medical Board's rules a massage therapist who may be practicing in a chiropractor's office may not perform certain procedures such as electrostimulation, diathermy, and ultrasound. In response to a request from a chiropractor, the Committee is proposing adoption of a new policy that would allow massage therapists to apply ultrasound, diathermy, electrical neuromuscular stimulation, or substantially similar modalities, provided that such treatment is under the direction or supervision of a physician or podiatric physician.

In response to questions from Board members, Ms. Debolt that the proposed policy would also allow a massage therapist in solo practice to perform these modalities if they receive a prescription or referral from a physician specifically for the modality. Dr. Rothermel noted that in such an instance, the massage therapist would be performing the modality unsupervised. Ms. Debolt agreed.

Dr. Rothermel opined that a massage therapist should not be performing these modalities unsupervised. The Board discussed this matter thoroughly.

Dr. Soin moved to approve the policy statement as drafted. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- nay
	Dr. Schottenstein	- nay
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- nay
	Dr. Johnson	- nay
	Dr. Bechtel	- aye

The motion carried.

COMPLIANCE COMMITTEE

Dr. Schottenstein stated that on May 9, 2018, the Compliance Committee met with David M. Burkons, M.D.; Wayne J. Myles, D.O.; Edward I. Nelson, M.D.; and John M. Smilo, D.P.M., and moved to continue them under the terms of their respective Board actions. The Compliance Committee also accepted Compliance staff's report of conferences on April 9 & 10, 2018.

Ms. Murray stated that Ms. Montgomery has recommended changes to the Compliance materials provided to Board members that would eliminate the full background section for the probationers. Ms. Murray state that if the Board approves, the hyperlink to each probationer's full background will remain for those Board members who wish to access that information. The Board approved of this change.

DIETETICS ADVISORY COUNCIL REPORT

Mr. Smith stated that the Dietetics Advisory Council met for first time yesterday. The Council discussed the proposed dietetics rules and making them consistent with recent statutory changes. The Council also discussed current rules related to continuing education (CE), including the timeframe for reporting CE and the approval of courses by a professional organization rather than the Board. The Council recommended that the Board approve the dietetics jurisprudence program.

Mr. Smith stated that the Board for Certification of Nutrition Specialists (BCNS) made a presentation to the Council on their goal to obtain licensure by statutory change.

PROBATIONARY REQUESTS

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

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

- **To grant Martin P. Ambrose, M.D.'s request for reduction in recovery meeting attendance from three meetings per week to two meetings per week with a minimum of ten meetings per month;**
- **To grant Michael T. Bangert, M.D.'s request for approval of Arman H. Siddiqui, M.D. to serve as the doctor's new treating psychiatrist;**
- **To grant Elise Hoff, M.D.'s request for approval of the submitted practice plan; approval of Amer Khiyami, M.D. to serve as the monitoring physician; and determination of the frequency and number of charts at 10 charts per month;**
- **To grant Peter C. Johnson, M.D.'s request for approval of the proposed boundary protection plan; approval of the proposed practice plan; approval of Claudio E. Linares, M.D. to serve as the monitoring physician; and determination of the frequency and number of charts at 10 charts per month;**
- **To grant Ross Rosario Lentini, M.D.'s request for approval to discontinue the controlled substance prescribing log requirement; and approval to reduce personal appearances from every three months to every six months;**
- **To grant Charles W. Reyes, M.D.'s request for reduction in drug and alcohol rehabilitation meetings from three per week to two per week with a minimum of ten per month; and approval to discontinue the chart review requirement;**
- **To grant Bernard J. Rose, M.D.'s request for approval of request for permission to travel from Ohio to Michigan until October without prior permission; and**
- **To grant Shannon Lee Swanson, D.O.'s request for approval of James Michael Giovino, M.D., to serve as the new monitoring physician;**

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion carried.

FINAL PROBATIONARY APPEARANCES**DAVID M. HEYDT, M.D.**

Dr. Heydt was appearing before the Board pursuant to his request for release from the terms of his April 8, 2015 Consent Agreement. Mr. Giacalone reviewed Dr. Heydt's history with the Board.

Responding to questions from Mr. Giacalone, Dr. Heydt stated that he is currently practicing as a gastroenterological pathologist in Maryland. Dr. Heydt stated that his work is going well and his colleagues are very supportive. Dr. Heydt stated that he currently has a sponsor that we speaks with about once per week, in addition to seeing him in meetings. Dr. Heydt stated that he is not currently sponsoring anyone. Dr. Heydt stated that the Maryland Board of Physicians is currently monitoring his recovery, but that monitoring will end next week. Dr. Heydt stated that he intends to stay in his recovery program following his release from probation. Dr. Heydt stated that he is in a good place now with regard to his recovery, his career, and his family. Dr. Heydt commented that when he previously relapsed, he had not been putting much effort into his recovery program. Dr. Heydt stated that he does not have plans to come to Ohio to practice.

Dr. Schottenstein asked if Dr. Heydt has had actions in the other states in which he is licensed, besides Maryland. Dr. Heydt stated that Pennsylvania has suspended his license there for five years. Dr. Heydt stated that he currently uses his licenses from Maryland, Virginia, and the District of Columbia, and he anticipated using his Delaware medical license soon. Dr. Heydt stated that he had applied for licenses in Ohio and Wyoming due to job prospects that ultimately did not come to fruition. Dr. Heydt stated that his licenses in other states are inactive.

Dr. Schottenstein noted that D. Heydt had characterized his group therapy as "professional" and it was led by someone with a Ph.D. Dr. Heydt stated that he did that group therapy for two years and ended it in 2016. Dr. Heydt commented that the group therapy was very helpful.

Dr. Soin moved to release Dr. Heydt from the terms of his April 8, 2015 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

SHEILA S. PAUL, D.O.

Dr. Paul was appearing before the Board pursuant to her request for release from the terms of her December 13, 2012 Consent Agreement. Mr. Giacalone reviewed Dr. Paul's history with the Board.

In response to questions from Mr. Giacalone, Dr. Paul stated that she currently practices as a psychiatrist for an adults and adolescents corrections center and her work is going well. Dr. Paul speaking with her sponsor once per week and also sees her at meetings. Dr. Paul stated that she is not currently sponsoring anyone. Dr. Paul stated that she is currently taking Wellbutrin to treat her adult attention deficit disorder.

Mr. Giacalone asked if Dr. Paul plans to change anything in her recovery after she is released from probation. Dr. Paul replied that she plans to continue with Alcoholics Anonymous (AA), commenting that AA has changed her life. Dr. Paul stated that she missed a lot of her life because she was not sober, so now she is making the most of things with her kids and her husband. Dr. Paul stated that her family is very supportive.

Dr. Schottenstein asked why Dr. Paul's prescribing physician stopped prescribing Adderall in 2009. Dr. Paul explained that the Adderall was being prescribed by her husband and he stopped due to Board action. Dr. Schottenstein asked if Dr. Paul's currently prescription of Wellbutrin is working well for her. Dr. Paul replied that the Wellbutrin is working very well and is being prescribed by her psychiatrist. Dr. Schottenstein asked if Dr. Paul's mental health feels comfortable. Dr. Paul answered affirmatively.

Dr. Soin moved to release Dr. Paul from the terms of her December 13, 2012 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

MARK E. HOSTETTLER, M.D.

Dr. Hostettler was appearing before the Board pursuant to his request for release from the terms of the Board's Order of October 14, 2015. Mr. Giacalone reviewed Dr. Hostettler's history with the Board.

Responding to questions from Mr. Giacalone, Dr. Hostettler stated that he is currently practicing as a primary care internist with two partners and three physician extenders. Dr. Hostettler stated that the course he took on professional boundaries served as great foundation, and he later electively engaged with Dr. Levine, a psychiatrist, for deeper interpersonal reflection on what would cause him to make such an egregious error.

Mr. Giacalone asked what changes Dr. Hostettler has made to prevent similar problems in the future. Dr. Hostettler stated that he is a changed person and that his work with Dr. Levine has forced inquiry and investigation of what within Dr. Hostettler led him to make such an error. Dr. Hostettler found that he had lost his purpose and his focus, and that there were also substance abuse or other issues. Dr. Hostettler added that he also had what could be called burn-out because his romantic partner had had open heart surgery at that time. Dr. Hostettler stated that his treatment with Dr. Levine caused a complete introspection and better understanding of wellness and prevention, and that the mind, body and soul have to be aligned. Dr. Hostettler believed that everyone is forgiven for their sins, but the most difficult forgiveness is to forgive oneself and then redefine one's purpose. Dr. Hostettler stated that when one's purpose is redefined, they become a much stronger person and the boundaries become much clearer.

Mr. Giacalone asked if Dr. Hostettler has educated other physicians regarding his experience. Dr. Hostettler replied that he has shared his experience and that he is very engaged at Northeast Ohio Medical University, where he currently serves as president of the alumni board.

Dr. Schottenstein asked how Dr. Hostettler's partner's health is currently. Dr. Hostetter replied that his partner's health is very good now and that the relationship is good. Dr. Hostettler described his partner as his rock. Dr. Schottenstein asked if Dr. Hostettler has any contact with the former patient who was involved in this incident. Dr. Hostettler replied that he has no contact with that patient. Dr. Schottenstein commented that he liked Dr. Hostettler's essay describing his course.

Dr. Edgin moved to release Dr. Hostettler from the terms of the Board's Order of October 14, 2015, effective immediately. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

MATTHEW R. STEINER, M.D.

Dr. Steiner was appearing before the Board pursuant to his request for release from the terms of the Board's Order of March 9, 2016. Mr. Giacalone reviewed Dr. Steiner's history with the Board.

In response to questions from Mr. Giacalone, Dr. Steiner stated that he is currently practicing in the emergency department of a hospital in Indianapolis. Regarding his course in professional boundaries, Dr. Steiner stated that the course was very valuable. Dr. Steiner commented that many physicians do not receive training in boundaries and sometimes the boundaries become blurred, particularly when the physician tries to help family and friends.

Mr. Giacalone noted that one allegation involved an 18-year-old patient who was a mother, a heroin addict, and a prostitute. Dr. Steiner stated that he did not know those things about the patient at that time and he only learned them following an investigation. Mr. Giacalone asked what Dr. Steiner is doing to avoid such situations in the future. Dr. Steiner replied that his family life is much better now than it had been during the incident in question. Dr. Steiner stated that his wife had severe multiple sclerosis and her health was failing at that time, something that neither he nor his wife was handling well. Dr. Steiner commented that it was a very chaotic time. Dr. Steiner stated that his family is doing very well now and they are undergoing family counseling, in addition to Dr. Steiner's personal counseling.

Mr. Giacalone asked if Dr. Steiner has had an opportunity to educate other physicians about his situation. Dr. Steiner answered that he tries to share his experience with other physicians.

Dr. Schottenstein asked if Dr. Steiner had any current restrictions on his Drug Enforcement Administration (DEA) license. Dr. Steiner replied that there are no current restrictions on his DEA license.

Dr. Bechtel moved to release Dr. Steiner from the terms of the Board's Order of March 9, 2016, effective immediately. Dr. Sojin seconded the motion. All members voted aye. The motion carried.

HIMCHALA VELIGANDLA, M.D.

Dr. Veligandla was appearing before the Board pursuant to his request for release from the terms of his June 10, 2015 Consent Agreement. Mr. Giacalone reviewed Dr. Veligandla's history with the Board.

Responding to questions from Mr. Giacalone, Dr. Veligandla stated that he is currently practicing as a general cardiologist and is also teaching medical students and residents. Dr. Veligandla stated that his practice is going very well. Dr. Veligandla state at the request of the Kentucky Board of Medical Licensure, he completed ten interventional cardiology cases in front of a board-certified interventional cardiologist, and as a consequence the Kentucky Board lifted all restrictions on his Kentucky medical license. Dr. Veligandla stated that the restrictions on his Florida and Missouri licenses have also been lifted, and the restrictions on his California license are scheduled to be lifted next month.

Dr. Schachat moved to release Dr. Veligandla from the terms of his June 10, 2015 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

ADJOURN

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

Thereupon, at 3:40 p.m., the June 13, 2018 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 June 13, 2018, as approved on July 11, 2018.



Robert P. Giacalone, President



Kim G. Rothermel, M.D., Secretary

(SEAL)



State Medical Board of Ohio

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE MEETING

June 13, 2018

30 E. Broad St., Columbus, OH Room 345

Members: Andrew P. Schachat, M.D., Chair Robert P. Giacalone Mark A. Bechtel, M.D.	Staff: Sallie Debolt, Senior Counsel
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Dr. Steinbergh called the meeting to order at 7:30 a.m.

MINUTES REVIEW

Mr. Giacalone moved to approve the draft minutes of April 11, 2018, as written. Dr. Bechtel seconded the motion. The motion carried.

PROPOSED STATEMENT OF MASSAGE THERAPIST ACTIVITIES

Ms. Debolt stated that a chiropractor has filed a challenge to the Medical Board's Rule 4731-1-05 with the Common Sense Initiative. The challenge stated that the Rule, which bars a massage therapist from performing "... ultrasound, diathermy, and electrical neuromuscular stimulation or substantially similar modalities." The challenge points out that a chiropractor, under the rules of the Ohio State Chiropractic Board, can delegate those tasks to an unlicensed person in their office but they cannot delegate them to a massage therapist due to the Medical Board's rule. The chiropractor states that this constitutes restraint of trade.

Ms. Debolt stated that a draft policy statement has been proposed, as follows:

A person who holds a massage therapy license may provide therapeutic ultrasound, diathermy, or electrical neuromuscular stimulation services when acting as an unlicensed person performing the service under the supervision of a person acting within the scope of their professional license. The person who holds the massage therapy license should not be identified as a massage therapist when doing so and the service should not be held out to be massage therapy.

Ms. Debolt stated that if this policy statement is adopted, then massage therapists working in a chiropractic practice could act as an unlicensed person when performing these procedures under the supervision of a chiropractor. Ms. Debolt noted that a physician may not supervise a massage therapist as an unlicensed person because physicians may not delegation procedures to an unlicensed person; under the chiropractor rules, these tasks can be delegated to unlicensed persons.

The Committee discussed this matter thoroughly. Dr. Bechtel suggested amending the Board's rule in order to make this a cleaner process. Dr. Schachat expressed concerns about the safety of these procedures being performed by a massage therapist or an unlicensed person. Dr. Schachat also asked how a patient would know that a massage therapist was acting as an unlicensed person when doing these procedures. Ms. Debolt stated that the massage therapist would have to remove his or her nametag during the procedure. This led to a general discussion of the ability of licensed persons to declare themselves to be unlicensed in certain situations.

In response to questions from Dr. Bechtel, Ms. Debolt stated that at the time the Medical Board's rule was adopted there was a great deal of debate and controversy about safety and the knowledge of a massage therapist to do these procedures.

After further discussion, Mr. Giacalone suggested beginning the rule-making process to change the Medical Board's rule, and to simultaneously adopt the drafted policy statement. Ms. Debolt suggested that any rule change include a reference to a person acting within the scope of their professional license, which would include physician assistants and nurse practitioners. The Committee agreed.

Ms. Debolt stated that the language of the rule would have to use the term "direction" instead of "delegate." Ms. Debolt explained that tasks are only "delegated" to an unlicensed person, but a licensed person can receive "direction" to perform a procedure. Ms. Debolt also briefly discussed the difference between "task" and "procedure."

Mr. Giacalone moved to approve the policy statement as drafted, and to begin the rule-making process to amend the rule as discussed. Dr. Bechtel seconded the motion. The motion carried.

The meeting adjourned at 8:02 a.m.

Andrew P. Shachat, M.D.
Chair

blt

State Medical Board of Ohio

POLICY COMMITTEE MEETING

June 13, 2018

30 East Broad Street, Columbus, OH 43215, Room 336

<p>Members: Amol Soin, MD Andrew P. Schachat, MD Robert Giacalone Mark. A. Bechtel, MD Betty Montgomery</p> <p>Other Board Members present: Kim G. Rothermel, MD Bruce Saferin, DPM Michael Schottenstein, MD Richard Edgin, MD Sherry Johnson, DO</p>	<p>Staff: A.J. Groeber, Executive Director Kimberly Anderson, Chief Legal Counsel Sallie J. Debolt, Senior Counsel Nathan Smith, Senior Legal and Policy Attorney Rebecca Marshall, Chief Enforcement Attorney Jonithon LaCross, Director of Public Policy & Government Affairs Tessie Pollock, Director of Communication Joan Wehrle, Education & Outreach Program Manager David Fais, Assistant Executive Director</p>
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Dr. Soin called the meeting to order at 9:15 a.m.

MEETING MINUTES REVIEW

Dr. Soin reported that the draft minutes of the May 9, 2018 meeting had been distributed to the committee and were included in the agenda materials.

Dr. Bechtel moved to approve the draft minutes of the May 9, 2018 Policy Committee meeting. Dr. Schachat seconded the motion. Motion carried.

LEGISLATIVE REVIEW

Mr. LaCross reported that the legislative update report was included in the agenda materials.

He indicated that HB111 – Registered Nurses-Mental Health passed out of the Senate and is awaiting confirmation in the House. It is anticipated that the House will act on this bill on June 20th. The bill includes the following 13 amendments added by the Medical Board. The amendments will be effective 90 days after the bill is signed.

- 4761.05(B)(2) - The respiratory care limited permit will be moved to three years; however, it will cease to be valid one year after completion of the program or if the holder discontinues participation in the program. A licensee must notify the board if the licensee completes the program or discontinues participation in the program.
- 4761.06(A); 4761.06(B) -- Requires a certification on respiratory care application that the CE/reexamination has been completed.

- 4761.06(A)(1) - Requires a certification that respiratory care holder is enrolled or has graduated on application.
- 4761.06(A)(2) - Requires a certification that respiratory care holder is employed under supervision.
- 4731.09 (B)(2); 4731.19(A)(5); 4731.52(A)(2); 4731.297(C)(2) – Now requires an attestation on the application instead of the required affidavit of completion.
- 4731.295(C)(4) – Now requires an attestation on the application instead of the notarized statement.
- 4731.22 (F) - Allows the board to contract with a third-party agent to deliver subpoenas.

Dr. Bechtel asked if third-party was defined. Ms. Anderson said the third-party agent currently contracts with the Board for delivery of hearing materials, or summary suspensions, and we have been pleased with their service. It was noted the legislation states “. . . or agent designated by the Board.” Ms. Anderson confirmed that we will have a contract for this service.

- 4731.22 (B)25 - Adds termination from Medicaid/Medicare programs as a basis for disciplinary action.
- 4731.291 - Extends the training certificate for practitioners who are coming into the state from other programs to train at institutions in Ohio. Frequently, these students are only in Ohio for a matter of weeks.
- 4731.52 (e) - Adds equivalency determined by board to the DPM post graduate training language.
- 4730.10 – Physician Assistant Supervision Agreements will no longer be filed with the Board, but will be required to be kept in the records maintained by the supervising physician. The Board is granted the authority to audit the supervision agreements, and an administrative fine of up to five thousand dollars can be applied to supervision agreements not in compliance with the section.

Mr. LaCross explained that the conversion to the on-line elicence system prevented hospitals from batching PA supervision agreement renewal materials because a third-party cannot sign in to the elicence system. This disrupted the PA supervision agreement renewal, so the renewal date was extended from January 31, 2018 until August 2018. He said there may be about a 30 day difference between the August PA supervision agreement renewal date and the effective date of the amendment, so the Board will be working on a strong education program to notify PAs, physicians, and hospitals of the changes. The changes included in the amendment will be a much more efficient process.

Mr. LaCross reported that during the summer we will be working on CME revisions and on streamlining the Board approval of licensure applications. Mr. Groeber explained that it would be a more expedited process for licensure approval so that through electronic means, the Board members could vote on licensure applications more frequently in a documented way that would be trackable and traceable and could effectively allow for weekly licensure approvals rather than batching the applications for board review every 30 days. Mr. Groeber worked with the Board's legal staff and this is the solution they are most comfortable with that would preserve the Board's authority.

Dr. Schachat asked if this approach would be specific to licensure approvals or would it be for other Board business as well. Mr. Groeber said we would keep it very narrow on license approval.

Mr. LaCross reported on SB259 - PA regulation: He said that we pulled the PA supervision agreement language out of this bill so that it could be included as an amendment in HB111.

SB259 is still in the Senate. It was amended at its third hearing and it will be out when they reconvene, probably for a vote. There were some changes made to the bill from the original. The conscious sedation/intubation piece has been removed. The out-of-state license and practice two-years preceding application was included. Regarding fitness to practice, an amendment now gives the Board the ability to assess a licensee.

Mr. LaCross said that the current version of SB259 makes some changes to the PAPC process. We are reducing the number of required pharmacists from two to one; and allowing telecommunication for meetings. We have been having issues getting everyone at the PAPC meetings. During our robust rule review, we would like to be able to address these items as they happen. Additionally, the PA formulary will be removed as the supervising physician will determine what the PA can prescribe under their scope of practice, and they can add restrictions on the supervision agreement. A lot of responsibility is being placed on the physician but the Board will be able to audit the supervision agreements.

Mr. LaCross said that at a later date he would like to expand the ability to hold meetings by telecommunications to other committees as well. Trying to get people from various parts of the state to commit to serve on a committee can be challenging. Mr. Groeber said it can become a recruitment issue.

Mr. Giacalone asked for the timelines for passage of SB259. Mr. LaCross responded that it depends on what the Senate is going to do. He is expecting the bill to move in November with an anticipated signing date in November. Mr. Groeber indicated a November signing would probably lead to a February 2019 effective date. Mr. LaCross expressed thanks to the OSMA for their help and support.

Mr. Giacalone asked about the potential timeframe for telecommunications for Board committees. Mr. Groeber reported that staff meets between Board meetings to go over the Policy committee agenda items and prep for the upcoming meeting. Stuart Nealis, project manager, is included in those meetings and he can tee up items so that we are operationally ready to implement legislative changes. Mr. LaCross said we will be sure to meet the Sunshine Law and meeting notice requirements when the format of the PAPC meetings change. Mr. Groeber said when the legislation goes through and the formulary changes the Board will have to give guidance to the staff as to what the restructured PAPC will look like and how often meetings will be held.

Mr. LaCross said all other legislation is in a holding pattern now.

RULES REVIEW REPORT

Ms. Anderson said that the rule review update is provided for the information of the committee.

NATIONAL TRANSPORTATION SAFETY BOARD RECOMMENDATIONS

Ms. Anderson asked the committee to skip the memo on page 69 and to refer to the memo on page 593 which is the updated version.

Ms. Anderson reported that we recently learned that the National Transportation Safety Board (“NTSB”) issued two Safety Recommendations in 2014 to the states regarding controlled substances and the impact on patients’ ability to safely operate a vehicle. We were not aware of the regulations until last month. Other boards, including the Nursing and Pharmacy boards, have reviewed the recommendations and adopted resolutions and newsletter notices on this topic. Basically, the NTSB wants prescribers to advise their patients that there may be motor safety issues with prescription drugs.

A draft resolution was included in the agenda materials for the Board to consider. The resolution essentially says that we recommend that our licensed health care providers make recommendation when prescribing controlled substances that it may have an impact on the patient’s ability to safely operate a vehicle.

The other NTSB recommendation is that we provide this information in the Board’s outreach materials. We will have information posted on the Board’s website, included in eNews and posted on Twitter. The communications materials are on page 595 for your review.

Dr. Soin asked if the Medical Board was singled out for this information, as pharmacies place various stickers on prescriptions if applicable. Ms. Anderson said the information was sent to all licensing boards. But comments in the NTSB guidance and compliance documents indicate that they are still waiting for information from the Medical Board. Ms. Anderson does not believe that the Board received the NTSB statements in 2014 or subsequently. But the Nursing Board recently adopted a similar resolution. The Pharmacy Board also had a response with a newsletter article as well.

Dr. Schachat noted that the NTSB asked for warnings about controlled substances but then the recommended action refers to the prescriber discussing with the patient the effect of the patient’s medical condition and medication on the patient’s ability to safely operate a vehicle. It is a problem for ophthalmologists since most of their patients have an eye disorder that requires glasses, or medication. He favored talking with patients about controlled substances but not their medical condition.

Dr. Schottenstein noted that the emphasis of the NTSB statement is on the negative effect of medications such as benzodiazepines and opioids. But in his field of psychiatry, it is just the opposite. For example, for patients with ADHD he would recommend that they take their medication before they drive because risk of a traffic accident increases substantially if the person with ADHD is not taking their medication. He would encourage doctors to be mindful of that aspect as well.

Mr. Giacalone pointed out that the NTSB safety recommendations address prescribing controlled substances for pain.

Dr. Soin asked said many physicians who treat pain have informed consent forms or opioid agreements where they specifically memorialize driving a motor vehicle. He asked if the written forms would qualify as a discussion. Ms. Anderson noted that the physician would be providing information to the patient. Dr. Soin asked how often the doctor has to discuss the issue with the patient. Ms. Anderson said that the safety recommendations do not include those details.

Dr. Bechtel asked if the NTSB has established a list of medications that may interfere with driving. He said that there are certain medications that would prohibit a pilot from flying. If the NTSB had such a list, we could provide that information as well to our licensees.

Ms. Anderson said that we could look to see if there is a list. Ms. Pollock commented that in the study the NTSB information is based on they had no data on motor vehicle accidents, it was based solely on pilots.

Mr. Giacalone suggested changing the word from “discuss” to “inform” the patient. Dr. Rothermel noted that it is not required to be documented in the patient chart.

Dr. Bechtel moved to approve the proposed resolution. Motion was seconded by Dr. Schachat. Motion carried.

SUB-ACUTE AND CHRONIC PAIN RULES

Ms. Anderson reported that the Board received comments from seventeen groups and individuals which were included in the agenda materials. She summarized the rules as follows:

Rule 4731-11-01 Definitions

- o Adds definitions for medication therapy management, subacute pain and chronic pain.
- o Modifies the definition of acute pain to clarify that it lasts six weeks or less.
- o No comments received. However, a slight change to the definition of subacute pain is needed so that there is no overlap with the definition of acute pain See Line 77 and 81 of the draft rule on page 415. “Subacute pain is expected to last more than six weeks and less than twelve weeks. Acute pain is expected to last not more than six weeks.”

Rule 4731-11-02 General Provisions

- o Corrects the reference to Pharmacy Board rules which must be followed for controlled substance prescriptions as the Pharmacy Board changed their rules.

New rule 4731-11-14 Prescribing for subacute and chronic pain

For the most part, the commenters were supportive of the rules.

- o Two commenters (Dr. Parran and Dr. Gibbs) were supportive of the rules as written.
- o Two commenters who were also patients (Mari Beth Cerech and Sandra Sizemore) indicated that the rules would have a negative impact on chronic pain patients.
- o Seven commenters (Seth Dobbelaer, Marcie Seidel, Anahi Ortiz, M.D., Debbie Burrell, Pamela Knight, Trish Perry, and Cheri Bryson) recommended changing the language to include a co-prescription for naloxone to 50MED rather than 80MED to reflect the CDC guidelines.

Ms. Anderson drafted language to require consideration of offering a naloxone prescription at 50MED. See line 98 which states **the physician SHALL CONSIDER offering a prescription for naloxone to mitigate risk of overdose**” Ms. Anderson explained that this change mirrors the CDC guidelines.

- o Four commenters (OSMA, Ohio Health, John Naveau, M.D., and Jennifer Barnhouse) expressed concerns that pain management specialists may not be available at the 120 MED regarding the mandatory pain management review. OSMA and Ohio Health suggested considering elimination of the face-to-face visit requirement.

Ms. Anderson said she had concerns if the pain management doctor is prescribing the controlled substance, the doctor could run into the 11-09 telemedicine rule. She also had concern with the pain management doctor's comfort in recommending prescribing at the 120MED level without a face-to-face visit. She also reminded the committee that there is a grandfather clause in the rule for the patients who were already at 120MED and they would only need the consult if the dose escalated. But she would like to hear the committee's thoughts on that.

Dr. Bechtel commented that a lot of physicians don't accept Medicaid and those patients may be at higher levels of opioids. His concern is whether we have enough pain physicians who accept Medicaid to help these patients. Dr. Soin shared that he thinks he is the only pain management specialist in his area that accepts Medicaid. Dr. Soin also said that another issue is the Bureau of Workers Compensation. The patient has to get a pain management consult approved by an independent board and it often denies the consult. He did not know what happened to the patient in those situations.

Dr. Soin expressed concern with telemedicine as well. He appreciates the recommendation from OSMA and Ohio Health but he supports the face-to-face consult.

Mr. Groeber relayed that the number of licensed physicians designating pain management as their specialty is approximately 350. With an average number of 25 patients/day and 250 work days a year and the number of patients through OARRS that are at those levels it seems as if there are enough physicians. We don't know how many accept Medicaid.

Dr. Soin explained that the 120MED is an elevated level. He believes the grandfather clause should address these issues.

Ms. Montgomery commented that there was a suggestion that we look at Washington State's rules. Ms. Anderson said that rules from other states had been reviewed. Dr. Soin said that Washington has one of the best models and a lot of that was integrated in the draft of the rule.

Ms. Montgomery also noted another comment about palliative care. Dr. Soin said we've addressed those patient concerns in the rules.

Ms. Montgomery referred to (F) on line 152. She noted a suggested 90 day follow-up to align with OARRS check requirements.

Ms. Anderson said that we were trying to address some of the patient access issues when we were drafting the rules. She indicated that the chronic pain statute requires periodic follow-up. We are requiring the 90 day visit for those with 50MED or higher. There was some concern about patients who were stable on doses lower than 50MED to not require every 90 day follow-up but an OARRS check is required.

Dr. Soin said he believed we did a good job with balancing the frequency of visits. Patients who are stable under 50MED even though we don't do the follow-up every 90 days we are required to check OARRS. So, there is some checking mechanism on the patient. We are trying to balance patient access with protecting the public. Statistically, those lower dose chronic, stable cases do not represent as much of a threat as those at 50MED or higher.

Dr. Soin said he can live these rules as written now. In the first draft he had concerns about patient access and about the rules being disruptive. But as we voiced our concerns, they were receptive to revisions.

Dr. Schottenstein asked to comment on naloxone. He believed there were two issues raised, one was should we go down to the 50MED to offer naloxone, the other was to require the dispensing of the prescription. He said it can be hard to determine which patients are at risk of overdose. 50MED would be a higher level of risk. When a patient is offered a prescription for naloxone, the patient essentially becomes the judge as to whether he or she needs naloxone. He wasn't sure if the patient could judge that and psychologically it can be hard for a patient to perceive themselves as being at risk. He believed patients would turn down the naloxone prescription when they might have benefited from it. If it was required to be dispensed, it may help patients understand that it is not a comment on them personally, but rather the prescription medication they are receiving is risky.

Mr. Groeber commented that the issues raised by Dr. Schottenstein had been discussed. He said that the patient has the option to fill the prescription or not. We were trying to encourage a higher quality discussion with the patient if you offer the naloxone prescription, rather than automatically providing the naloxone prescription with the medication prescription.

Dr. Soin said he was glad Dr. Schottenstein brought this up. He said that the CDC guidelines indicate that those with 50MED or greater are at a higher risk for overdose.

Mr. Groeber said that there will be additional opportunity for comments on the rule through the rules process.

Dr. Schottenstein said he thought that if naloxone was required to be dispensed the patient would think of it as a rescue dose, similar to an epi-pen. There is no negative connotation to that when considering the psychological impact on the patient. Dr. Soin said he now understood that if one patient was on 51MED and they received the naloxone but another patient on 51MED did not receive naloxone, the patients could wonder why there was a difference.

Ms. Anderson asked if the committee was comfortable with the amendments for filing with CSI. She also confirmed that there are additional opportunities to comment on the rules through the rules process.

Mr. Giacalone reported that the PAPC met and discussed the proposed rules. They had two comments. The rules refer to physician and it was suggested the definition also include physician assistant. Ms. Debolt said that this will be included a guidance document as we have with other rules. In the PA rules it says that all the rules in Chapter 4731-11 apply to physician assistants and their prescribing.

The second comment had to do with the timing issue since subacute triggers at six weeks or beyond, but some specialties such as cardiothoracic cases may extend to eight weeks for pain management. At six weeks it would be expected that the patient would come in and if the total time crosses over to subacute, the patient needs to be seen.

Dr. Bechtel moved to approve the proposed rules as amended and to recommend obtaining full Board approval for filing the following with the Common Sense Initiative Office:

- **Rule 4731-11-01 Definitions, as amended;**
- **Rule 4731-11-02 General Provisions, as amended;**
- **Rule 4731-11-14 Prescribing for Subacute and Chronic Pain (new);**
- **Rule 4731-21-01 Definitions-Rescind;**
- **Rule 4731-21-02 Utilizing prescription drugs for the treatment of chronic pain-**

Rescind;

- **Rule 4731-21-03 Continuing medical education-Rescind;**
- **Rule 4731-21-04 Tolerance, physical dependence and addiction-Rescind;**
- **Rule 4731-21-05 Violations-Rescind;**
- **Rule 4731-21-06 Exceptions-Rescind.**

Dr. Schachat seconded the motion. Motion carried.

Rule 4731-34-01 PRESCRIPTIONS FOR INJECTION BY PHARMACIST

Mr. Smith reported that on April 19, 2018, Medical Board staff circulated proposed Ohio Administrative Code rule 4731-34-01 to interested parties and included it in the Medical Board's eNews which was sent to all Medical Board licensees.

In response to the initial circulation of the proposed rule, the Board received comments from four individuals. Two comments from doctors were opposed to the rule due to other professions having greater training or knowledge than pharmacists to perform the injections or manage side effects.

One comment from a nurse found the proposed rule's language difficult to understand, and further did not know why a pharmacist would ever need to administer these types of drugs.

Lastly, the State of Ohio Board of Pharmacy's comments suggested updating the rule reference in paragraph E of the proposed rule to account for the Pharmacy's Board's new proposed rule (4729:1-3-03) which will replace 4729-5-40. The new proposed rule, which is currently with CSI, expands the definition of cobalamin to include cyanocobalamin, hydroxocobalamin or any other vitamin B12 injection approved by the United States food and drug administration. In addition, the new Pharmacy Board proposed rule includes a proposed sixth catch-all category of dangerous drugs to account for potential new statutory changes adding new drugs to the authorizing statute R.C. 4729.45.

Proposed Changes

Based on comments received and input from the Policy Committee at the April 11, 2018 meeting, the following changes are proposed to the proposed rule.

1. In response to input from the Policy Committee, added definition of "Pharmacy" from R.C. 4729.01(A) to paragraph (A)(3) of the proposed rule: "**Pharmacy**, except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing where the practice of pharmacy is conducted."

2. In response to the Pharmacy Board's comments, updated the references to the Pharmacy Board's relevant rule to proposed rule 4729:1-3-03 instead of 4729-5-40 in paragraphs (A)(2) and (E)(1).

3. In response to the Pharmacy Board's comments, expanded the definition of cobalamin in paragraph (B)(5) of the proposed rule: "**Cobalamin, to include: cyanocobalamin, hydroxocobalamin or any other vitamin B12 injection approved by the United States food and drug administration.**"

4. In response to the Pharmacy Board's comments, added dangerous drug catch-all provision as paragraph (B)(6): "**Any other dangerous drugs authorized for pharmacist administration pursuant to section 4729.45 of the Revised Code.**"

5. In reviewing the language of paragraph (D)(2) and (3) of the proposed rule, revised the language to correctly specify pharmacist rather than pharmacy:

(2) Failure of the **pharmacist that administers the injection at the pharmacy** to timely notify the physician within seven days of administration of the injection;

(3) Failure of the **pharmacist that administers the injection at the pharmacy** to report an adverse event to the physician that occurred during the administration of the injection;

Mr. Smith reported that the changes to the rule are in bold on pages 75-77.

Mr. Giacalone moved to approve the proposed rules as amended and to recommend obtaining full Board approval for filing with the Common Sense Initiative Office. Ms. Montgomery seconded the motion. Motion carried.

Chapter 4731-27 TERMINATION OF DOCTOR-PATIENT RELATIONSHIP RULES

Ms. Debolt said the rules in Chapter 4731-27, OAC, were circulated to interested parties for comment. Deadline for receipt of comments was May 25, 2018. No comments were received. The rules are now ready for submission to the Common Sense Initiative Office for its review.

Dr. Bechtel moved to approve the proposed rules and to recommend obtaining full Board approval for filing with the Common Sense Initiative Office. Dr. Schachat seconded the motion. Motion carried.

ADJOURN

Dr. Bechtel moved to adjourn the meeting. Mr. Giacalone seconded the motion. Motion carried.

The meeting adjourned at 10:05 a.m.

jkw

State Medical Board of Ohio

FINANCE COMMITTEE MEETING
June 13, 2018
30 E. Broad St., Columbus, OH Room 318

Members: Michael Schottenstein, M.D., Chair Bruce R. Saferin, D.P.M. Michael L. Gonidakis Richard A. Edgin, M.D.	Staff: A.J. Groeber, Executive Director Susan Loe, Director of Fiscal and Human Resources Tessie Pollock, Director of Communications Michael Miller, Deputy Director
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Dr. Schottenstein called the meeting to order at 8:30 a.m. Mr. Gonidakis was absent when the meeting as convened.

MINUTES REVIEW

Dr. Saferin moved to approve Finance Committee minutes for May 13, 2018 meeting minutes. Dr. Edgin second the motion. The motion carried.

FISCAL UPDATE

Dr. Schottenstein stated that the Board's review in April 2018, revenue was \$1,223,996, which is another good month for the Board. Dr. Schottenstein noted that the Board benefited from the fact that the last quarter of even-numbered fiscal years historically see the most renewals; training certificates, respiratory care licenses; and dietetics licenses will be due for renewal soon. Dr. Schottenstein stated that it is conceivable that the Board's June revenue could approach \$2,000,000.

Dr. Schottenstein noted that this is the first month that the Board has broken even compared to the prior two-year fiscal year comparison. Dr. Schottenstein stated that the Board had been behind all year when compared to two years prior and that was substantially a function of the eLicense development cash balance transfers. Dr. Schottenstein expected the Board to be ahead of Fiscal Year 2016 in the May 2018 report. Dr. Schottenstein stated that the Board's cash balance in April 2018 was \$3,797,007 and it was expected to be above \$4,000,000 in the May numbers.

Regarding expenditures, Dr. Schottenstein stated that there was a 5% increase year-to-date, which is consistent with the typical yearly 4% increase expenditure in payroll plus the addition of two new employees from the absorption of staff from the Respiratory Care and Dietetics Boards.

ACCOUNTS RECEIVABLE

Dr. Schottenstein stated that the Board has collected fine payments totaling \$15,000 since the last report, plus \$601 from collections. In total, the Board has received \$251,500 in fines and \$139,000 are still outstanding.

COMMUNICATIONS UPDATE

Ms. Pollock stated that because of cost and performance issues, the Board will end its contract with the email marketing system Marketing Cloud and begin a new contract with Benchmark beginning July 1, 2018. Ms. Pollock stated that the cost of these services will reduce substantially from \$23,000 per

year to \$5,000 per year, and usability will improve. Ms. Pollock briefly reviewed the specifications of the Benchmark system.

Ms. Pollock stated that the Communications staff is working on several education and outreach projects, including the Take Charge mobile phone app; cultural competency materials and continuing education module; materials for trauma informed care regarding victims of sexual assault; jurisprudence for dietitians; and ethics for respiratory care professionals.

Ms. Pollock stated that work has begun on the Board's Annual Report.

Ms. Pollock reported that medical marijuana has been the subject of many media inquiries to the Board of late.

Ms. Pollock stated that the Spring 2018 HealthScene Ohio magazine will feature articles about Dr. Steinbergh and Dr. Saferin.

Dr. Edgin asked if there are any requirements for continuing medical education (CME) in ethics. Mr. Groeber replied that there are no requirements for ethics CME in Ohio. Dr. Edgin commented that many states do have such requirements. Dr. Saferin commented that there had been an effort in years past to require CME in field such as ethics and prescribing, but it was opposed by some Board members and it did not come to fruition. Dr. Saferin stated that the Board's composition has changed since that time and it may be a good time to pursue it again. Mr. Groeber stated that this topic could be referred to the Policy Committee.

SUBMISSION OF PUBLIC LICENSEE DATA

Dr. Schottenstein stated that the Medical Board is frequently requested to send information related to licensees and other public information to the Ohio Board of Pharmacy, American Medical Association, and the Federation of State Medical Boards. The manual creation of these reports can be extremely labor-intensive and lends itself to data errors. The Department of Administrative Services has quoted a figure of \$14,979.20 to automate the submission of public licensee data to these entities, saving significant staff time and ensuring the highest quality of data available sent in real-time. Mr. Miller reviewed this topic for the Committee.

Dr. Saferin moved to recommend approval of the requested expenditure to automate the submission of public licensee data to the Ohio Board of Pharmacy, American Medical Association, and the Federation of State Medical Boards, at a cost of \$14,979,20. Dr. Edgin seconded the motion. The motion carried.

COUNCIL ON LICENSURE ENFORCEMENT AND REGULATION CONFERENCE

Dr. Schottenstein stated that the Medical Board recently purchased an annual membership with the Council on Licensure Enforcement and Regulation (CLEAR), with the intent of purchasing specialized training regarding investigator safety and other training modules offered by CLEAR. CLEAR is holding its annual educational conference in Philadelphia on September 26-29, 2018; the training brochure was provided to the Committee members. Dr. Schottenstein stated that Mr. Groeber would like to send Susan Loe to this conference in order to gauge the viability of their training offerings and to make the appropriate contacts at the organization. Dr. Schottenstein noted that the September conference will be in next fiscal year for budget purposes. Dr. Schottenstein further noted that the cost of the conference is \$595, the hotel is \$179 per night plus tax, and the flight is about \$350.

Mr. Gonidakis entered the meeting at this time.

Dr. Saferin moved to recommend that Ms. Loe be approved to attend the CLEAR conference, September 26 to September 29 in Philadelphia, Pennsylvania, with travel expenses to be paid by the Medical Board in accordance with the state travel policy; and that Ms. Loe's attendance at the conference is in connection with her duties as, and is related to her position as, the head of Human Resources for the State Medical Board of Ohio; at an approximate cost of \$1,500. Dr. Edgin seconded the motion. The motion carried.

MEDICAL BOARD DISCIPLINARY FINING GRID

Dr. Schottenstein stated that at the May 2018 Medical Board Retreat, the staff was asked to circulate the Board's fining grid with requested changes in format. Specifically, the Board requested that the standard fine column be removed and that only the minimum and maximum fines be included. The staff circulated the grid with blank spaces for member feedback and suggestions on individual fine line items.

Mr. Groeber stated that after feedback if received from more Board members, this suggestions will inform the final proposed changes for the Committee's review next month.

FEDERATION OF STATE MASSAGE THERAPY BOARDS

Dr. Schottenstein stated that Chantel Scott serves as a volunteer on the Federation of State Massage Therapy Boards (FSMTB) License Renewal Committee. That Committee is convening their annual meeting and Ms. Scott has been invited to attend. The meeting is paid for by the FSMTB, but out-of-state travel must be approved by the Finance Committee and the full Board.

Dr. Saferin moved to recommend that Ms. Scott be approved to attend the FSMTB License Renewal Committee Annual Meeting, July 20 to 22 in Overland Park Kansas, with any travel expenses not paid by the FSMTB to be paid by the Medical Board in accordance with state travel policy; and that Ms. Scott's attendance at the conference is in connection with her duties as, and is related to her position as, the head of license renewal for the State Medical Board of Ohio. Dr. Edgin seconded the motion. The motion carried.

FOOD AND DRUG ADMINISTRATION OPIOID MEETING

Dr. Schottenstein stated that in early 2018, the Policy Committee approved sending a letter to the Food and Drug Administration (FDA) offering the Board's assistance in their efforts to curb the opioid crisis. The FDA responded asking for meeting dates and a proposed agenda. Dr. Schottenstein stated that the estimated costs for travel to the meeting per person are as follows: Airfare \$300; hotel \$253; transportation \$100 total for all participants; meals \$69. The total cost for four travelers is approximately \$2,600.

Mr. Groeber suggested that Dr. Soin, Mr. Giacalone, Ms. Anderson, and himself be approved to attend the meeting.

Dr. Saferin moved to recommend approval for Dr. Soin, Mr. Giacalone, Mr. Graber, and Ms. Anderson to attend a meeting with the FDA in the last week of June final date to be determined in Silver Spring Maryland; travel expenses will be paid by the Medical Board in accordance with state travel policy; and the attendance at the conference is in connection with their respective

duties as, and is related to their member and staff positions for, the State Medical Board of Ohio. Dr. Edgin seconded the motion. The motion carried.

ADOBE PRO

Dr. Schottenstein stated that currently, approximately 53 of the Board's 86 full-time staff are using an older version of Adobe Acrobat DC. The 33 employees who do not have Adobe Acrobat DC are limited to the free read-only software Adobe reader. IT staff would like to purchase 86 copies of the latest version of Adobe Acrobat DC, 2 copies of Adobe Creative Cloud, and one copy of Adobe Photoshop. This will enable the entire staff to be on one agency-wide standard and utilize the benefits of the Adobe software. To sustain this new standard, the Board will need to invest approximately \$20,064.60 per fiscal year. Dr. Schottenstein noted that quotes have been received from three Minority Business Enterprise (MBE) vendors in order to assist Governor Kasich with meeting his MBE goals.

Dr. Edgin moved to recommend approval of the expenditure of \$20,064.60 for an annual software purchase of Adobe Acrobat DC, Adobe Creative Cloud, and Adobe Photoshop. Dr. Saferin seconded the motion. The motion carried.

UPDATE TO ROUTING PURCHASE AUTHORITY

Dr. Schottenstein stated that as the Board migrates away from standalone IT software purchases and into software as a service (SAAS) models, it would ease the administrative burden to add "software" into the current list of replenishment items that do not require Committee approval. Dr. Schottenstein noted that this would only apply to the renewal of software purchases; new software purchases over the approval thresholds which still come to the Finance Committee for approval.

Dr. Saferin moved to approve the proposed update to the purchasing and invoice approval processing procedure. Mr. Gonidakis seconded the motion. The motion carried.

EXECUTIVE DIRECTOR REVIEW COMMITTEE

Mr. Groeber stated that at today's Board meeting, the Board will discuss formation of an Executive Director Review Committee, which may involve an increase in compensation. Mr. Groeber stated that the financial aspect of that review will come before the Finance Committee next month.

ADJOURN

Dr. Saferin moved to adjourn meeting. Mr. Gonidakis seconded the motion. The motion carried.

The meeting adjourned at 9:00 a.m.

Michael Schottenstein, M.D.
Chair

blt

State Medical Board of Ohio

COMPLIANCE COMMITTEE MEETING

June 13, 2018

30 E. Broad St., Columbus, OH Administrative Hearing Room

<p>Members: Michael Schottenstein, M.D., Chair Robert Giacalone Amol Soin, M.D.</p> <p>Member Absent Ronan M. Factora, M.D.</p> <p>Other Board members present: Kim G. Rothermel, M.D.</p>	<p>Staff: Alexandra Murray, Managing Attorney Annette Jones, Compliance Officer Angela Moore, Compliance Officer Benton Taylor, Board Parliamentarian</p>
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Dr. Schottenstein called the meeting to order at 3:42 p.m.

INITIAL PROBATIONARY APPEARANCES

Aubrey D. Winkler, P.A.

Ms. Winkler is making her initial appearance before the Committee pursuant to the terms of her March 14, 2018 Consent Agreement. Dr. Schottenstein reviewed Ms. Winkler's history with the Board.

Responding to questions from Dr. Schottenstein, Ms. Winkler stated that she is currently seeking employment as a physician assistant and has been applying for jobs. Dr. Schottenstein recalled that Ms. Winkler had previously indicated that she would be looking for work outside the field of psychiatry, as that was her field of practice when she had her boundary issue. Ms. Winkler stated that she has been applying for jobs in many fields, including psychiatry, surgery, and family practice. Ms. Winkler stated that she feels much safer about returning to psychiatry and has fewer concerns in the regard. Dr. Schottenstein was pleased that Ms. Winkler did not feel obligated to stay out of psychiatry. Ms. Winkler stated that she feels healthier about her boundaries and that the course she took in professional boundaries was excellent.

In response to further questions from Dr. Schottenstein, Ms. Winkler stated that she has had no contact with the patient involved in her boundary issue and has had no similar behavior since that incident.

Dr. Schottenstein asked if Ms. Winkler had questions about her Consent Agreement. Ms. Winkler replied that she understands the requirements of her Consent Agreement and she has disclosed the Agreement to all her prospective employers.

Mr. Giacalone moved to continue Ms. Winkler under the terms of her March 14, 2018 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Soin seconded the motion. The motion carried.

APPROVAL OF REPORTS OF CONFERENCES

Dr. Soin moved to approve the Compliance Staff's Reports of Conferences for May 7, 8, & 11. Mr. Giacalone seconded the motion. The motion carried.

MINUTES REVIEW

Dr. Soin moved to approve the draft minutes from May 9, 2018. Mr. Giacalone seconded the motion. The motion carried.

ADJOURN

Dr. Soin moved to approve the draft minutes from June 13, 2018. Mr. Giacalone seconded the motion. The motion carried.

The meeting adjourned at 3:47 p.m.

Michael Schottenstein, M.D.
Chair

blt

State Medical Board of Ohio

LICENSURE COMMITTEE MEETING
June 13th, 2018
30 E. Broad St., Columbus, OH Room 318

Members: Bruce R. Saferin, D.P.M. Richard Edgin, M.D. Kim G. Rothermel, M.D. Members absent: Ronan M. Factora, M.D. Other Board members present: Michael Schottenstein, M.D.	Staff: Chantel Scott, Chief of Allied Licensure and Renewal Colin DePew, Assistant Attorney Kimberly Anderson, Chief Legal Counsel Tessie Pollock, Director of Communication Karen Morrison, Education and Outreach Program Administrator Cathy Hacker, Triage Program Administrator Nathan Smith, Senior Legal & Policy Counsel
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Dr. Saferin calls meeting to order at 7:31 a.m.

MINUTES REVIEW

Dr. Rothermel moved to approve the draft minutes from May 9th, 2018. Dr. Edgin second the motion. The motion carried.

BOARD FOR CERTIFICATION OF NUTRITION SPECIALIST PRESENTATION

Mr. Smith stated the Board for Certification of Nutrition Specialist is requesting licensure in Ohio which would require a statutory change from the legislature. The following representatives from the Board for Certification of Nutrition Specialists (BCNS) were present: Michael Strong, Tara Meyernick, Brittany McAllister, Jill Craig, and Ann Musick-Stovall. The representatives from BCNS gave a brief presentation.

In response to the presentation, Dr. Saferin stated that the statute would have to be changed for certified nutritionist specialist to practice, and then licensure would be a separate issue. Mr. Strong stated that the intent is that statute would be changed so that specialists will be licensed to practice. Ms. Meyernick stated with the statutory change would not only be an authorization to practice but licensure to practice because licensure is an important part of the healthcare field as it relates to insurance reimbursements, etc. Ms. Meyernick stated that this is the change they hope for because these specialists can't practice right now. Dr. Saferin stated that this is a change that would have to be pursued in the House.

Dr. Edgin inquired that about the hours needed to complete the certificate for nutrition specialist license requirement. Dr. Meyernick stated that Ohio law doesn't allow her to practice. Mr. Strong stated that in Ohio, not only can she not practice but it's also illegal for these specialists to do residency hours. Dr. Edgin stated that the statute would have to be changed. Dr. Saferin stated

that the Board would be supportive of these specialists being licensed; however, the change would have to start in the house with a statute change.

Dr. Rothermel inquired if there was anything that the Board can do to prior to getting the statute changed. Mr. Strong stated that the intent for this presentation is to be an informative introduction. Dr. Schottenstein inquired if the organization had any updates on how their efforts were going with the state change process. Mr. Strong stated that they have recognized that there is a process, so they just wanted to start the dialogue.

RESPIRATORY CARE CONTINUING EDUCATION INQUIRY

Dr. Saferin stated that the Respiratory Care Advisory Council discussed a continuing education inquiry about what constitutes relevant college credit in Ohio Administrative Code 4761-9-05. Mr. Smith stated that the Advisory Council has made a recommendation about what the phrase “relevant college credit” means in the regulation and they said it’s limited to respiratory care related classes. Mr. Smith stated there was an inquiry by a member of the Council about this issue. The Council decided on a recommendation based on the understanding of the statute and their experience in the area about what is important.

Mr. Smith stated that he drafted a proposed response to them. Mr. Smith stated that he was present to ask Licensure Committee to approve the draft response so it can be sent to the inquirer and so it can be passed to the full board for approval.

Dr. Rothermel moved to recommend the licensure committee approve the draft response for staff to reply to the inquiry and send to the full board for approval. Dr. Schottenstein second the motion. The motion carried.

REQUEST FOR APPROVAL OF JURISPRUDENCE PROGRAM FOR 2018-2020

Dr. Saferin stated the Board has produced a jurisprudence program that meets the continuing education requirement in OAC 4759-4-04c for one continuing education unit of jurisprudence. The program and accompany quiz was presented to the Dietetics Advisory Council on June 12th, 2018.

Mr. Smith stated the program was discussed and a draft was included in the materials but it wasn’t the most current draft. Mr. Smith stated the council has recommended the program be approved, a program that covers the new statutory change in Chapter 4759, knowing that there will be some upcoming changes in the program. Mrs. Pollock stated that the Board would like to take the dietetics continuing education and turn it into a video module that licensees can take prior to renewing. Mrs. Pollock stated that the Board would like to outsource this to include a built-in quiz. After completion, it would email the person a quiz that they could upload into elicense. Mrs. Pollock stated that the licensees would have a two-year window to complete this. Dr. Saferin inquired about the cost and Mrs. Pollock stated that the project was recently put up for bid and that it would be more cost effective to do both a program for both dietetics and respiratory care together. Mrs. Pollock stated for both she expects it to be under \$20,000.

Dr. Saferin moved to recommend the approval of the Jurisprudence Program outline and requested for review of the final content at the next committee meeting. Dr. Schottenstein seconded the motion.

Dr. Schottenstein inquired if the quizzes will have to be reviewed as they are modified or is it a standing motion. Dr. Saferin stated it should be a standing motion. Mrs. Pollock stated if the Committee wanted to see the final version they could. Dr. Schottenstein asked who would be reviewing it and Mrs. Pollock stated the Licensure & Legal staff. Dr. Rothermel asked if there was a best way to do it legally.

Mr. Smith stated that the statute stated that the Board must approve the Jurisprudence Program. Mr. Smith stated that approving program and concept, which the program is the changes in Chapter 4759, that's what the program will be this year. Mr. Smith stated by tinkering the margins of what program was presented, the Board would still be approving a program and concept. Mrs. Pollock stated that this will change as it's put into a script format for a video. Mrs. Anderson stated that it can always be brought back for the Board. Mrs. Anderson stated that the Board has approved it to go forward and approved the basic content but if there were any changes such as legislation or clean up, it can be done as a ratification and show it to the committee.

The motion carried.

DIETETICS CONTINUING EDUCATION PORTFOLIOS

Dr. Saferin stated that dietetics continuing education (CE) portfolio Rule 4759-4-04, OAC, provides that licensed dietitians who are not registered dietitians must comply with the continuing education standards set by the commission and dietetics registration. Non-Registered Dietitian licensees must submit evidence of continuing education activities for board approval every five years. The current cycle for review is July 1, 2013- June 30, 2018. Staff has reviewed the CE submissions for the 17 licensees identified and is recommending that all be approved. Dr. Saferin stated that nonregistered dietitians will be moving to the two-year renewal cycle which is consistent with the other license types. Mr. Smith stated that the two-year renewal cycle has been introduced to the Advisory Council and it will require new proposed rule that has not been drafted yet.

Dr. Saferin moved to recommend the continuing education portfolio for the identified 17 licensees be approved for the period of July 1st, 2013 – June 30th, 2018 pursuant to rule 4759-4-04 in the Ohio Administrative Code. Dr. Edgin seconded the motion. The motion carried.

CHAPTER 4731-1-16, MASSAGE THERAPY CURRICULUM REQUIREMENTS

Dr. Saferin stated the synopsis at the May 18th, 2018 Board meeting was that members requested a change to Rule 4731-1-16(a)1(b) regarding massage therapy curriculum requirements. The Board requested the addition of language that would allow Board discretion around the nine-month minimum requirement for a school to receive a certificate of good standing. The two options for the Committee are as follows: a) for classes enrolling on or after

December 31st, 2005, a minimum of 750 clock hours covering a period of not less than nine months or equivalent minimum time period as determined by the board, or b) classes enrolling on or after December 31st, 2005, a minimum of 750 clock hours.

Dr. Rothermel moved for the recommendation for approval of classes enrolling on or after December 31st, 2005, a minimum of 750 clock hours. Dr. Saferin seconded the motion.

Dr. Schottenstein stated he preferred option A because it provided licensees and future Boards some guidance in terms of what the Medical Board had in mind of a time approximation to avoid the fly-by-night programs. Dr. Schottenstein stated he wonders if there will be another similar situation in the future where there will be an issue with the clock hours and will the Board have the equivalent minimum clock hours option the same way the Board is currently asking for the time period. Mrs. Anderson stated historically those types of applications have been denied because the board has been firm on the clock hours.

Dr. Saferin stated that he was against passing it at the Board meeting because it would set a precedent that he felt was wrong. Dr. Saferin stated that the focus should be on the hours because it is very clean and simple because the clock hours are what the Board is focused on because it's the most important thing during training. Dr. Rothermel inquired in what situation did Dr. Schottenstein think it would pose an issue of not having nine months or equivalent. Dr. Rothermel stated she thought that if the Board received an application that has 750 hours completed in a time period then each application would be presented to the Committee to be voted on. Dr. Schottenstein stated that that was a fair point but it's more about generally what the Board is looking for rather than the Board adopting either option.

The motion carried.

Mrs. Anderson stated for clarification, it will be sent out for initial comment review then after the comments have been received, it will be brought back to the Licensure Committee, then the full Board, and then the Common Sense Initiative (CSI) is the next step.

CHAPTER 4731-6, OAC: MEDICAL OR OSTEOPATHIC LICENSURE

Mrs. Anderson stated the first memo gave the Committee information on the comment that was received and amendments; the second memo talks about all the rules that are in the packet. The motion for all of this is for filing with the Common-Sense Initiative as outlined in the memos.

Dr. Schottenstein moved to approve the proposed changes to Chapter 4731-6 OAC, to approve rules as amended for further amending filing with the Common-Sense Initiative office. Dr. Rothermel seconded the motion.

Dr. Rothermel inquired if the motion stated "amended" or "further amended." Dr. Saferin stated it says, "approve as amended or further amended." Mrs. Anderson stated that it should go to the full Board for discussion and approval and Ms. DeBolt will be present at the Board meeting to assist. Mrs. Anderson stated that the Board will be approving the changes suggested in the two memos.

The motion carried.

Genetic Counselor Rules

Dr. Saferin stated the proposed changes to Genetic Counselor Rules 4778-1 and 4778-2, OAC were reviewed by the Licensure Committee in April 2018. The Rules were then circulated to interested parties for comments. One comment received did not address the proposed rules but suggested there be consideration of the use of telemedicine by genetic counselors.

Dr. Rothermel moved to recommend approval of the rules as presented for filing with the Common Sense Initiative (CSI) office. Dr. Schottenstein seconded the motion. The motion carried.

LICENSE APPLICATION REVIEW

Vladimir Bolshinsky, M.D.

Dr. Saferin stated Vladimir Bolshinsky, M.D. is requesting graduate medical education (GME) equivalency, pertaining to ORC Section 4731.09(A)(4)(b) which permits the Board to determine an equivalent to the GME training requirement of two years through the second-year level equivalency. Dr. Bolshinsky graduated from Monash University in Australia (2006). Dr. Bolshinsky had ten years of experience in Australia, including a residency with Bayside Health at Alfred Hospital, a General Surgery Fellow with Peninsula Health at Frankston Hospital, and Colorectal Fellow at The Epworth. Since March 2017, Dr. Bolshinsky has served as Colorectal Fellow in a clinical fellowship at Cleveland Clinic. He is now a little over nine months short of successfully completing at least twenty-four months of GME required for a license.

Dr. Schottenstein moved to recommend that Dr. Bolshinsky's request that his experience in Australia and the United States be equivalent to the twenty-four months of graduate medical education through the second-year level of GME so that he may be granted a license. Dr. Rothermel seconded the motion. The motion carried.

Anna Marie Bowers, M.D.

Dr. Saferin stated that Anna Marie Bowers, M.T. has applied for restoration of her M.T. license in Ohio. Ms. Bowers has not held an active license in Massage Therapy since the Ohio license expired on July 1, 2011. Ms. Bowers is requesting the restoration of her Ohio license originally issued in July of 1989.

Dr. Edgin moved to recommend approval of Ms. Bower's request for Ohio licensure pending successful completion of the MBLEX within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Rothermel seconded the motion. The motion carried.

Cheryl Elizabeth Chilton, D.P.M.

Dr. Saferin stated that Cheryl Elizabeth Chilton, D.P.M. has applied on February 5, 2018 for restoration of her podiatric medical license in Ohio. Dr. Chilton's application indicated that she has not been engaged in the clinical practice of medicine since January 1, 2016 but has been

actively practicing as a Registered Nurse since September 1991. Dr. Chilton is a 2002 graduate of the Ohio College of Podiatric Medicine. Dr. Chilton does not hold board certification. She also held a podiatric license in Georgia from July 2008 to August 2013. Dr. Saferin stated that she is seeking restoration of her license to resume practicing in Ohio which was originally issued in December 2004. Dr. Chilton is current with her CME requirements.

Dr. Edgin inquired if this was pending examination and Dr. Saferin stated no because she was within the two-year period. Mrs. Scott stated that Dr. Chilton indicated she would take her boards in the fall.

Dr. Schottenstein moved to recommend approval of Dr. Chilton's request for Ohio licensure as presented. Dr. Rothermel seconded the motion. The motion carried.

Melvin Orlando Hollis, M.T.

Dr. Saferin stated that Melvin Orlando Hollis is applying for restoration of his MT license in Ohio. Mr. Hollis has not held an active Massage Therapy license since the Ohio license expired on October 1, 2014. Mr. Hollis is requesting the restoration of his Ohio license originally issued in January of 2006.

Dr. Rothermel moved to recommend approval of Mr. Hollis' request for Ohio licensure pending successful completion of the MBLEX within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Edgin seconded the motion. The motion carried.

ADJOURN

Dr. Schottenstein moved to adjourn the meeting. Dr. Edgin second the motion. The motion carried.

The meeting adjourned at 8:15 a.m.

Bruce R. Saferin, D.P.M.
Chair

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