

MINUTES**THE STATE MEDICAL BOARD OF OHIO****September 12, 2018**

Robert P. Giacalone, R.Ph., J.D., President, called the meeting to order at 10:05 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.; Ronan M. Factora, M.D.; Mark A. Bechtel, M.D.; and Sherry L. Johnson, D.O. The following members did not attend: Michael L. Gonidakis, Esq; and Betty Montgomery.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; Sallie Debolt, Senior Counsel; Susan Loe, Director of Human Resources and Fiscal; Teresa Pollock, Director for Communications; Joseph Turek, Deputy Director for Licensure; Nathan Smith, Staff Attorney; Rebecca Marshall, Chief Enforcement Attorney; James Roach, Assistant Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Cheryl Pokorny, Angela McNair, 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, Compliance Officers Colin DePew, Legal and Policy Staff Attorney; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Edgin moved to approve the draft minutes of the August 8, 2018, Board meetings, as written. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

APPLICANTS FOR LICENSURE

Dr. Schottenstein 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," and to approve the results of the

August 27, 2018 Cosmetic Therapy Examination in Exhibit “C” and to certify as passing and license those receiving a score of 75 or greater on their examination, and to certify as failing and deny licensure to those who received a score of less than 75 on the examination, as listed in the Agenda Materials and handouts. 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
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Dr. Schottenstein moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the applicants listed in Exhibit “D” for the Certificate to Recommend Medical Marijuana, as listed in the Agenda Supplement and handouts. 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
	Dr. Edgin	- aye
	Dr. Factora	- 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: John Harlem Johnson, M.D.; and Christopher R. Seman, 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
Dr. Factora	- 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
	Dr. Factora	- 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 and Dr. Saferin served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising members in the matter of John Harlem Johnson, M.D.

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.

JOHN HARLEM JOHNSON, M.D.

Mr. Giacalone directed the Board's attention to the matter of John Harlem Johnson, M.D. objections To Mr. Porter'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. J. Johnson. Five minutes will be allowed for that address.

Dr. J. Johnson was represented by his attorney, Lisa Reisz.

Ms. Reisz stated that it would have been easy for Dr. J. Johnson to have agreed to a permanent surrender of his Ohio medical license in this matter. However, Dr. J. Johnson is coping with his mistakes and he believes that this issue does not define the rest of his life. Ms. Reisz added that Dr. J. Johnson

believes that he can be rehabilitation and can be a good doctor again under whatever conditions the Board sees fit.

Ms. Reisz stated that due to his incarceration, Dr. J. Johnson could not appear before the Board personally today and he was only given 20 minutes to testify via telephone at his hearing. Ms. Reisz stated that Dr. J. Johnson wanted an opportunity to address the Board in person and convince the Board that he can someday return to the practice of medicine. Therefore, Ms. Reisz asked the Board to defer making a decision to permanently revoke Dr. J. Johnson's medical license until he can explain himself in person.

Ms. Reisz continued that Dr. J. Johnson is clearly paying a high price for his action and he is hoping that the mistakes he made during a very dark period in his life do not define the rest of his life. Ms. Reisz stated that she has practiced law before the Board for a number of years and has seen many physicians personally appear before the Board. Ms. Reisz stated that the personal engagement process is a very important part of the Board's procedures. Ms. Reisz asked that Dr. J. Johnson have the opportunity to appear before the Board at some point upon his release from prison. Ms. Reisz stated that the decision of whether to permanently revoke Dr. J. Johnson's license does not need to be made today and that deferring the decision presents no harm to the public. Ms. Reisz stated that Dr. J. Johnson would probably not be able to practice again, if he is given the opportunity, until at least 2023.

Ms. Reisz reiterated her request that the Board meet with Dr. J. Johnson in person to see if this incident was simply a mistake during a dark period fueled by alcoholism and desperate decisions related to his businesses.

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

Ms. Snyder stated that the felonies that Dr. J. Johnson was convicted of will not be rehabilitated with time. Ms. Snyder agreed with the Hearing Examiner that these felonies were intentional and willing exploitation of Dr. J. Johnson's patients. Ms. Snyder stated that Dr. J. Johnson used his medical practice to launder money to receive kickbacks for his own personal gain. Ms. Snyder pointed out that Dr. J. Johnson has been sentenced to four years in prison and he will have been out of the practice of medicine for several years when he is released.

Ms. Snyder asked the Board to adopt the Hearing Examiner's Proposed Order.

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

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

Dr. Schachat remarked that Ms. Reisz spoke well on behalf of Dr. J. Johnson and he appreciated her comments.

Dr. Schachat stated that around February 2017, Dr. J. Johnson entered into a plea agreement. In May 2017, in the U.S. District Court in Southern Florida, Dr. J. Johnson was found guilty of one count of Conspiracy to Defraud the United States. Dr. J. Johnson was sentenced to 60 months of incarceration

followed by three years of probation and was ordered to pay restitution in excess of \$15,000,000 jointly and severally with his co-defendants.

In July 2015 Dr. J. Johnson was indicted by the U.S. District Court in Western Pennsylvania, and in June 2017 he pleaded guilty to failure to pay employment taxes. Dr. J. Johnson was sentenced to 60 months of incarceration followed by three years of probation and ordered to pay restitution of about \$722,000.

In June 2017 in U.S. District Court Western District of Pennsylvania, Dr. J. Johnson pleaded guilty to one count of Conspiracy. Dr. J. Johnson was sentenced to 24 months of imprisonment followed by three years of probation and ordered to pay restitution of \$2,300,000.

Dr. Schachat stated that Dr. J. Johnson's criminal conviction in Florida had been related to mail fraud, wire fraud, receiving illegal kickbacks involving compounding pharmacies, and medical billing issues. Dr. Schachat noted that this involved hundreds of prescriptions for a compounded pain cream. Dr. Schachat stated that the criminal convictions in Pennsylvania related to multiple counts of failure to pay employment taxes. The sentences from the Pennsylvania convictions were set to run concurrently with the Florida sentence.

Dr. Schachat continued that in his telephone testimony from prison and in his written statements, Dr. J. Johnson stated that he became invested in many businesses and that the businesses failed because he is a terrible business person. Dr. J. Johnson attributed many of the problems to alcohol abuse. Rather than winding down the businesses, Dr. J. Johnson tried to save them by alternative means, such as diverting money that should have gone to employment taxes or arranging kickbacks which he then used to try to fund his businesses. While Dr. J. Johnson does not deny his actions, he says that his actions arose from a desire to help his businesses. Dr. Schachat stated that Dr. J. Johnson's actions also constituted taking advantage of his patients. Dr. Schachat noted that while in prison, Dr. J. Johnson is continuing to pay his restitution, he is taking re-entry courses, and he is attending Alcoholics Anonymous meetings.

Dr. Schachat stated that while he appreciates that Dr. J. Johnson cooperated with prosecutors and admitted to his actions, he agreed with the Hearing Examiner that Dr. J. Johnson had intentionally and willingly exploited his patients. While Dr. J. Johnson attributes his actions to being a bad business person, Dr. Schachat pointed out that two of the three convictions were related to the clinical care of patients.

Dr. Schachat stated that Dr. J. Johnson may serve nearly six more years in prison, his attorney believes that he could be released by 2023 or possibly as early as 2021. The objections filed on Dr. J. Johnson's behalf asked that the Board delay its decision in this case. Dr. Schachat opined that this is not a reasonable request. Dr. Schachat further opined that the objections were not persuasive. Dr. Schachat stated that Dr. J. Johnson took advantage of his patients and prescribed medications that they did not need. Dr. Schachat stated that Dr. J. Johnson's conduct is far outside that which is appropriate and the passage of time will not change the facts of this case. Dr. Schachat stated that he agreed with the Proposed Order to permanently revoke Dr. J. Johnson's medical license

Dr. Soin stated that he also concurs with the Proposed Order of permanent revocation. Dr. Soin stated that saying that Dr. J. Johnson is a bad business person is not a good excuse because there are multiple instances and many different scenarios in this case. Dr. Soin noted that one particular patient was charged \$22,717.66 for a compounded pain cream. Dr. Soin opined that this is a demonstration of bad

faith, stating that these compounded pain creams are often just generic drugs mixed together by a pharmacist. Dr. Soin further noted that the urine drug testing that Dr. J. Johnson was involved in resulted in \$2,300,000 in kickbacks. Dr. Soin opined that given his past behaviors, Dr. J. Johnson is not fit to practice medicine.

Dr. Schottenstein stated that Dr. J. Johnson's counsel has characterized Dr. J. Johnson's behavior as a mistake or a series of mistakes. Dr. Schottenstein stated that when he thinks of a mistake, he thinks of an error that occurs due to a misunderstanding. However, Dr. Schottenstein viewed Dr. J. Johnson's behavior as very intentional and reckless. Dr. Schottenstein pointed out that by his own testimony, Dr. J. Johnson knew what he was doing was wrong and he did it anyway. Dr. Schottenstein's sense was that there was a lot of effort and strategizing on Dr. J. Johnson's part to figure out ways to break the law. Dr. Schottenstein opined that Dr. J. Johnson knew the consequences of his actions and there was nothing accidental or mistaken about them.

Dr. Schottenstein stated that Dr. J. Johnson repeatedly referred to himself as a poor businessman. Dr. Schottenstein stated that this case is not before the Board today because Dr. J. Johnson was a poor businessman. Rather, this case resulted from the highly unethical behavior that Dr. J. Johnson engaged in to try to compensate for the fact that he was a poor businessman.

Dr. Schottenstein was glad that Dr. J. Johnson is using his time wisely during his imprisonment to improve himself, and he regretted the situation that Dr. J. Johnson now finds himself in. However, Dr. Schottenstein could not contemplate a lesser sanction than permanent revocation, given the magnitude of Dr. J. Johnson's unethical behavior. Dr. Schottenstein stated that Dr. J. Johnson abused his position of trust in the physician/patient relationship, and that leads to a lack of trust in the profession by the public. Dr. Schottenstein opined that there is nothing to be gained in delaying the Board's decision and re-examining this issue years from now.

Mr. Giacalone agreed with the previous Board members' comments. Mr. Giacalone opined that Dr. J. Johnson knew that he was scamming the system and, worse yet, scamming his patients. Consequently, Mr. Giacalone opined that Dr. J. Johnson does not to continue to practice medicine in Ohio.

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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to approve carried.

CHRISTOPHER R. SEMAN, D.O.

Mr. Giacalone directed the Board's attention to the matter of Christopher R. Seman, 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. Seman. Five minutes will be allowed for that address.

Dr. Seman was represented by his attorney, Heidi Dorn.

Ms. Dorn stated that Dr. Seman's objections to the Hearing Examiner's Report and Recommendation address substantial legal issues found in the hearing record. Ms. Dorn stated that rather than reviewing the written objections, she will allow Dr. Seman to explain this matter that he self-reported to the Board over three years ago.

Dr. Seman stated that he reported this matter to the Board in March 2015 because his conduct was contrary to his own ethics and contrary to the ethics to which physicians are held. Dr. Seman stated that his actions were offensive to anyone who read about them. Dr. Seman stated that he was a much different person in 2013 and he now refers to that time period as the biggest transgression in his life. Dr. Seman stated that at that time he was much more arrogant and had a poor understanding of proper boundaries. Dr. Seman stated that he allowed a workplace relationship boundary to become blurred and develop into a friendship when it should have remained collegial. That friendship developed into a romantic and intimate affair with Dr. Seman's coworker, known as Patient 1, when both of them were married. Dr. Seman stated that he offers no excuse for his behavior beyond failed human reasoning. Dr. Seman stated that he deeply regrets his behavior and the hurt his actions have caused to Patient 1, to himself, and to both their families.

Dr. Seman continued that his objectivity became clouded by emotions and he prescribed medication to Patient 1 despite being involved in a personal relationship with her. Dr. Seman stated that these actions compromised and endangered everything that he believed in professionally and personally. Dr. Seman stated that on a personal level, he will suffer the penalty of seeing the damage of his actions caused to his wife, his family, and his community, as well as an unborn child who lost his or her life. Dr. Seman added that his also realizes and regrets that his conduct caused the same damage to his former coworker and her family.

Dr. Seman stated that he was worked very hard since he reported this matter in 2015 to change his persona, professional ethics, and boundaries. Dr. Seman stated that he left the practice where he and his former coworker both worked and where she continues to work. Dr. Seman stated that he has also experienced a time of unemployment, which brought further consequences to his family and his patients. Dr. Seman stated that throughout the past three years he has attended personal counseling, been mentored by his parish priest, attended continuing medical education (CME) courses on professional boundaries and ethics, and has implemented the lessons from each of these into his personal and professional life. Dr. Seman added that he now maintains strict and proper boundaries in his professional and personal life.

Dr. Seman stated that whatever happens today, he will continue to apply all the ethics guidelines he has learned, in addition to what the Board requires, to better his current service to the community of patients

he serves. Dr. Seman expressed remorse for failing to uphold the ethics of his profession and that he will never again commit these errors. Dr. Seman asked the Board to consider a ruling that will address its concerns but also allow Dr. Seman continue to practice so as to not interrupt patient care. Dr. Seman noted that there are few psychiatrists practicing in his area.

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

Ms. Snyder noted that many times during his address, Dr. Seman referred to Patient 1 as his coworker. Ms. Snyder stated that Dr. Seman is attempting to minimize his violation by saying he is sorry for something that he doesn't really believe he did. Ms. Snyder stated that Dr. Seman claims to understand the importance of boundaries, but then implies that this woman did not count because she was not a patient and that this was not really sexual misconduct. Ms. Snyder stated that, in fact, this woman did count and she was a patient.

Ms. Snyder continued that Dr. Seman cultivated a relationship with someone with whom he already had an imbalance of power due to being her superior in the workplace. Ms. Snyder stated that Dr. Seman acted as a therapist to Patient 1, acted as a friendly ear, and gave her drugs. Ms. Snyder stated that Dr. Seman methodically broke down the professional barriers between him and Patient 1 by encouraging her to tell him her problems. Ms. Snyder stated that Dr. Seman heard Patient 1's confessions, knew her weak spots, and knew that she was emotionally vulnerable because he is a psychiatrist. Ms. Snyder stated that Dr. Seman was so cavalier about his boundaries that he had sex with Patient 1 in the office.

Ms. Snyder stated that in furtherance of this sexual relationship, Dr. Seman prescribed her months' worth of birth control pills so Patient 1 would not become pregnant. Ms. Snyder added that Dr. Seman also prescribed anti-depressants to keep Patient 1 happy and occasionally prescribed antibiotics when she had yeast infections. Ms. Snyder stated that these prescriptions were not for Patient 1's health, noting that Dr. Seman never bothered to perform an evaluation or even keep a medical record.

Ms. Snyder stated that this relationship went on for a year-and-a-half and every time Patient 1 would try to pull away, Dr. Seman would bring her back. Ms. Snyder stated that the relationship ended when Patient 1 became pregnant, at which point Dr. Seman went into damage-control mode, not to correct what he did to Patient 1, but to protect his marriage and his employment. Dr. Seman took Patient 1 to the hospital and ordered a blood test to confirm the pregnancy. Ms. Snyder stated that when the pregnancy was confirmed, Dr. Seman told his wife about the relationship and began trash Patient 1's reputation in the workplace.

Ms. Snyder stated that this was not simply an affair as Dr. Seman would have you believe. Ms. Snyder stated that there was nothing consensual about this relationship. Rather, this is a case where Dr. Seman, as Patient 1's superior and as a physician, used his position to get her into bed. Ms. Snyder stated that Dr. Seman targeted and manipulated Patient 1, and he not only damaged her but he also undermined the trust that is the cornerstone of the medical profession. Ms. Snyder stated that this is why this is an important case, because there is no question that Patient 1 was Dr. Seman's patient.

Ms. Snyder stated that the Hearing Examiner's Proposed Order is the minimum penalty that this Board has determined to be appropriate for sexual misconduct violations. Ms. Snyder opined that Dr. Seman has not shown any mitigation to justify the minimum penalty. Ms. Snyder opined that a one-year suspension of Dr. Seman's medical license is appropriate.

Dr. Schottenstein moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Christopher R. Seman, D.O. Dr. Factora seconded the motion.

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

Dr. Schottenstein stated that the Board has alleged that Dr. Seman's conduct, as described in the Notice of Opportunity for Hearing, violated Rule 4731-26-02, Ohio Administrative Code, which prohibits a licensee from engaging in sexual misconduct with a patient. Dr. Schottenstein briefly reviewed Dr. Seman's medical education and career.

Dr. Schottenstein continued that while working as a child psychiatrist at the Columbiana County Mental Health Center, Dr. Seman became friends with a female co-worker who worked there as a case manager. Dr. Schottenstein stated that this relationship subsequently became sexual in nature and lasted about one-and-a-half years. During the relationship, Dr. Seman wrote prescriptions for the co-worker, known as Patient 1, for medicines including birth control pills, an anti-depressant, an anti-fungal agent, and an antibiotic. Dr. Seman did not create a patient record for Patient 1. The relationship abruptly ended when Patient 1 became pregnant by Dr. Seman, at which point the doctor revealed the relationship to his wife, his co-workers, his supervisor, and Patient 1's nephew. Subsequently, Dr. Seman self-reported his behavior to the Medical Board.

Dr. Schottenstein stated that the material facts are not in dispute. Both Dr. Seman and Patient 1 agree that their relationship started in the context of their working together to collaborate on cases. Dr. Seman and Patient 1 subsequently became friends. As their friendship grew, Dr. Seman and Patient 1 began meeting outside the work environment and talking about things not related to work. Dr. Seman and Patient 1 often had lunch together and would call and text each other frequently. Later, some non-sexual touching began, such as holding hands and kissing on the cheek. Then Patient 1 began sharing more private details of her life. Patient 1 testified that Dr. Seman began to act flirtatiously with her, complimenting her and telling her that he wished he had met her before he met his wife. Patient 1 also recounted how Dr. Seman raised the topic of whether either of them would leave their spouses. When they both indicated they would not, Dr. Seman proposed an affair. Sexual relations occurred soon after.

Dr. Schottenstein noted Patient 1's testimony that Dr. Seman had examined her medically when she had a bad cold, at a time before the relationship had become sexual and before she realized that he was a physician. Dr. Seman indicated that sexual relations occurred prior to that physical exam. As the relationship progressed, Dr. Seman began writing prescriptions for Patient 1. The first prescription was for a birth control pill formulation, written on or around December 6, 2013; this was a 30-day prescription with five refills. Dr. Seman reportedly did not examine Patient 1 before writing the prescription and did not suggest that she go to a different physician for the prescription. Dr. Seman also prescribed amoxicillin for Patient 1, which was filled on or before December 23, 2013. In November 2014, Dr. Seman called in a prescription for fluconazole for Patient 1. In early 2015, Dr. Seman prescribed Wellbutrin, an anti-depressant, for Patient 1; this was a 30-day supply with five refills.

Dr. Schottenstein continued that Patient 1 had a family physician during that time. Patient 1 perceived that Dr. Seman inserted himself into her long-standing physician/patient relationship by repeatedly volunteering to prescribe for her. Patient 1 testified that Dr. Seman's prescribing for her made her feel like she "kind of grew out of that relationship with my doctor." Patient 1 testified that she became more

dependent on Dr. Seman.

Dr. Schottenstein stated that Patient 1 subsequently became pregnant. Due to behavior on the part of Dr. Seman and his wife that Patient 1 perceived to be concerning, Patient 1 elected to terminate her pregnancy. Dr. Seman acknowledged that he disclosed Patient 1's personal health information to several of their coworkers at the counseling center, as well as to Patient 1's nephew. Dr. Seman indicated that he may have had some animosity toward her that provoked the disclosure of this information. In addition, Patient 1 testified that she believed that Dr. Seman tried to get her fired.

Dr. Schottenstein stated that Dr. Seman has acknowledged that the relationship was damaging to Patient 1 and he imagined that it damaged her ability to trust. Dr. Seman further acknowledged that Patient 1's reputation suffered. Dr. Seman agreed that he was in a superior position to Patient 1 with regard to the work hierarchy and indicated that he was the one responsible for this situation. Dr. Seman also acknowledged the pain he caused not just himself, but to Patient 1, his children, his wife, Patient 1's family, and the counseling center staff which suffered a loss of morale which may have affected the patients of the facility.

Dr. Schottenstein stated that this case was a good reminder of why healthcare professionals are prohibited from having sexual relations with their patients. Dr. Schottenstein opined that Dr. Seman used his position to facilitate a closer working relationship with Patient 1 and cultivated a relationship with her which culminated in his proposition of a sexual affair. Dr. Schottenstein further opined that when it became inconvenient for Dr. Seman to carry on the affair, he went back to his wife and dispensed with Patient 1.

Dr. Schottenstein stated that, all of the preceding comments aside, the question before the Board today is whether Dr. Seman violated the Board's rule against sexual misconduct as alleged in the citation letter. Dr. Seman's counsel maintains that Dr. Seman did not violate the Board's rule. Dr. Schottenstein stated that for the Board's purposes, this case boils down to a few questions:

Did Dr. Seman and Patient 1 have a physician/patient relationship? Dr. Schottenstein stated that the answer to this question is "yes." Dr. Schottenstein stated that when a physician engages in a medical examination of a person for purposes of diagnosis and/or treatment, that person becomes the physician's patient. Dr. Schottenstein further stated that when a physician prescribes a medication to a person, that person becomes the physician's patient.

Did Dr. Seman and Patient 1 have sexual relations in the course of this doctor-patient relationship? Dr. Schottenstein stated that the answer to this question is clearly "yes."

Was there exploitation of Patient 1 by Dr. Seman? Did Dr. Seman take advantage of Patient 1 in an unethical and selfish way for his own ends? Dr. Schottenstein stated that the Board's sexual misconduct rule indicates the exploitation of the patient by the physician must occur. Dr. Schottenstein opined that it is clear that Dr. Seman did exploit Patient 1 during the one-and-a-half year timeframe of their sexual relations.

Dr. Schottenstein elaborated that Dr. Seman used prescribing as a tool with which to bind Patient 1 to him. Dr. Schottenstein stated that it does not matter whether the sexual relations preceded the prescribing and the medical examination. Dr. Schottenstein stated that Dr. Seman used the prescribing to

foster a relationship, to maintain the relationship, and to perpetuate the relationship. Dr. Schottenstein noted that Dr. Seman was a psychiatrist prescribing things that psychiatrists do not prescribe, such as anti-fungal medications, antibiotics, and birth control medication. Dr. Schottenstein stated that there was no urgency in these prescriptions and Patient 1 could have gotten them from her own physician. However, Dr. Seman volunteers to write the prescriptions and every time he prescribed to her, he bound her more tightly to him. Dr. Schottenstein stated that this put Patient 1 in a position where it would be difficult for her to go back to her own family physician without keeping secrets from that physician. Dr. Schottenstein reiterated Patient 1's testimony that she had conceptualized that Dr. Seman's prescribing had caused her to grow out of her relationship with her primary care physician. Dr. Schottenstein stated that there was no compelling reason for Dr. Seman to write the prescriptions other than to use the prescriptions to exploit Patient 1 and that it was not more convenient for Patient 1 to get the prescriptions from Dr. Seman rather than from her own physician. Dr. Schottenstein stated that it is not credible to him that there was not a manipulative motive to Dr. Seman's prescribing.

Dr. Schottenstein noted that Dr. Seman's counsel maintains that because Patient 1 and Dr. Seman were already in a sexual relationship when he first prescribed to her, then he by definition could not have exploited Patient 1 because the sexual aspect of the relationship had already occurred. However, Dr. Schottenstein stated that Dr. Seman's prescribing served the purpose of binding Patient 1 to the doctor. Dr. Schottenstein stated that even if the sexual relationship had already occurred prior to the establishment of the physician/patient relationship, the prescribing was a manipulative behavior designed to maintain the relationship.

Dr. Schottenstein further noted that Dr. Seman's counsel maintains that the State did not present evidence of exploitation. Dr. Schottenstein opined that such evidence can be easily inferred. The defense counsel referred to other cases that have come before the Board, specifically the cases of Dr. Marker, Dr. Hutchison, and Dr. Silverblatt. Dr. Schottenstein observed that Dr. Marker and Dr. Hutchison were living with their significant others for years before they prescribed medication to them. Dr. Schottenstein further observed that Dr. Silverblatt's case resulted in a consent agreement, and consequently there are few details available that that case.

Dr. Schottenstein stated that Dr. Seman's defense counsel also brought up several other areas of concern, including the need to defend against allegations outside of the October 2013 to January 2015 timeframe, the length of time between the doctor's self-report and the issuance of the citation, and what the defense counsel describes as the use of aggravating factors to substantiate the board's sexual misconduct allegation.

Dr. Schachat exited the meeting at this time.

Dr. Schottenstein continued that Dr. Seman's defense counsel also feels that Dr. Seman's discipline is based on his violation of his religious principles and the fact that the pregnancy involved in this case resulted in an abortion. Dr. Schottenstein stated that these points are not persuasive to him because even if he confines himself to actions that occurred between October 2013 and January 2015, the time when both sexual relations and prescribing of medications to Patient 1 occurred, Dr. Schottenstein still believed that a preponderance of the evidence shows that the Dr. Seman exploited Patient 1 and engaged in sexual misconduct.

Dr. Schottenstein stated that he supports the Hearing Examiner's Proposed Order, which would suspend Dr. Seman's license for at least one year with conditions for reinstatement or restoration which include

ethics and boundaries courses, followed by a probationary period of at least one year.

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
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to approve carried.

Dr. Schachat returned to the meeting at this time.

PROPOSED FINDINGS AND PROPOSED ORDERS

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

MICHAEL EDWARD FELVER, M.D.

Dr. Schottenstein moved to find that the allegations as set forth in the February 14, 2018 Notice of Opportunity for Hearing in the matter of Dr. Felver have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the above matter.

Mr. Giacalone stated that Dr. Felver was first licensed to practice medicine and surgery in Ohio in November 1992 and his license is currently active. On or around January 2017, Dr. Felver answered affirmatively to a question on his renewal application asking whether he had been found guilty of, or pleaded guilty or no contest to, a misdemeanor or felony. However, Dr. Felver did not respond to repeated letters from the Board dated January 10, 2017; February 23, 2017; and, March 22, 2017, requesting information concerning this event. Dr. Felver also failed to respond to several telephone calls from a Board investigator in September 2017.

Mr. Giacalone continued that on or about September 28, 2017, two Board investigators made an unannounced visit to Dr. Felver's home where they interviewed him regarding his 2016 criminal charges, plea and conviction. From this visit, it was discovered that Dr. Felver had been issued a citation for Public Indecency in a Cleveland Metro Park, in violation of Section 2907.09(A)(1), Ohio Revised Code. Specifically, it was alleged that on March 23, 2016, Dr. Felver exposed himself in a public park with the

intent to engage in sexual conduct with an individual who was an undercover park ranger. On or about April 19, 2016, in the Parma Municipal Court, Dr. Felver pleaded guilty to, and was convicted of, Public Indecency. As a result, Dr. Felver was sentenced to 30 days in jail with 27 days suspended, placed on probation for two years, ordered to stay out of Cleveland Metro Parks during his probation, and ordered to pay a fine of \$250 with \$125 suspended.

Mr. Giacalone stated that Dr. Felver had previously been charged with Public Indecency in a Cleveland Metro Park in or around April 2007. Specifically, it was alleged that Dr. Felver had exposed "his private parts and engage[d] in masturbation" in a picnic area of the public park. On or about September 5, 2007, in the Parma Municipal Court, Dr. Felver pleaded No Contest and was convicted of an amended charge of Inducing Panic, in violation of Section 2917.31, Ohio Revised Code. As a result, Dr. Felver was sentenced to 90 days in jail with all time suspended, placed on one year of inactive probation, ordered to stay out of Metro Parks for three years, and ordered to pay a fine of \$1,000.

Mr. Giacalone stated that as a result of this prior 2007 incident and the Board investigation, the Board's Secretary at that time issued Dr. Felver a letter dated September 14, 2011, wherein Dr. Felver was cautioned about his failure to timely respond to repeated requests for information from the Board in connection with this earlier event. Furthermore, while Dr. Felver was notified that the complaint was being closed, he was also advised of the possible consequences of failing to cooperate with a Board investigation and that the complaint would remain on file.

Mr. Giacalone continued that despite these prior warnings from the Board, Dr. Felver continued to fail to respond to the Board's attempts to obtain additional information in the current Board action. In addition, Dr. Felver was not initially honest with the Board investigator during the interview on September 28, 2017. Specifically, Dr. Felver claimed that the March 2016 incident was only the second time he had engaged in this type of behavior and that the only two times he engaged in this behavior had resulted in criminal charges. When pressed by the Board investigator, Dr. Felver eventually admitted that he had been to the park seeking sexual activity, but very infrequently, over a period of years. Mr. Giacalone noted that Dr. Felver was previously counseled by a psychologist for approximately one year after a 2007 conviction, but he did not seek any counseling or treatment after the 2016 conviction.

Mr. Giacalone stated based upon the evidence and testimony provided, he agreed with the Hearing Examiner's Proposed Findings and Proposed Order, which would suspend Dr. Felver's medical license for 270 days, levy a civil penalty of \$4,000 fine, and require successful completion of a personal/professional ethics course.

Mr. Giacalone commented that he had also wanted the Order to include an additional requirement that a psychological evaluation be performed to determine Dr. Felver's fitness to practice medicine in light of his actions and criminal activities. However, Mr. Giacalone has been informed that since the citation did not allege a violation of 4731.22(B)(19), Ohio Revised Code, the Board cannot include any such conditions in this order. Mr. Giacalone stated that he would hope that any future citations of this nature or a similar nature would allege a violation of 4731.22(B)(19). Mr. Giacalone added that he hoped Dr. Felver does not act out in similar inappropriate ways with his patients and that he obtains psychological counseling on his own going forward since the Board cannot impose that on him.

Dr. Schottenstein agreed with Mr. Giacalone's statements, including the desire for a mental health assessment and the inability to order one because no violation of 4731.22(B)(19) was alleged. Dr. Schottenstein hoped that Dr. Felver knows that there is help available and that he seeks it out. Dr.

Schottenstein stated that he feels compassion for Dr. Felver because he must have a lot of shame with regard to his behavior and there is a compulsive quality to the behavior.

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
	Dr. Factora	- abstain
	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
	Dr. Edgin	- aye
	Dr. Factora	- 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, Mr. Fais, Ms. Loe, Ms. Pollock, Ms. Debolt, Ms. Marshall, Mr. Roach, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Murray, Mr. Smith, Ms. Moore, Mr. DePew, and Mr. Taylor in attendance.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTSJILL COGSWELL, R.C.P. – VOLUNTARY PERMANENT RETIREMENT FROM THE PRACTICE AS A RESPIRATORY CARE PROFESSIONAL

Dr. Schottenstein moved to ratify the proposed Voluntary Permanent Retirement with Ms. Cogswell. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to ratify carried.

MICHAEL JOHN HOWKINS, D.O. – STEP II CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Step II Consent Agreement with Dr. Howkins. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to ratify carried.

KENNETH HANOVER, M.D. – STEP I CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Step I Consent Agreement with Dr. Hanover. 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
Dr. Factora	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion to ratify carried.

MADHU AGGARWAL, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
MEDICINE AND SURGERY

Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Dr. Aggarwal. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

DAVID CHARLES KIRKWOOD, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
MEDICINE AND SURGERY

Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Dr. Kirkwood. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

THOMAS A. RANIERI, M.D. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Consent Agreement with Dr. Ranieri. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

CRAIG M. JARRETT, M.D. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Consent Agreement with Dr. Jarrett. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to ratify carried.

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

Dr. Schottenstein moved to send the Notice of Opportunity for Hearing to Steven Scott McNutt, 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
Dr. Factora	- aye
Dr. Johnson	- aye
Dr. Bechtel	- abstain

The motion to ratify carried.

Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Elizabeth Veeneman Bates, M.D.; Robert H. Edwards, M.D.; Demas Amaha Yohannes; and Stefani Kafun, R.C.P. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to ratify carried.

RULES AND POLICIES

RULES FOR FINAL ADOPTION

Dr. Saferin moved that the proposed Rules 4730-1-01; 4730-1-02; 4730-1-03; 4730-1-04; 4730-1-06; 4730-1-07; 4730-2-01; 4730-2-02; 4730-2-03; 4730-2-07; 4730-2-08; 4730-2-09; 4730-2-10; 4730-3-01; and 4730-3-02 be adopted with an effective date of September 30, 2018. 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
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

PROPOSED AMENDMENTS TO MASSAGE THERAPY SCOPE OF PRACTICE RULE

Dr. Schottenstein moved to remove the topic of Proposed Amendments to the Massage Therapy Scope of Practice Rule from the table. Dr. Soin seconded the motion. All members voted aye. The motion carried.

Ms. Debolt stated that last month the Board discussed a proposed amendment that would allow massage therapists to apply ultrasound, diathermy, electrical neuromuscular stimulation, or substantially similar modalities. Ms. Debolt stated that the Board tabled this matter so that staff can provide more information on the proposed language "...under the direction or supervision of a physician ..." or other healthcare providers. Ms. Debolt stated that the proposed language mirrors similar language in the Chiropractic Board rules.

Dr. Saferin stated that if the Board approves the proposed amendment, it is an indication that massage therapists have the skill to perform these tasks even though they are not required to be part of the massage therapy educational process. Ms. Debolt stated that current massage therapists would not necessarily have the skills to perform these modalities, but they could obtain training to become competent in them just as physicians can be trained in new modalities. Ms. Debolt stated that massage therapists would be required to perform these modalities within the minimal standards of care.

In response to a question from Dr. Saferin, Ms. Debolt stated that as written, the proposed amendment would allow a massage therapist to perform these modalities under off-site supervision. Ms. Debolt stated that the Board could change the proposed amendment to require on-site supervision. Dr. Saferin opined that these modalities should require on-site supervision of the massage therapist. Dr. Schottenstein agreed.

The Board engaged in a discussion about the delegation rules for these modalities for chiropractors under the Chiropractic Board and similar delegation rules for physicians and other healthcare providers licensed by the Medical Board. Mr. Giacalone reiterated that under current rules, a chiropractor may delegate these modalities to an unlicensed individual, but not to a massage therapist. The proposed rule would allow such delegation to massage therapists.

Dr. Saferin moved to approve the proposed amendment, replacing the phrase "... provided such treatment is under the direction of ..." with the phrase "... provided such treatment is under the on-site supervision of ..." Dr. Edgin 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

DIETETICS ADVISORY COUNCIL VACANCY

Mr. Smith stated that in a letter dated August 8, 2018, Rachael J. Pohle-Krauza, Ph.D., R.D.N., L.D., has resigned from the Dietetics Advisory Council. Mr. Smith stated that the Board staff has taken steps to fill that vacancy, including posting a notice on the Board's website and sending a notice to a list of dietetics professors that meet the statutory requirements for this educator seat. Mr. Smith added that the Ohio Academy of Nutrition and Dietetics was informed that they can have up to three nominations per vacancy.

Mr. Smith hoped to bring a slate of candidates to the Board at the October Board meeting.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that Investigator Amy Myers has been promoted to Investigator Supervisor of the North Area. Mr. Groeber stated that efforts to hire additional attorneys for the Enforcement Section.

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 October 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.

Budget Update: Mr. Groeber stated that the budget will be discussed in more detail in the Finance Committee report. Mr. Groeber commented that the numbers look very good.

Agency Operations: Mr. Groeber stated that licensure statistics has increased by 20% year-to-date based on the total volume of licensees. Mr. Groeber stated that the time to license has been reduced by 26% and is now an average of 28 days. Complaints are down 7% compared to last month and the number of cases in Compliance is down 6% compared to last year.

Ad Hoc ICD-10 Data Review Committee: Mr. Groeber stated that the *Ad Hoc* ICD-10 Data Review Committee will meet today at about 3:00. Mr. Groeber invited any Board member who is not on the Committee to attend to examine the data. Mr. Groeber stated that representatives from the Ohio Department of Health, the Ohio Department of Mental Health and Addiction Services, the Ohio Board of Pharmacy, and the Ohio Department of Medicaid will also be present at the meeting.

Board Committee Consolidation Discussion: Mr. Groeber asked the Board to consider consolidating the Physician Assistant/Scope of Practice Committee into the Licensure Committee. Mr. Groeber stated that physician assistant matters are already discussed by the Physician Assistant Policy Committee (PAPC), the existence of which is mandated by statute. Mr. Groeber added that the Licensure Committee can also discuss scope of practice issues.

Dr. Schottenstein expressed concern that, at least historically, PAPC meetings have often been cancelled due to a lack of quorum. Dr. Schottenstein also commented that currently, Licensure Committee meetings sometimes run long even without additional scope of practice issues to discuss. Dr. Saferin stated that the number of topics for discussion by the Licensure Committee fluctuates, noting that today's Licensure Committee agenda only had one item.

Mr. Groeber stated that the PAPC is required to meet at least four times each year and that recent problems with obtaining a quorum has been based on the availability of pharmacist members and the requirement that at least one pharmacist member be present when the PAPC is discussing the physician assistant formulary. Mr. Groeber stated that if a pending bill in the legislature passes and becomes law, many of these issues will be resolved.

The Board discussed this proposal thoroughly. The Board members decided to discuss the proposed consolidation again when there is a better sense of whether the physician assistant bill will pass the legislature.

Advisory Committees Meeting Schedule: Mr. Groeber stated that the Medical Board has three advisory committees established by law: The Physician Assistant Policy Committee (PAPC), the Dietetics Advisory Council, and the Respiratory Care Advisory Council. Mr. Groeber stated that each of these committees are required to meet at least four times each year. Mr. Groeber stated that there is a proposed committee schedule that would have each of these committees meeting every third month on a rotating basis.

Annual Ethics Training: Mr. Groeber reminded the Board members that the online ethics training is required to be completed by December 15, 2018.

RESPIRATORY CARE ADVISORY COUNCIL REPORT

Dr. Factora stated that the Respiratory Care Advisory Council met on September 11, 2018. The Council approved its July 10, 2018 meeting minutes. The Council discussed the reporting requirements for respiratory care educational programs and the timeline for the Board and the Advisory Council to receive and evaluate that information. The Council also discussed the relationship and differences between the National Board for Respiratory Care Continued Competency continued competency policy and the renewal of licensure for respiratory care professionals in Ohio.

Dr. Factora stated that the Council's next meeting will be November 13, 2018.

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

FISCAL UPDATE

Dr. Schottenstein noted that the July 2018 report is for the first month of Fiscal Year 2019.

Dr. Schottenstein stated that for July 2018 revenue was \$1,130,073, a 22% year-to-date increase. Dr. Schottenstein stated that this increase is substantially a function of the additional influx of dietitian and respiratory care license renewals. Dr. Schottenstein reminded the Board members that because the respiratory care and dietetics renewals are not staggered, there will not see another infusion of revenue from those sources until their license renews are due again in two years.

Dr. Schottenstein stated that the Board's cash balance is \$4,992,052, which is on the high end of the range of balances that the Board has historically carried.

Dr. Schottenstein stated that the Board will submit a budget for fiscal years 2020 and 2021 to the office of budget and management today, September 12. The Board's Fiscal Section has projected a 5% increase in revenue for each of the next three fiscal years. Dr. Schottenstein stated that the Board is not asking for new programs or expansions in the budget. Dr. Schottenstein stated that revenue will likely go down for Fiscal Year 2019 to an estimated \$9,500,000, compared to Fiscal Year 2018 revenue of \$11,037,250. This decrease is due to the one-time nature of the revenue from license renewals from respiratory care professionals and dietitians. Dr. Schottenstein stated that the Board is allowed to ask for 100% of its current spending authority and will ask for a small increase beyond that for each of the next three years due to projections of increased salary for staff. Dr. Schottenstein stated that payroll is the only planned increase at this time and there are no other plans for more staff, equipment, or operational expenses.

Dr. Schottenstein stated that expenditures increased 4.5% year-to-date, which is a typical increase.

ACCOUNTS RECEIVABLE

Dr. Schottenstein stated that the Board has collected \$5,500 in fines since the last Board meeting; \$500 from disciplinary fines and \$5,000 from non-disciplinary continuing medical education (CME) fines. So far for Fiscal Year 2019, the Board has received \$26,500 in fine payments.

EDUCATION AND OUTREACH

Dr. Schottenstein stated that the dietetics and respiratory care continuing education video modules have been completed by the Board's vendor, Brainstorm Media. The draft versions of the videos will be shown to the respective advisory councils at their next scheduled meetings and they may be made available to licensees at that point. Dr. Schottenstein commented that the modules should also include interactive quizzes.

Dr. Schottenstein stated that there are two new instructional videos for users of the Elicense system. The first video guides attorneys through the process of using Elicense to manage adjudication documents. The second video guides licensees who are on probation through the process of documentation uploads and office conference scheduling.

Dr. Schottenstein stated that Board staff has identified OnBoard as the top contender to replace SharePoint as the Board meeting material delivery system. Dr. Schottenstein stated that OnBoard is being explored during a one-month free trial. Dr. Schottenstein stated that Ms. Pollock demonstrated the system this morning for the Finance Committee and it appears to be a much more user-friendly system. Dr. Schottenstein added the OnBoard is potentially less costly as well.

COMMUNICATIONS UPDATE

Dr. Schottenstein stated that the communications team created resources to help licensees navigate the board investigation process. The idea was to reduce licensees anxiety by informing them as to how the process works and what they can expect. A new resource tab has been placed on the Board's website entitled "regulation." Dr. Schottenstein added that there are new pocket cards that will be sent for printing and provided to investigators to leave behind for licensees.

FSMB OPIOID RX RESOLUTION – TRAVEL UPDATE

Dr. Schottenstein stated that travel to Washington, DC, to meet with the Federation of State Medical Boards (FSMB) to discuss Ohio's acute opioid prescribing resolution will probably occur in mid-November. Dr. Schottenstein stated that the Board is looking forward to providing data from the Ohio Automated Rx Reporting System (OARRS) and ICD-10 data.

FDA MEETING UPDATE

Dr. Schottenstein stated that the meeting with the Food and Drug Administration (FDA) was canceled last August. As a result, the Board incurred a \$600 expense for the cancelled flights which were non-refundable. Dr. Schottenstein stated that the meeting may possibly occur in October with additional airline tickets. Dr. Schottenstein that travel insurance will hopefully be obtained as well.

HEALTHSCENE OHIO POSSIBLE TERMINATION

Dr. Schottenstein stated that CityScene Media, the publisher of the Board's HealthScene Ohio magazine, has informed the Board that publication is no longer financially viable and they wish to significantly change the terms of publication. Dr. Schottenstein stated that under the terms of the current contract between the Board and CityScene, either party can terminate the contract with 90 days of notice. Dr. Schottenstein further noted that if the Board terminates the contract, CityScene will have the right to publish an additional issue without necessarily getting input from the Board. Dr. Schottenstein stated one option is that the Board publish its own magazine, but then the Board would incur the costs of publication. Dr. Schottenstein added that costs could be kept down by reducing the number of pages in the magazine and/or reducing its frequency to twice per year.

The Board discussed this issue thoroughly. Mr. Giacalone asked if the Board is getting any value from the current magazine. Dr. Saferin commented that the Board has a mandate to provide some education to licensees and the magazine is a good tool for that purpose. Dr. Soin advocated in favor of the magazine, saying that he knows several physicians who have flipped through it and it has started conversations about the articles within. Dr. Soin agreed that the financial aspect of continued publication should be explored. Dr. Rothermel agreed with Dr. Soin. Dr. Rothermel stated that she has received several positive comments about the magazine.

Ms. Pollock briefly reviewed what goes into the publication of the current magazine, including the outline and article topics. Ms. Pollock stated that CityScene's contribution is primarily financial. Mr. Groeber noted that Ms. Pollock created magazines at her former employment with the Ohio State University's College of Public Health.

Dr. Schachat noted that under the current arrangement, the Board pays nothing for the magazine and CityScene pays for production and receives all the revenue from the advertisements within. Dr. Schachat noted that if the Board assumes publication, it would become involved in receiving revenue from advertisements, which could become ethically challenging. Ms. Pollock stated that if the Board publishes the magazine, there will be no advertisements. Dr. Schachat stated that this would result in further costs for the magazine.

Mr. Groeber stated that this topic can be discussed further when cost projections and other data will be available for review.

FARB CONFERENCE ATTENDANCE

Dr. Saferin moved to approve Mr. Groeber's attendance at the annual Federation of Associations of Regulatory Boards (FARB) forum meeting on Thursday, January 24, through Sunday, January 27, 2019 in New Orleans, Louisiana, with travel expenses to be paid by the Medical Board in accordance with state travel policy. Dr. Saferin further moved that Mr. Groeber's attendance at the conference is in connection with his duties as and is related to his role as Executive Director for the State Medical Board of Ohio. Dr. Bechtel seconded the motion. All members voted aye. The motion carried.

POLICY COMMITTEEMEDICAL BOARD METRICS RULES, 4731-30-01 AND 4731-30-02

Ms. Anderson stated that because Rules 4731-30-01 and 4731-30-02 are internal management rules, the proposed amendments will become effective as soon as they are approved by the Board; they are not required to be filed with the Common Sense Initiative. Ms. Anderson noted that the proposed amendments to the rules were circulated to interested parties for comment, but no comments were received.

Dr. Saferin moved to approve the filing of the revised Rules 4731-30-01 and 4731-30-02. Dr. Bechtel seconded the motion. All members voted aye. The motion carried.

RULES FOR OFFICE-BASED TREATMENT OF OPIOID ADDICTION

Ms. Anderson stated that the proposed Rules for office-based treatment of opioid addiction are currently with the Common Sense Initiative for review. Ms. Anderson stated that the manufacturer of extended-release buprenorphine has requested two clarifications to Paragraph (G), as outlined in Ms. Debolt's memo to the Policy Committee.

Dr. Saferin moved to approve the discussed amendments to proposed Rules 4730-4-03 and 4731-33-03. Dr. Schachat seconded the motion. All members voted aye. The motion carried.

LICENSURE COMMITTEELICENSURE APPLICATION REVIEWPREM VERMA, M.D.

Dr. Saferin stated That Dr. Verma 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.

Dr. Saferin stated that -Dr. Verma graduated from Government Medical College, Nagpur University in India in 1959. Dr. Verma had 27 years of experience in India, including a residency with Nagpur Medical College. Dr. Verma also had seven years of experience as a pediatrician in Libya. In addition to working for 38 years at St. Joseph Hospital in Kentucky, Dr. Verma successfully completed one year of

Accreditation Council for Graduate Medical Education (ACGME) accredited GME in Internal Medicine through the first-year level at Prince George's Hospital, which is affiliated with the University of Maryland. Dr. Verma also completed six months of training at St. Agnes Hospital in Kentucky in 1980. Dr. Verma has held American Board of Emergency Medicine (ABEM) certification since 1990.

Dr. Saferin moved to approve Dr. Verma's request that the Board deem his training and experience in India, Libya, and the United States to be equivalent to the 24 months of graduate medical education through the second-year level of GME so that he may be granted a license. 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

MEDICAL MARIJUANA EXPERT REVIEW COMMITTEE REPORT

Ms. Murray stated that the Medical Marijuana Expert Review Committee met on August 8 and provided guidance on the qualifications for potential subject matter experts to review proposals to qualify new conditions for treatment with medical marijuana. The Committee also discussed the potential compensation for the subject matter experts and approved some draft templates for expert applications and reports. Ms. Murray stated that she is currently gathering *curriculum vitae* from potential experts.

Ms. Murray stated that the Committee will meet again next month to review the potential experts who are interested in working with the Board. The petition period for adding qualified conditions will be from November 1 to December 31. In January, the Committee will review the petitions and match experts with the conditions that they are appropriate to review.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

PODIATRIST ADMINISTRATION OF IMMUNIZATIONS

Dr. Schachat stated that the Ohio Foot and Ankle Medical Association has requested approval for podiatric physicians to administer immunizations. Dr. Schachat stated that the Committee discussed this matter and felt that, while a podiatric physician had the skill to administer immunizations, it was not allowed according to the Board's rules and statutes.

Dr. Schachat stated that the Committee did approve a motion to write a letter to the Ohio Department of Health asking for an evaluation of access to immunizations in general with respect to the public health needs of the citizens of Ohio. The letter will also ask the Department of Health to opine about whether the

pool of eligible providers for immunizations is adequate or should be expanded.

RESPIRATORY CARE PROFESSIONAL SCOPE OF PRACTICE INQUIRIES

TRIAGING IN EMERGENCY DEPARTMENT

Mr. Smith stated that the Medical Board received an inquiry asking if triaging patients in the emergency department is within the scope of practice of a respiratory care professional. Mr. Smith stated that the Respiratory Care Advisory Council has made a recommendation on this matter following two discussions, and the topic was discussed further by the Physician Assistant/Scope of Practice Committee this morning. Mr. Smith stated that based on these discussions, a response to this inquiry has been drafted and has been provided to the Board members for approval. Mr. Smith read the key passage in the draft response:

While it is within the scope of practice for a respiratory therapist to perform triage associated with the evaluation and treatment of conditions involving cardiopulmonary impairment, general triage which includes a respiratory therapist must involve a team approach.

Dr. Saferin moved to approve the draft response to the inquiry. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

CHANGING TRACHEOSTOMY TUBE IN ACUTE SETTING

Mr. Smith stated that Mercy Health has requested clarification on whether a respiratory care professional change a tracheostomy tube in an acute setting. This matter was discussed by the Respiratory Care Advisory Council at its July 10, 2018, meeting, and was discussed again by the Physician Assistant/Scope of Practice Committee this morning. Mr. Smith stated that based on those discussions, a response to the inquiry has been drafted and has been provided to the Board members for approval. Mr. Smith read the key passage in the draft response:

Yes, it is within the scope of practice of a registered respiratory therapist to change a tracheostomy tube in an acute setting, pursuant to R.C. 4761.01(A)(2). This must be done in collaboration with other licensed healthcare professionals responsible for providing care. Best practices would include training in annual competency by the registered respiratory therapist in this area.

Dr. Saferin moved to approve the draft response to Mercy Health's inquiry. Dr. Bechtel seconded the motion. All members voted aye. The motion carried.

PHYSICIAN ASSISTANT MATTERS

REQUESTS FOR CHANGES TO PHYSICIAN ASSISTANT FORMULARY

Dr. Schachat noted that Westside Medicine and Cardiology had submitted a request for a change in the physician assistant formulary. However, that request had been submitted in error and therefore did not require discussion.

Dr. Schachat stated that Jeffrey Hord, M.D., had submitted a request regarding the medication

hydroxyurea. Dr. Schachat stated that hydroxyurea, a chemotherapy-related drug, has many adverse potential side-effects and is a chemotherapy-related drug. Consequently, the Physician Assistant Policy Committee (PAPC) recommended leaving hydroxyurea in the May Not Prescribe category of the formulary. The Physician Assistant/Scope of Practice Committee agreed with the PAPC's recommendation.

Dr. Schachat stated that Jordan Bulcher, P.A., had asked for clarification about whether anti-migraine agents could be prescribed by physician assistants. The Physician Assistant/Scope of Practice Committee agreed with the PAPC's recommendation, which was to create a new category of miscellaneous central nervous system (CNS) agents in the physician assistant formulary and list the medications in that category as May Prescribe. Dr. Schachat stated that this new category would include Triptans such as Imitrex and the new drug Aimovig.

Dr. Schachat stated that 18 new drugs were submitted to the PAPC for review. However, the PAPC only had time to discuss the first nine drugs; therefore, the remaining drugs were tabled for later discussion. The Physician Assistant/Scope of Practice Committee discussed and agreed with the PAPC's recommendations for the first nine drugs in the list. Dr. Schachat stated that a handout summarizing these recommendations has been provided to the Board members. Dr. Schachat asked the Board members to take a few minutes to review the handout. Dr. Schachat stated that if any Board member had concerns about any particular drug, the Board can discuss those concerns.

Dr. Saferin moved to accept the recommendations of the PAPC and the Physician Assistant/Scope of Practice Committee for all the drugs discussed, including the requests made by Dr. Hord and Mr. Bulcher. Dr. Bechtel seconded the motion. All members voted aye. The motion carried.

COMPLIANCE COMMITTEE

Dr. Schottenstein stated that on August 8, 2018, the Compliance Committee met with Michael J. Howkins, D.O.; Daniel W. Palmer, M.D.; Shannon Lee Swanson, D.O.; and Jerome B. Yokiel, M.D., D.O., 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 July 9 and 10, 2018.

EXECUTIVE SESSION

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

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soim	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Dr. Factora	- 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, Mr. Fais, and Ms. Loe in attendance.

The Board returned to public session.

The Board meeting was recessed at 12:35 p.m. The meeting resumed at 1:23 p.m.

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 Michael T. Bangert, M.D.'s request for approval of Gregory Gale, M.D., to serve as the new treating psychiatrist;
- To grant Marvin M. Baula, M.D.'s request for approval of *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, offered by Case Western Reserve University, to fulfill the medical records course requirement; and approval of *Intensive Course in Controlled Substance Prescribing: Pain, Anxiety, Insomnia*, offered by Case Western Reserve University, to fulfill the controlled substance prescribing course requirement;
- To grant John R. Capurro, M.D.'s request approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, offered by Case Western Reserve University, to fulfill the physician/patient boundary course requirement; and approval of *Intensive Course in Controlled Substance Prescribing: Pain, Anxiety, Insomnia*, offered by Case Western Reserve University, to fulfill the controlled substance prescribing course requirement;
- To grant Ernest B. de Bourbon, III, M.D.'s request for approval of the amended practice plan;
- To grant Erin B. Engel, D.P.M.'s request for approval of the ethics course tailored by Donna Homenko, Ph.D., to fulfill the professional ethics course requirement; and approval of the course *Prescribing Controlled Drugs*, offered by Vanderbilt University, to fulfill the controlled substance prescribing course requirement;
- To grant Julie Anne Krause, M.D.'s request for approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, administered by Case Western Reserve University, to fulfill the professional ethics course requirement;
- To grant Steve M. Leung, M.D.'s request for approval of Thomas D. Krewson, M.D., to serve as

the new monitoring physician; and determination of the number and frequency of charts to be reviewed at 10 charts per month;

- To grant Richard Ray Mason, D.O.'s request for reduction in personal appearances from every three months to every six months;
- To grant Leslie R. Swart, M.T.'s request for reduction in personal appearances from every six months to every year; and approval of *Ethics in the Real World: Part 1, Ethics in the Real World: Part 2, Ethics in the Real World: Part 3, Ethics in the Real World: Part 4, Ethics in the Real World: Part 5, Ethics in the Real World: Part 6*, and *Ethics: A Guide to Ethics in Massage & Bodywork* online courses, offered by the Associated Bodywork & Massage Professionals, to fulfill the ethics course requirement; and
- To grant Aly M. A. Zewail, M.D.'s request for discontinuance of the controlled substances prescribing log requirement.

Dr. Factora 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
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to approve carried.

REINSTATEMENT REQUEST

MUNAWAR SIDDIQUI, M.D.

Dr. Schottenstein moved that the request for the reinstatement of the license of Muawar Siddiqui, M.D., be approved, effective immediately, subject to the probationary terms and conditions as outlined in the June 14, 2017 Board Order for a minimum of three years, with the permanent restriction detailed in the Board Order remaining in place. 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

Dr. Factora	- aye
Dr. Johnson	- aye
Dr. Bechtel	- abstain

The motion carried.

FINAL PROBATIONARY APPEARANCES

JENNIFER FURIN, M.D.

Dr. Furin was appearing before the Board pursuant to her request for release from the terms of the Board's Order of January 9, 2013. Mr. Giacalone reviewed Dr. Furin's history with the Board.

In response to questions from Mr. Giacalone, Dr. Furin stated that she is trained in infectious disease and her work has primarily been international, dealing with human immunodeficiency virus (HIV) and drug-resistant tuberculosis (TB). Dr. Furin primarily works in southern Africa with the group Doctors Without Borders. Dr. Furin stated that she has been about to continue some of her international work while being monitored and attending meetings, the U.S. embassies in the different countries where she works. Dr. Furin appreciated the opportunity and privilege to continue engaging in international care and international advisory roles. Dr. Furin commented that she has been invited to sit on a World Health Organization committee that rewrote the guidelines for the international management of drug-resistant TB. Mr. Giacalone congratulated Dr. Furin on her success.

Mr. Giacalone asked about Dr. Furin's recovery and how it has been impacted by her frequent travel. Dr. Furin stated that her recovery is the most important thing in her life. Dr. Furin stated that sobriety has given her peace and she is now able to approach things, not without problems, but with a sense of serenity. Dr. Furin stated that she attends caduceus meetings at the Cleveland Clinic when she is in the United States and those meetings have been the core of her recovery. Dr. Furin commented that she has a fantastic sponsor who she can reach anytime and she Skypes with her sponsor when she is overseas. Dr. Furin stated that she tries to help newcomers to recovery, particularly professional women.

Mr. Giacalone asked if Dr. Furin is sponsoring anyone. Dr. Furin replied that she does not officially sponsor anyone because the unpredictability of her travel would not be fair to a sponsee. However, Dr. Furin serves as a co-sponsor for many people. Dr. Furin stated that she finds it helpful to be with people who are new to recovery because it keeps her humble.

Mr. Giacalone asked if anything will change in Dr. Furin's recovery program after she is released. Dr. Furin replied that nothing will change except that she will no longer have daily check-ins and monitoring. Dr. Furin stated that she is looking into a more structured service with the Edna House in Cleveland, a recovery home for women, to replace the monitoring. Dr. Schottenstein commented that the Ohio Physicians Health Program (OPHP) is another option for monitoring. Dr. Furin stated that she has worked with OPHP since moving to Ohio in 2010 and she is currently discussing things with OPHP.

Dr. Edgin moved to release Dr. Furin from the terms of the Board's Order of January 9, 2013, effective September 17, 2018. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

Dr. Furin stated that she appreciates the Board, particularly the staff in the Compliance Section who have

worked closely with her and supported her through what could have been a difficult and humiliating experience.

KENDRA N. VON DER EMBSE, D.O.

Dr. von der Embse was appearing before the Board pursuant to her request for release from the terms of her September 12, 2013 Consent Agreement. Mr. Giacalone reviewed Dr. von der Embse's history with the Board.

Responding to questions from Mr. Giacalone, Dr. von der Embse stated that she is currently practicing as a family physician in Beavercreek, Ohio, with three other physicians and a nurse practitioner. Dr. von der Embse stated that both her practice and her recovery are going well. Dr. von der Embse stated that she attends both general Alcoholic Anonymous (AA) meetings and caduceus meetings. Dr. von der Embse stated that she has a good relationship with her sponsor, who is very supportive and has helped her through the 12 steps. Dr. von der Embse stated that her sponsor is not in the medical community, which is good because she takes Dr. von der Embse outside of what she normally does. Dr. von der Embse stated her sponsor lives in Sandusky, so it is a long-distance sponsorship. Dr. von der Embse stated that she is not currently sponsoring anyone, but there is a medical student who recently joined her group that she hopes to sponsor. Mr. Giacalone asked what will change once Dr. von der Embse is released from her Consent Agreement. Dr. von der Embse stated that her recovery program will stay basically the same.

Mr. Giacalone asked if Dr. von der Embse's family is supportive. Dr. von der Embse replied that her family is very supportive, but they do not live in the area. Dr. von der Embse stated that her parents and her siblings have been very supportive, as are her friends.

Dr. Edgin moved to release Dr. von der Embse from the terms of her September 12, 2013 Consent Agreement, effective immediately. Dr. Sojin seconded the motion. All members voted aye. The motion carried.

JEFFERY T. NELSON, M.D.

Dr. Nelson was appearing before the Board pursuant to his request for release from the terms of his February 13, 2013 Consent Agreement. Mr. Giacalone reviewed Dr. Nelson's history with the Board.

In response to questions from Mr. Giacalone, Dr. Nelson stated that he is the chief resident in the neurosurgery service at University Hospitals in Cleveland. Dr. Nelson stated that his residency is going well. Dr. Nelson stated that being chief resident is a lot of responsibility and many people look to him to make decisions. Dr. Nelson agreed that there is some pressure with the position, but it is nice to know what to do in situations and when to ask for help. Dr. Nelson stated that he is comfortable in the operating room and with managing patients in the intensive care unit. Mr. Giacalone asked if there are any concerns about Dr. Nelson relapsing to the stress of his position. Dr. Nelson answered that he has no concerns about relapsing and he has strived to be someone people can count on.

Mr. Giacalone asked Dr. Nelson to describe his recovery program. Dr. Nelson responded that his recovery program is going well. Dr. Nelson stated that he attends several meetings per week. Dr. Nelson also attends a caduceus meeting in the hospital, which has been very important in his recovery. Dr. Nelson stated that his relationship with his sponsor has also been instrumental in his recovery, especially

over the last couple of years. Mr. Giacalone asked if Dr. Nelson sponsors anyone. Dr. Nelson replied that he has sponsored in the past, but his sponsee moved to Illinois. Dr. Nelson stated that he lets it be known at meetings that he is willing to sponsor someone.

Mr. Giacalone asked if Dr. Nelson's family is supportive. Dr. Nelson replied that his family has been very supportive. Dr. Nelson stated that his family lives in Texas. Dr. Nelson commented that the night before entering Glenbeigh Hospital, his sister flew up from Texas to care for his house. Dr. Nelson stated that his parents are supportive, but it is somewhat more difficult for his mother because she struggles with the same things. Dr. Nelson also has a twin brother who is in recovery and has been sober for five years.

Mr. Giacalone asked if Dr. Nelson's recovery program will change following his release. Dr. Nelson answered that very little will change in his program. Dr. Nelson commented that he enjoys his job very much and it is a privilege to take care of patients.

Dr. Schottenstein asked when Dr. Nelson will graduate from his residency. Dr. Nelson replied that he will graduate in June 2019. Dr. Schottenstein asked about Dr. Nelson's job prospects. Dr. Nelson stated that he is looking at employment opportunities in Texas so he can be near his family. Dr. Nelson stated that he would like to have a position where he can do both open and endovascular neurosurgery.

Dr. Schottenstein stated that if Dr. Nelson leaves Ohio, he will also be leaving his support system. Dr. Schottenstein stated that that can be a perilous time, especially with the stress of moving and starting a new job. Dr. Schottenstein advised Dr. Nelson to be proactive about quickly establishing a recovery support network in Texas in addition to his family's support. Dr. Nelson stated that he has attended meetings in Texas when visiting his family. Dr. Nelson agreed that establishing his support network is his first priority.

Dr. Schottenstein moved to release Dr. Nelson from the terms of his February 13, 2013 Consent Agreement, effective September 13, 2018. Dr. Schachat seconded the motion. All members voted aye. The motion carried.

ADJOURN

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

Thereupon, at 1:45 p.m., the September 12, 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 September 12, 2018, as approved on October 10, 2018.



Robert P. Giacalone, President



Kim G. Rothermel, M.D., Secretary

(SEAL)



LICENSURE COMMITTEE MEETING
September 12, 2018
30 E. Broad St., Columbus, OH Room 318

Members: Bruce R. Saferin, D.P.M., Chair Richard Edgin, M.D. Kim G. Rothermel, M.D. Ronan M. Factora, M.D. Other Board members present: Michael Schottenstein, M.D.	Staff: Joseph Turek, Deputy Director of Licensure/Renewal Mitchell Alderson, Chief of Physician Licensure Chantel Scott, Chief of Allied Licensure and Renewal Colin DePew, Assistant Attorney
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Dr. Saferin called the meeting to order at 8:09 a.m.

MINUTES REVIEW

Dr. Rothermel moved to approve the draft minutes for the August 8, 2018 meeting. Dr. Factora seconded the motion. The motion carried.

LICENSURE APPLICATION REVIEW

Dr. Saferin stated that Dr. Verma 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. Dr. Saferin reported Dr. Verma's education and experience to the committee as follows: Dr. Verma graduated from Government Medical College in India in 1959. Dr. Verma also had twenty-seven years of experience in India, including residency at the Nagpur Medical College. Dr. Saferin stated that Dr. Verma had seven years of experience as a pediatrician in Libya. In addition to working thirty-eight years at Saint Joseph Hospital in Kentucky, in the United States, from 1980 to 2018, Dr. Verma successfully completed 1-year of ACGME accredited GME in Internal Medicine through the first-year level, at Prince George Hospital affiliated with University of Maryland from July 1979 to July 1980. Dr. Saferin stated that Dr. Verma also completed six months of training at St. Agnes Hospital in Kentucky in 1980. Dr. Verma has held ABEM board certification in Emergency Medicine since 1990. Dr. Saferin stated that the motion would be to move to approve Dr. Verma's request that the board deem his training and experience in India, Libya and the United States be equivalent to twenty-four months of graduate medical education through the second-year level of GME so that he may be granted a license.

Dr. Edgin inquired about the age of Dr. Verma. Mr. Alderson stated that Dr. Verma is 83 years old. Dr. Edgin stated that he questions whether Dr. Verma should have a license.

Dr. Rothermel stated that if the committee has concerns, the only option is to bring Dr. Verma in for an IOC (Investigative Office Conference). She stated that this has been a common practice for concerns regarding complaints. She stated that many octogenarians that the Board meets with are very sharp. Dr. Edgin stated that he's not sure it is appropriate to ask the question. Dr. Rothermel stated that it is appropriate. Dr. Rothermel stated that Dr. Verma is making a special request so we can make a motion to invite him to meet and discuss his request. Dr. Edgin made a motion for Dr. Verma to attend an IOC. Dr. Rothermel seconded the motion. Dr. Saferin requested clarification if Dr. Verma should attend the Licensure Committee meeting or if he should attend an IOC with only himself and Dr. Rothermel. Dr. Saferin stated that the motion is to request Dr. Verma to come in for an IOC to review his cognitive status. Dr. Saferin stated that Dr. Verma would meet with himself and Dr. Rothermel. Dr. Saferin will set up the meeting as soon as possible. Dr. Factora opined that if there were specific concerns it might be appropriate to bring Dr. Verma to the full Licensure Committee. Dr. Saferin stated that there are no other concerns besides Dr. Verma's age. Dr. Factora stated that the issue about aging physicians and whether there should be an assessment of cognitive abilities, is debated nationally. Dr. Factora stated that assessment of cognition doesn't necessarily translate to problems in practice. He opined that indications validating the need for an assessment usually results from problems in practice. Dr. Factora opined that because there is no track record of concerns that one could assume Dr. Verma's practice is of high quality. Dr. Factora inquired about any pattern of problems or any track record of concerns with Dr. Verma. Dr. Factora stated that if there are concerns with Dr. Verma's practice, he would like to be present at the IOC. Dr. Schottenstein opined that handwriting can be representative and Dr. Verma has included a handwritten letter which is cogent and clear and he did not have any concerns while reading the letter. Dr. Rothermel stated that Dr. Verma has consistently practiced and there have been no gaps in his years of practice. Dr. Factora stated that he would be very cautious about using age as criteria for reassessment. He also stated that he does not see any barriers to Dr. Verma practicing, considering the observations of handwriting, no gaps in practice and no red flags. Dr. Edgin withdrew his motion and Dr. Rothermel withdrew her second to the motion. Dr. Factora motioned to approve Dr. Verma for a license as it stands. Dr. Rothermel seconded the motion. The motion carried.

ADJOURN

Dr. Rothermel moved to adjourn the meeting. Dr. Factora second the motion. The motion carried.

The meeting adjourned at 8:19 a.m.

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

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State Medical Board of Ohio

POLICY COMMITTEE MEETING

September 12, 2018

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

<p>Members: Andrew P. Schachat, MD Robert Giacalone Mark. A. Bechtel, MD Amol Soin, MD</p> <p>Other Board Members present: Kim G. Rothermel, MD Michael Schottenstein, MD Sherry Johnson, DO Ronan Factora, MD Bruce Saferin, DPM</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 Tessie Pollock, Director of Communication Joan Wehrle, Education & Outreach Program Manager Jonithon LaCross, Director of Public Policy and Government Affairs 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 August 8, 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 August 8, 2018 Policy Committee meeting. Mr. Giacalone seconded the motion. Motion carried.

RULES REVIEW REPORT

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

Ms. Anderson reported that we are making progress with the rules as some rules have completed CSI review and we have several rules for adoption today.

LEGISLATIVE REPORT

Mr. LaCross reported that the Senate is scheduled for a session the end of September.

He said HB726 was introduced by Representative Gavarone. This bill (APRN Practice – Convenience Care) removes standard care arrangements between APRNs and collaborating physicians and provides APRNs the ability to provide scheduled drugs in office without oversight. Mr. LaCross said he had conversations with both the committee chair and the sponsor. The bill was supposed to address access to care in rural areas, but the bill may really allow independent practice by APRNs. He has outlined the bill and sent it to board members. He asked them to review the materials and spot any concerns and provide that information to him.

Dr. Soin asked if it is too soon to speculate where this bill will end up. Mr. LaCross believed the bill will not go forward, but we will be keeping an eye on it. Past attempts at full independent practice for APRNs have not been successful. He said that there are other issues in the bill as well that need to be reviewed.

Mr. Groeber asked that Board members please respond to Mr. LaCross individually and not as a group email conversation. Mr. LaCross will compile the comments to identify the concerns of the Board and he'll bring it to the full board for discussion if the bill goes forward.

The FY20-21 Budget bill will be coming down the pike. The Board submitted the agency budget request. Mr. LaCross said that any opportunity for changes will likely go through the House rather than Senate if needed. Board staff is vetting operational changes to continue to improve efficiency, but this information is not in our budget proposal currently.

Dr. Saferin asked about the CME changes and licensure approval changes the Board had discussed. Mr. LaCross said we had a meeting with Senator Burke and LSC about the proposed changes. LSC is drafting language. If the Board approves the language we will move this forward.

RESPONSE FROM THE NATIONAL TRANSPORTATION SAFETY BOARD (NTSB)

Ms. Anderson reported that the NTSB indicated that the State of Ohio has satisfied the 2014 Safety Recommendations about providing notice to patients that an opioid can interfere with driving through the recent actions of the State Medical Board and the Ohio Board of Nursing.

Presented for information.

IMPACT OF INSURANCE COVERAGE ON PRESCRIBING PRACTICES

Mr. Groeber said this issue came from the recent Ohio Society of Interventional Pain Specialists conference. He said we can't solve the issue but would like feedback from the Board. Mr. Giacalone said he was approached by a doctor at the conference who raised the point that there are better products that are either abuse-deterrent or less addictive, but third-party insurers won't cover them. The physician is forced to use more addictive medications because those are covered by the insurance carriers, even though a less addictive alternative is available.

Mr. Giacalone said this is more than a dollar and cents issue, it impacts the legitimacy and the appropriateness of prescribing medication for patients. The question on the table - is there something the Medical Board can do? Can we talk to insurers about it? He was throwing it on the table for discussion.

Dr. Schottenstein asked if there were specific medications that were mentioned.

Dr. Soin responded regarding prescribing opioids for chronic non-malignant pain. He said a few third-party carriers prefer methadone, fentanyl patches and extended release morphine. These medications are generic and very inexpensive but are basically bad, worse, and worse if looking for long term opioid options. But a patient must fail two of these drugs before they can try something else that is more clinically appropriate. Dr. Soin said there are several abuse-deterrent options, so the question is why do we have to start patients on these aggressive drugs. Keep in mind that we are talking about chronic pain patients, so these patients have been on opioids already.

Dr. Schottenstein asked what some of the newer agents are that are available. Dr. Soin responded that abuse-deterrent extended release oxycontin, abuse-deterrent morphine, and other abuse-deterrent versions of oxycodone are available. The theory is that the abuse-deterrent medication would not have a street value, so the patient would not have an incentive to sell the drugs, so the patient may be more likely to take the drugs for therapeutic purposes. We anticipate that this cohort of patients will likely be on opioids for quite some time as these are patients with chronic non-malignant pain. Pain doctors want these patients to have the safest drug for long term pain management without having to go through a lot of hurdles.

Mr. Giacalone commented that methadone has a high potential for overdose and titration is horrendous, but this is the drug of choice in a lot of states.

Dr. Schachat said this issue is broader than just pain medicine. It is across the board for all medicine. What this doctor is really concerned about is that the formulary is restrictive, and whether the doctor can use a better drug for the patient. Dr. Schachat said we come across this all the time in ophthalmology. The first step is for the doctor to ask the insurer for approval to use the drug by asking for pre-authorization or asking for a waiver. Dr. Soin has already mentioned step therapy being inappropriate as the patient has to fail in therapy before they may be able to switch to another medication. Dr. Schachat believes this is a much bigger issue, perhaps a national issue. He mentioned that Medicare is moving in the wrong direction for this as in January 2019, Medicare will allow Medicare managed care plans to require step therapy.

Dr. Soin recalled a bill from last year regarding abuse-deterrent opioid legislation but it did not go anywhere. He asked Mr. LaCross if that would be an opportunity for the Board to weigh in on that issue. Mr. LaCross said there had also been a step therapy protocol bill but that did not go anywhere either. He said that the atmosphere is good to bring something forward. Mr. Groeber said that soon the drug overdose statistics would be reported out by the Department of Health. He said it could be worth a conversation if the Board desired.

Dr. Soin said that just before this meeting he emailed federal contacts because of an opioid bill package in the House and Senate at the federal level. Can the Board weigh in on federal legislation?

Mr. Groeber said we have options. We could float this issue at the monthly meeting of the Governor's Cabinet Opiate Action Team (GCOAT). He said that our ICD-10 workgroup meeting is later this afternoon and representatives from Medicaid, the Department of Health, and the Ohio Department of Mental Health and Addiction Services will be there. He said the prescribing data is interesting as prescribing patterns are evolving. Mr. Groeber said the meeting with Dr. Gottleib of the FDA in October is another opportunity to raise these concerns. Mr. Groeber asked the committee to send him ideas and comments, so we can start the conversation.

Dr. Schottenstein asked if abuse-deterrent medications work. There are medicines that purport to be deterrents for abuse, but the medicine still gets abused. Is there data to show they are effective enough to have this dialogue or is it a marketing tool as an abuse-deterrent formulation.

Dr. Soin said that Dr. Schottenstein made a great point. Dr. Soin said his concern about this whole discussion is that abuse-deterrent or not, it is still an opioid and still addicting and it is still extremely dangerous. His concern is to prevent physicians from having a false sense of security with abuse-deterrent medications. There is a lot of data out there but there is also a lot of marketing as well. It is challenging to sift through data vs. marketing information.

Dr. Soin agreed with Mr. Groeber's point. We don't have a lot of power to change a lot of these things, but we can advocate for our physicians and patients by having a voice. He agreed with starting a dialogue.

Mr. Giacalone commented that abuse-deterrent products can still provide a high, but a person can't snort it or shoot it up. He said we shouldn't get hung up on the abuse-deterrent label. He said there are other alternative products that are less addictive but are not authorized because of the expense. If there is a less addictive alternative, but we push someone to methadone because it is inexpensive, that is where he has issues.

Dr. Schottenstein asked it that brings us back to buprenorphine and using it to treat pain. Mr. Giacalone said that buprenorphine is still an opioid, but he did not know if it would be the drug of choice for pain management.

Mr. Giacalone voiced his concerns that economics is driving prescribing which he believes is wrong and it is increasing the field for addiction.

Dr. Factora commented that the Board could probably make patients aware of the addiction potential of opioids. He questioned if there are step therapies that force prescribers and patients to purchase more addictive alternatives when safe alternatives exist, does that open the insurers to liability because of increased risk of addiction? Particularly in the climate of the opioid crisis. Why is there an allowance forcing patients to get more addictive drugs when safe alternatives exist, and we are already chasing the drug manufacturers and now we give patients a cheaper alternative but its more addictive.

Extended conversation ensued regarding prescribing challenges. Dr. Soin said that we are not going to solve this issue now and this is very early in the discussion stage, but it sounds like we will weigh in when we can. Mr. Groeber asked that we have time to let us get our arms around this issue and the discussion will mature and he anticipates that several avenues will present themselves to proceed.

MEDICAL BOARD METRICS – INTERNAL MANAGEMENT RULES

M. Anderson reported that last month the Policy Committee considered some changes to the Board's internal management rules on Board Metrics used for the agency's annual report. The two rules were circulated to interested parties. The deadline for comments was Friday, August 24, 2018. No comments were received.

Ms. Anderson said staff is seeking approval by the Board to file the revised rules with LSC and the Secretary of State. Since these are internal management rules, the rules will go into effect when filed with LSC and the Secretary of State's office.

Dr. Bechtel moved to recommend the Board approve filing of revised rules 4731-30-01 and 4731-30-02. Mr. Giacalone seconded the motion. Motion carried.

OBOT proposed rules

Ms. Debolt referred the committee to page 11-25 of the agenda packet. She reported that the proposed rules for office-based medication assisted treatment of opioid addiction are pending at the Common Sense Initiative Office ("CSI"). The comment period has ended. Most comments repeat issues raised during the initial gathering of interested party comments and discussed at that time. However, there are

two comments regarding Rules 4730-4-03 and 4731-33-03 that the Medical Board is asked to consider adopting.

Two comments regarding 4731-33-03 were presented by Mr. Paul Johnson, Chief Commercial Officer of Braeburn, Inc., which is the drug company developing the long acting drugs for opioid treatment. Ms. Debolt suggested the Board adopt the changes recommended by Mr. Johnson as it will make the rule clearer and more understandable. She said the real concern is that people believe that the limitation on the dosage amounts would prevent them from prescribing extended release formulations because extended release comes in a big dose at the beginning etc. She said we had also heard similar concerns from another pharmaceutical company.

Ms. Debolt asked the committee to approve the proposed amendments to Rule 4730-4-03 and 4731-33-03 as outlined on pages 11-25 and 11-26 of the agenda.

Dr. Schachat moved to recommend the Board approve the discussed amendments to proposed rules 4730-4-03 and 4731-33-03 as outlined on pages 11-25 and 11-26 in the agenda. Dr. Bechtel seconded the motion. Motion carried.

ADJOURN

Dr. Schachat moved to adjourn the meeting. Dr. Bechtel seconded the motion. Motion carried.
The meeting adjourned at 9:46 a.m.

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FINANCE COMMITTEE MEETING
September 12, 2018
30 E. Broad St., Columbus, OH Room 318

Members: Michael Schottenstein, M.D., Chair Bruce R. Saferin, D.P.M. Richard A. Edgin, M.D. Member absent: Michael L. Gonidakis, J.D.	Staff: A.J. Groeber, Executive Director Susan Loe, Director of Fiscal and Human Resources Tessie Pollock, Director of Communications
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Dr. Schottenstein called the meeting to order at 8:34 a.m.

MINUTES REVIEW

Dr. Edgin moved to approve the draft minutes of August 8, 2018. Dr. Saferin seconded the motion. The motion carried.

FISCAL UPDATE

Dr. Schottenstein stated that the July 2018 fiscal update is the first month of fiscal year 2019, which began on July 1, 2018. Revenue was \$1,130,073, which is a 22% year-to-date increase in revenue. The level of increase is substantially a function of the additional influx of dietitian and respiratory care license renewals. Dr. Schottenstein explained that because the respiratory care and dietetics renewals are not staggered, there will not be another infusion of revenue from these two professions until their next licensure renewal period which is in two years.

The Board has a cash balance of \$4,992,052, which is on the higher end of historical balances.

The budget for fiscal years 2020 and 2021 is due today to the Office of Budget Management. The board is projecting a five percent increase in revenue for each of the next three fiscal years. The budget is first reviewed by the Office of Budget Management, then by the Governor's office and finally it is reviewed by the legislature. The budget approval will occur in June 2019. The budget process takes about nine months.

Dr. Schottenstein stated that the board's budget request does not include any new programs or expansions. He commented that the estimated revenue for fiscal year 2019 is \$9.5 million, a decrease compared to fiscal year 2018 revenue of \$11,037,250. Dr. Schottenstein mentioned again that the fiscal year 2018 revenue is due to the one-time nature of those infusions of revenue from the respiratory and dietetics boards. The Board is currently at the peak for revenue. Dr. Schottenstein explained that the budget request may include 100% of the board's current spending authority. He stated that the board will request a minimal increase for the next three years due to projections of increased salary for staff. Dr. Schottenstein reported that payroll is the only planned increase at this time, as there are no plans for more staff, equipment or operational expenses. Dr. Schottenstein stated that the board continues to under-spend the authorized amount. This trend is projected to continue. The fiscal year 2019 allotted spending is \$11,064,757.

EXPENDITURES AND ALLOCATIONS

Dr. Schottenstein reported that expenditures for fiscal year 2019 year-to-date, include a 4.5% increase year-to-date which is typical. He explained that the payroll figure of \$918,529 is artificially inflated because July included three pay periods rather than two. Two pay periods in a month amounts to approximately \$700,000.

ACCOUNTS RECEIVABLE AND FINES

Dr. Schottenstein stated that the accounts receivable report includes fine payments totaling \$5,500 which were collected since the August 8 board meeting. He reported that \$500 are due to fine payments and the remaining five thousand dollars are specifically for CME fine payments. The Board has received \$26,500 in fine payments in fiscal year 2019 year-to-date. There is one licensee, Dr. Brown, that the Board has been unable to locate. The Board will need to service him by publication.

EDUCATION AND OUTREACH

Ms. Pollock reported on the Dietetics and Respiratory Care Continuing Education (CE) modules. Brainstorm Media, the selected vendor for video production, has completed both videos. The draft versions will be shown for the respective advisory council during the next scheduled meeting. With approval, these can be made available to respiratory care professionals and dietitians via direct email, on the Apply and Renew website pages and hosted on the board's YouTube channel.

Ms. Pollock stated that two instructional videos were created for users of the new eLicense features. The first guides attorneys through the process of using eLicense to manage adjudication documents and the second guides licensees on probation through documentation uploads and office conference scheduling.

Ms. Pollock stated that after researching more than a dozen software solutions and participating in three live demonstrations, board staff have identified OnBoard as the top contender to replace SharePoint. A pilot of OnBoard is underway with a limited number of staff and board members exploring the software during the one-month free trial.

Regarding online education providers, Ms. Pollock stated that she reached out to Meridian Knowledge Solutions and Skillsoft for additional information about the OhioDAS state term contract and services provided. Neither does content development, just hosting platforms and emailing users or what they call "content curation and user compliance." Both providers charge per person for an account, which could get very costly for the boards nearly 90,000 licensees. We have not been able to find a company that does any custom training; all modules are off-the-shelf topics that get "customized" for the client.

Ms. Pollock stated that per board member request, the communications team created resources to help licensees contacted by board investigators. The aim is to reduce anxiety during the investigation process by informing the licensee of the standard procedures and what they can expect during this time and possibly during the time when enforcement has their case. A new resource tab was created on med.ohio.gov to house this information: Regulation. With approval, the "Complaints and Investigations" pocket cards shared with the committee, will be sent to state printing and then provided to investigators as a leave-behind resource for licensees.

Dr. Schottenstein informed the group that Mr. Groeber was notified by CityScene media, publisher of HealthScene Ohio, in late August that the publication of the magazine is no longer financially

viable, and that they wish to significantly change the terms of publication that are dictated in the contract. Committee and board feedback is necessary to determine a viable solution. Ms. Anderson reviewed the proposed changes and conditions of termination for both parties. She recommended that the proposed changes should be rejected, and the board should not terminate the contract. She stated that cancelling the contract could lead to consequences. For example, one more magazine could be published without board review, but under the board's name. Alternatives to CityScene were discussed, such as publishing the magazine internally or providing digital communications specific to each license group. Ms. Pollock also shared an example publication from the Ohio State School of Public Health.

FISCAL YEAR 2020-2021 BUDGET REQUEST

Ms. Loe provided a summary regarding the fiscal year 2020-2021 budget request. Ms. Loe stated that the board is already in fiscal year 2019, and is authorized to spend \$11,064,757 this year. For the fiscal year 2020-2021 budget request, the only increase is in payroll. Money from operations was shifted into payroll. There is a 4% increase from fiscal year 2019 to 2020 due to an extra pay period in fiscal year 2020. As a result, the payroll amount for fiscal year 2021 shows a slight decrease. Other expenses are expected to remain the same as fiscal year 2019. The budget request is appropriate even if flat-funding occurs, as the board does not usually use all the authorized funds.

ACUTE OPIOID PRESCRIBING PRACTICES

Mr. Groeber provided an update regarding possible travel to Washington D.C. to meet with the Federation of State Medical Boards (FSMB) about Ohio's acute opioid crisis. The proposed meeting date is November 15. There is the possibility that the FSMB representative will come to Cincinnati instead, which will significantly decrease travel expenses. Mr. Groeber will share the board's various approaches with FSMB prior to the meeting. The meeting will be to discuss what the board could offer them if the requested resolution is passed. The FSMB could use the information in various ways to address the opioid crisis.

UPCOMING TRAVEL

Mr. Groeber stated that the meeting with the FDA in August was cancelled. Non-refundable expenses were incurred prior to the cancellation. The proposed reschedule date is October 16.

Dr. Schottenstein stated that with the consolidation of respiratory care therapists into the medical board, the board formalized a membership with the Federation of Associations of Regulatory Boards, otherwise known as FARB. FARB acts as a clearinghouse for information, process, and best practice sharing across regulatory entities. It works collaboratively with the FSMB, FSM-TB, NAPB and other healthcare regulatory agencies. Mr. Groeber would like to ask the finance committee to consider approval of his attendance at the annual FARB meeting on Thursday, January 24 through Sunday, January 27, 2019 in New Orleans, Louisiana. A breakdown of the approximate cost is as follows:

Conference attendance \$700-\$1025; hotel \$800 (\$266 per night); airfare \$500; other travel costs \$200, for an approximate total of \$2,500.

Dr. Saferin made a motion to approve Mr. Groeber to attend the annual Federation of Associations of Regulatory Boards forum meeting on Thursday, January 24 through Sunday, January 27, 2019 in New Orleans, Louisiana. Travel expenses will be paid by the Medical Board in accordance with state travel policy. The attendance at the conference is in connection with Mr. Groeber's respective duties as and is related to his role as Executive

Director for the State Medical Board of Ohio. Dr. Edgin seconded the motion. The motion carried.

ADMINISTRATORS IN MEDICINE (AIM)

Mr. Groeber updated the committee regarding his correspondence with AIM (Administrators in Medicine.) The Board's investigators recently attended a training through CLEAR. AIM provides a different, more comprehensive investigator training. They are considering providing a training in Columbus next year. All the Medical Board's investigators could attend and become "certified" medical board investigators. Investigators from other states will be welcomed to attend.

ADJOURN

Dr. Edgin moved to adjourn meeting. Dr. Saferin seconded the motion.

The meeting adjourned at 9:09 a.m.

Michael Schottenstein, M.D.
Chair

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State Medical Board of Ohio

COMPLIANCE COMMITTEE MEETING

September 12, 2018

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

<p>Members: Michael Schottenstein, M.D., Chair Robert Giacalone Amol Soin, M.D. Ronan M. Factora, M.D.</p> <p>Other Board member present: Sherry Johnson, D.O.</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 1:53 p.m.

MINUTES REVIEW

Dr. Soin moved to approve the draft minutes from August 8, 2018. Dr. Factora seconded the motion. The motion carried.

INITIAL PROBATIONARY APPEARANCES

Erin B. Engel, D.P.M.

Dr. Engel is making her initial appearance before the Committee pursuant to the terms of her June 13, 2018 Consent Agreement. Dr. Schottenstein reviewed Dr. Engel's history with the Board.

In response to questions from Dr. Soin, Dr. Engel stated that she has just completed the controlled substance prescribing course at Vanderbilt University and opined that it was fantastic. Dr. Engel stated that the prescribing course was very thorough and included different screening tools to assess patient risk factors.

Dr. Soin asked if Dr. Engel knew that she was breaking a Board rule when she was inappropriately prescribing medications for self-use. Dr. Engel replied that she did know she was breaking a rule. Dr. Soin asked if Dr. Engel had been self-medicating or if she had another issue with drugs. Dr. Engel answered that she had been self-medicating for pain. Dr. Soin asked if Dr. Engel is now being treated for pain by another practitioner. Dr. Engel answered that she is now being appropriately treated for her pain and she described the holistic approach of her treatment. Dr. Engel noted that she heard of a study that showed that people taking Aleve received the same, if not more, pain relief than those taking opioids. Dr. Engel added that she has realized that she is going to be in pain, but pain is okay and she has a structure in place to deal with it. Dr. Engel stated that she is also not afraid to reach out for help.

Dr. Soin asked about Dr. Engel's professional ethics course. Dr. Engel replied that her ethics course was wonderful and included a foundation of ethics, a history of ethics, ethical theory, and applicable scenarios. Dr. Soin asked if Dr. Engel feels her actions at the time of her violation had been unethical. Dr. Engel stated that she absolutely feels that her actions had been unethical.

Dr. Soin asked if Dr. Engel prescribes controlled substances in her practice. Dr. Engel answered that she does not prescribe controlled substances. Dr. Soin asked how Dr. Engel manages foot pain in her practice. Dr. Engel stated that she is a nursing home podiatrist practicing in several nursing homes. Dr. Engel stated that she typically writes a consultation and referral to the patient's primary physician, makes a note in the chart, and alerts the nurse about how urgent it is. Dr. Engel stated that she would not actually manage the treatment of the pain. Dr. Soin asked if Dr. Engel is aware of the Board's rules and regulations regarding pain if she ever finds herself in a position where she needs to manage pain. Dr. Engel replied that she is aware of the Board's rules.

Dr. Soin asked if Dr. Engel has any questions about her Consent Agreement. Dr. Engel responded that she has no questions.

Dr. Soin asked about Dr. Engel's long-term practice plans. Dr. Engel replied that practicing in a nursing home setting is very rewarding to her and she anticipates continuing that work.

Responding to questions from Dr. Schottenstein, Dr. Engel stated that her last date of prescription was November 30, 2017, and her first date of being clean was December 1, 2017. Dr. Engel's drug of choice had been hydrocodone. Dr. Engel stated that her program is going well and she has reached the point of feeling uplifted instead of discouraged and ashamed. Dr. Engel attends meetings, including caduceus meetings. Dr. Engel also uses Celebrate Recovery, which is modeled after Alcoholics Anonymous but is more faith-based and scripture-based. Dr. Engel added that she does not allow herself to be over-extended and she asks for help when needed. Dr. Engel also meets every other week with an individual counselor at Lindner.

Dr. Schottenstein asked if Dr. Engel is finding the 12 steps to be challenging. Dr. Engel stated that she does not find the 12-steps to be challenging, though it was difficult in Step 5 to write down how her use had affected her family and to look at what she has done. Dr. Engel stated that she is currently on Step 6.

Dr. Schottenstein asked if there are any continuing legal repercussions from Dr. Engel's actions. Dr. Engel answered that she is in a "In Lieu of Conviction" program and is therefore on probation.

Mr. Giacalone moved to continue Dr. Engel under the terms of her June 13, 2018 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Soin seconded the motion. The motion carried.

Muyuan Ma, M.D.

Dr. Ma is making her initial appearance before the Committee pursuant to the terms of the Board's Order of June 13, 2018. Dr. Schottenstein reviewed Dr. Ma's history with the Board.

Responding to questions from Dr. Schottenstein, Dr. Ma stated that she has been holding up pretty well during these events. Dr. Ma stated that she has just finished her ethics conference on Friday. Dr. Ma added that she has submitted the *curriculum vitae* of a new psychiatrist for the Board's approval since her current treating psychiatrist will retire soon. Dr. Ma stated that things are going well and her ethics course was very helpful. Dr. Ma stated that she will take a disruptive physicians course in November. Dr. Ma stated that she is managing her stress and has not had any cycling of the mood, mood swings, or bad explosions of temper. Dr. Ma stated that she has not had feelings of being persecuted or singled out at work and has had no tension, drama, or conflict with coworkers, supervisors, or patients.

Dr. Schottenstein asked questions regarding Dr. Ma's medication. Dr. Ma stated that her medication regimen is the same as before and she takes her medication regularly. Dr. Ma stated that her medication is helpful. Dr. Ma stated that the medication can be sedating, but she times it to make sure she is awake enough to drive safely to work. Dr. Ma stated that she gets good sleep and she does not drink alcohol.

Dr. Schottenstein asked if Dr. Ma has had any situations at work where she has received constructive criticism. Dr. Ma answered that she has received criticism at work, but she was unsure if she would call it constructive. Dr. Ma stated that she managed the criticism and maintains her composure when she received criticism.

Dr. Schottenstein noted that Dr. Ma is currently scheduling at the same place where she had formerly practiced medicine. Dr. Ma acknowledged that she is scheduling for Visiting Physicians at a different office than before. Dr. Schottenstein asked if Dr. Ma will be able to resume practicing medicine for that employer when her medical license is reinstated. Dr. Ma answered that she will have to reapply for her previous position and there was no guarantee that the position will be available to her.

Dr. Schottenstein asked if Dr. Ma's family has been supportive. Dr. Ma answered affirmatively. Dr. Schottenstein asked if Dr. Ma had any questions about her Board Order. Dr. Ma stated that she has no questions.

Dr. Soin asked if the restriction on Dr. Ma's medical license will be a problem in terms of insurance payors or potential employers. Dr. Ma replied that she was not sure if the restriction will be an issue.

Dr. Soin moved to continue Dr. Ma under the terms of the Board's Order of June 13, 2018, with future appearances before the Board's Secretary or Designee. Dr. Factora seconded the motion. The motion carried.

APPROVAL OF REPORTS OF CONFERENCES

Dr. Schottenstein observed that Donald L. Epstein, M.D., is still struggling. Ms. Murray stated that she and the Compliance staff have given Dr. Epstein some suggestions based on what has helped other physicians in the past. Ms. Murray noted that Dr. Epstein has also had conferences with Dr. Rothermel and Dr. Saferin present. Ms. Murray stated that, unfortunately, Compliance has exhausted its ability to help Dr. Epstein.

Regarding Steven S. McNutt, M.D., Dr. Schottenstein observed that Dr. McNutt was also the subject of one of the citations approved by the Board earlier today. However, at his office conference one month earlier it appeared that his recovery was going well. Ms. Murray stated that many of Dr. McNutt's non-compliance issues are related to his finances and his ability to pay for the drug testing service. Ms. Murray recalled that Dr. McNutt has had no issues with attending meetings or remaining sober. Dr. Schottenstein asked if, in Ms. Murray's opinion, today's additional citation was potentially triggering for Dr. McNutt or if Ms. Murray felt that Dr. McNutt would maintain his sobriety. Ms. Murray replied that Dr. McNutt is very committed to his sobriety. Ms. Murray stated that Dr. McNutt seems to understand that he is just in a difficult position and that the most important things are maintaining his sobriety and attending meetings.

Dr. Soin moved to approve the Compliance Staff's Reports of Conferences for August 6, 7, & 9, 2018. Dr. Factora seconded the motion. The motion carried.

The meeting adjourned at 2:18 p.m.

Michael Schottenstein, M.D.
Chair

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