



**State Medical Board of Ohio Meeting Minutes  
June 9, 2021**

Betty Montgomery, Acting President, called the video conference meeting to order at 10:01 a.m. with the following members present: Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Amol Soin, M.D.; Michael Schottenstein, M.D.; Sherry Johnson, D.O., Harish Kakarala, M.D.; Jonathan Feibel, M.D.; and Yeshwant Reddy, M.D.

**ELECTION OF OFFICERS**

**Dr. Saferin moved to elect Betty Montgomery as President and Sherry Johnson, D.O., as Vice President for terms beginning immediately and ending on December 31, 2021. Dr. Schottenstein seconded the motion.** All members voted aye, except Ms. Montgomery and Dr. Johnson, who abstained. The motion carried.

Ms. Montgomery stated that the Board will miss Dr. Bechtel, who was not reappointed to the Board. When the Board is again able to meet in person, time will be taken to appropriately recognize Dr. Bechtel for his service to the Board. Ms. Montgomery stated that Dr. Bechtel has been a leader in his profession and on the Board, and his experience and demeanor was very much appreciated.

**MINUTES REVIEW**

**Dr. Saferin moved to approve the minutes of the May 12, 2021 Board Meeting. Dr. Kakarala seconded the motion.** All members voted aye. The motion carried.

**REPORTS AND RECOMMENDATIONS**

Ms. Montgomery asked the Board to consider the Reports and Recommendations appearing on the agenda. Ms. Montgomery asked if each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Rachel Border; Don-te J. Calloway; and the remanded matter of Ava Jie Davis, L.M.T. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

Ms. Montgomery further asked if each member of the Board understands that the Board's disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from Dismissal to Permanent Revocation or Permanent Denial. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y

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Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

Ms. Montgomery further asked if each member of the Board understands that in each matter eligible for a fine, the Board's fining guidelines allow for imposition of the range of civil penalties, from no fine to the statutory maximum amount of \$20,000. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

Ms. Montgomery stated that in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the disciplinary matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

During these proceedings, no oral motions were allowed by either party. Respondents and their attorneys not addressing the Board are viewing this video conference meeting remotely and have a number to call in the event of an emergency or procedural concern.

### **Rachel Border**

Ms. Montgomery directed the Board's attention to the matter of Rachel Border. No objections have been filed. Ms. Lee was the Hearing Examiner.

**Dr. Johnson moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Ms. Border. Dr. Kakarala seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

Dr. Schottenstein opined that the Board had been justified to refer Ms. Border to a fitness evaluation, and that the Board had been right to cite Ms. Border when she did not appear for the evaluation. Dr. Schottenstein also believed that Ms. Border testified credibly at her hearing that there were circumstances that had been beyond her control which resulted in her inability to attend her evaluation. Dr. Schottenstein felt that the Board's staff would have rescheduled the evaluation if Ms. Border had notified the Board on her circumstances in a timely manner.

Dr. Schottenstein noted Ms. Border's testimony that she is willing and able to attend her evaluation now that she has recovered from her health issues. Dr. Schottenstein thought it was right to give Ms. Border the opportunity to reschedule the evaluation so she can be assessed as to her fitness for licensure, and he therefore supported the Proposed Order.

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Ms. Montgomery stated that the Proposed Order reflects the kind of flexibility and heart that is desirable from the Board. The Proposed Order will take no action and give her an opportunity to be evaluated.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion to approve carried.

### **Don-te J. Calloway**

Ms. Montgomery directed the Board's attention to the matter of Don-te J. Calloway. No objections were filed. Mr. Porter was the Hearing Examiner. This matter is non-disciplinary in nature, and therefore all Board members may vote.

**Dr. Kakarala moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Mr. Calloway. Dr. Schottenstein seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter. No Board member offered discussion in this matter.

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

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion to approve carried.

### **Ava Jie Davis, L.M.T.**

Ms. Montgomery directed the Board's attention to the remanded matter of Ava Jie Davis, L.M.T. No objections were filed. Mr. Porter was the Hearing Examiner. This matter is non-disciplinary in nature, and therefore all Board members may vote.

Ms. Montgomery stated that in a Notice of Opportunity for Hearing dated February 18, 2020, the State Medical Board of Ohio notified Ms. Davis, that it proposed to deny her application for a certificate to practice massage therapy in Ohio because she does not hold a diploma or certificate from a school, college or institution in good

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standing as determined by the Board; and/or does not hold a diploma or certificate from a school, college, or institution in another state or jurisdiction that meets the Board's required course of instruction; and/or does not hold a current license, registration or certificate in good standing for massage therapy for at least the preceding five years, as required by Section 4731.19, Ohio Revised Code. Ms. Davis timely requested a hearing. The Report and Recommendation was considered by the Board at its meeting on January 13, 2021.

During consideration of Ms. Davis's case, Board members noted that a then-upcoming change to Section 4731.191, Ohio Revised Code, that concerned the educational requirements for a massage therapy license could be germane to Ms. Davis' case. In addition, it was noted that Ms. Davis had provided three school records, all of which reflected different hours of instruction.

Rather than consider Ms. Davis' application at that time, the Board voted to remand the matter to the Hearing Unit to obtain additional evidence, review the issue concerning conflicting school records, and to consider the matter in light of the statutory change.

A request to address the Board has been filed on behalf of Ms. Davis. Five minutes will be allowed for that address.

Ms. Davis was represented by her attorney, Lawrence W. Henke, III.

Mr. Henke stated that another transcript has been provided by the World of Beauty Academy, and that part of the problem with the initial transcripts were due to a language barrier with the Academy's staff.

Mr. Henke noted that Ms. Davis has completed more than 600 hours of instruction, as required by the Ohio Revised Code, including 275 hours in human anatomy, physiology, and pathology. Ms. Davis has completed at least 800 hours of instruction and has obtained approximately 330 hours in science. Mr. Henke further noted that a previous witness, who is a massage therapist licensed in Ohio and has received massage therapy from Ms. Davis, testified that Ms. Davis is familiar with human anatomy and that she discovered a problem with in his shoulder.

Mr. Henke hoped that the Board will find that Ms. Davis is qualified and competent to become a massage therapist in Ohio.

Ms. Montgomery asked if the Assistant Attorney General wished to respond. Ms. Snyder stated that she wished to respond.

Ms. Snyder stated that the State had previously expressed some concerns about the veracity of Ms. Davis' transcripts. Ms. Snyder stated that those concerns have been allayed. Ms. Snyder continued that Ms. Davis and her attorney have proven she is a serious candidate for a massage therapy license and that there is nothing fraudulent about the transcripts. The State has no concerns with Ms. Davis receiving a massage therapist license given the recent amendments to statutory requirements.

Ms. Montgomery commented on the importance of schools accurately reporting transcripts. Ms. Montgomery stated that there is no excuse for providing questionable transcripts and putting this applicant through this ordeal. Regardless of language, it is a primary responsibility of schools to send accurate transcripts to regulatory boards, and the consequences of failing to do so can be enormous and expensive for applicants.

**Dr. Reddy moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Ms. Davis. Dr. Kakarala seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter. No Board member offered discussion in this matter.

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

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Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion to approve carried.

**PROPOSED FINDINGS AND PROPOSED ORDERS**

Ms. Montgomery stated that in the following matter, the Board issued a Notice of Opportunity for Hearing. No timely request for hearing was received. This 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.

**Mohammed Zahoor, M.D.**

**Dr. Johnson moved find that the allegations as set forth in the September 9, 2020 Notice of Opportunity for Hearing in the matter of Dr. Zahoor have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky’s Proposed Findings and Proposed Order. Dr. Kakarala seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

Dr. Schottenstein opined that a case this egregious warrants the maximum fine the Board can impose.

**Dr. Schottenstein moved to amend the Proposed Order to increase the proposed fine from \$18,000 to \$20,000. Dr. Reddy seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion to amend carried.

**Dr. Feibel moved find that the allegations as set forth in the September 9, 2020 Notice of Opportunity for Hearing in the matter of Dr. Zahoor have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky’s Proposed Findings and Proposed Order, as amended. Dr. Kakarala seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
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Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

### **FINDINGS, ORDERS, AND JOURNAL ENTRIES**

Ms. Montgomery stated that in the following matters, the Board issued Notices of Opportunity for Hearing, and documentation of Service was received for each. There were no timely requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. These matters are therefore before the Board for final disposition. These matters are non-disciplinary in nature, and therefore all Board members may vote.

#### **Delorise Brown, M.D.**

Ms. Montgomery stated that on October 14, 2020, the Board authorized issuance of a Notice of Opportunity for Hearing to Delorise Brown, M.D., informing her that the State Medical Board of Ohio proposed to deny her application for a certificate to recommend the medical use of marijuana because the doctor has previously been subject to disciplinary action that was based, in whole or part, on inappropriately prescribing a controlled substance or other dangerous drug, making her ineligible for a certificate to recommend, to wit: On or about June 5, 1992, the doctor entered into a Consent Agreement based on excessive prescribing of controlled substances without indication and prescribing without documentation, for which her license was suspended for one year, with all but 30 days stayed, and subject to probationary terms conditions and limitations for four years, and ineligible to hold a Drug Enforcement Administration (DEA) registration without Board approval.

**Dr. Kakarala moved to find that the facts set forth in the October 14, 2020 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, denying Dr. Brown's application for a certificate to recommend the medical use of marijuana. Dr. Johnson seconded the motion.**

Dr. Reddy noted that this physician was disciplined by the Board in 1992, nearly 30 years ago, and has had no disciplinary issues since that time. Ms. Anderson stated that the Board's rule requirements indicate that individuals with a prior disciplinary history based on prescribing are not eligible for a Certificate to Recommend the Medical Use of Marijuana.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

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## Roberline Moise

Ms. Montgomery stated that on December 9, 2020, the Board authorized issuance of a Notice of Opportunity for a Hearing to Roberline Moise, informing her that the State Medical Board of Ohio proposed to deny her application for a license to practice respiratory care because she has not successfully passed an examination approved by the Board, to wit: An applicant for licensure must provide evidence that the applicant has successfully obtained the registered respiratory therapist (RRT) credential, by having completed the Therapist Multiple-Choice (TMC) Examination, and the Clinical Simulation Examination (CSE). Ms. Moise has not provided documentation that she has completed either portion of the examination.

**Dr. Johnson moved to find that the facts set forth in the December 9, 2020 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, denying Ms. Moise’s application for a license to practice respiratory care in the State of Ohio. Dr. Kakarala seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

## Jesse L. Pruitt, M.T.

Ms. Montgomery stated that on January 13, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Jesse L. Pruitt, M.T., informing him that the State Medical Board of Ohio proposed to approve his application for restoration of his license to practice massage therapy provided that he take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Mr. Pruitt has not engaged in the active practice of massage therapy for more than two years.

**Dr. Kakarala moved to find that the facts set forth in the January 13, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Mr. Pruitt’s application for restoration of his license to practice massage therapy in the State of Ohio, provided that he takes and passes the MBLEx within six months of the date of mailing of the order. Dr. Saferin seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

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The motion carried.

## **Angela M. Wren, M.T.**

Ms. Montgomery stated that on or about July 8, 2020, the Board authorized issuance of a Notice of Opportunity for Hearing to Angela M. Wren, L.M.T., informing her that the State Medical Board of Ohio proposed to approve her application for restoration of her license to practice massage therapy, provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Wren has not engaged in the active practice of massage therapy for more than two years.

**Dr. Saferin moved to find that the facts set forth in the July 15, 2020 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Wren’s application for restoration of her license to practice massage therapy in the State of Ohio be approved, provided that she takes and passes the MBLEx within 12 months from the final date of publication. Dr. Johnson seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

## **Jami N. Russell, R.C.P.**

Ms. Montgomery stated that on January 13, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Jami N. Russell, R.C.P., informing her that the State Medical Board of Ohio proposed to approve her application for a license to practice as a respiratory care professional, provided that she take and pass the Therapist Multiple Choice (TMC) for Certified respiratory Therapist (CRT) due to the fact that Ms. Russell has not engaged in the active practice of respiratory care for more than two years.

**Dr. Kakarala moved to find that the facts set forth in the January 13, 2021 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Russell’s application for a license to practice respiratory care in the State of Ohio, provided that she takes and passes the TMC for the CRT within six months of the final date of publication of the Notice of Opportunity for a Hearing. Dr. Johnson seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

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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; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Dr. Kakarala seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

The Board went into Executive Session at 10:40 a.m. and returned to public session at 11:35 a.m.

## **NOTICES OF OPPORTUNITY FOR HEARING, ORDERS OF SUMMARY SUSPENSION, ORDERS OF IMMEDIATE SUSPENSION, AND ORDERS OF AUTOMATIC SUSPENSION**

Ms. Marshall presented the following Citations to the Board for consideration:

1. Joshua L. Brown, D.O.: To be issued to a licensure applicant, based on a history of having his previous training certificate revoked by the Board for issues related to impairment. In addition, there is a credentials issue because the physician has not practiced since 2016.
2. Shelley B. Kent, R.C.P.: A summary suspension, based on failure to appear for a Board-ordered evaluation.
3. Roswell Tempest Lowry, M.D.: Based on a plea of guilty for Interstate Travel in Aid of Racketeering. The physician’s Ohio license has lapsed, but this has been brought before the Board due to the nature of the offense related to illegal distribution.
4. Charles Donald Mok, D.O.: Based on action by the New York State Office of Professional Medical Conduct.
5. Lorna Stookey, M.D.: Based on action by the Missouri Board of Registration for the Healing Arts related to possible mental health concerns.
6. Alan Richard Stacey, L.M.T.: A summary suspension, based on failure to go to a Board-ordered evaluation for possible impairment.
7. Brent Andrew Boyer, M.D.: Based on sexual misconduct involving three patients, acts constituting deception to obtain, and non-consensual dissemination of sexual images.
8. Albert Aiad-Toss, M.D.: Based on multiple federal convictions that occurred on June 4, 2021, for sexual trafficking of a minor and production of child pornography. This physician has been suspended since December 2019 under a Consent Agreement related to that indictment.

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Regarding proposed Citation #5, Dr. Feibel assumed a summary suspension was not included because the physician is practicing in Missouri and is therefore not an immediate threat to patients in Ohio. Dr. Feibel stated that the widespread use of telehealth and the fact that there are firms that employ physicians for purposes of telehealth brings into question what constitutes an immediate threat to practice in Ohio. Dr. Feibel felt this is something the Board should address.

Dr. Feibel further stated that as the Board pursues changes to statute, he would like to see a provision to allow the Board to summarily suspend a physician's Ohio license if that physician has voluntarily resigned their license in another state in lieu of an investigation or while an investigation is ongoing in that state. Dr. Feibel stated that such action would indicate that something egregious had occurred in that state.

Ms. Montgomery thanked Dr. Feibel and agreed that telehealth is an important question to be considered.

Dr. Schottenstein hoped that in considering whether to summarily suspend a physician, the Board's staff and the Secretary and Supervising Member inherently considers the fact that telehealth exists and is a possibility when determining if there is a risk of imminent harm to Ohio patients. Dr. Schottenstein appreciated Dr. Feibel's comments, but expressed tentativeness about automatically taking a license. Dr. Schottenstein noted that suspending a license deprives someone of their livelihood and the Board often has few details about what happens in other states. Dr. Schottenstein stated that someone could relinquish a license due to extenuating circumstances, such as not wanting to bother with the bureaucracy of maintaining a license if they are planning to move to another state anyway.

Ms. Montgomery thanked Dr. Schottenstein for making these important points.

Ms. Montgomery asked if there are proposals for monitoring new stories and court activity in different parts of the state to help the Board engage in a more timely manner. Ms. Marshall stated that Medical Board staff monitor the media and Board investigators throughout the state are well-connected with task forces and law enforcement, so the Board is generally aware when an indictment has occurred or is about to occur. Ms. Marshall noted that the subject of today's proposed Citation #8 had been initially indicted in September 2019 and a consent agreements suspending his license was negotiated and ratified within 11 weeks. That physician was convicted just five days ago and the citation for that conviction is before the Board today.

Ms. Montgomery asked Ms. Loucka to describe the steps the Board is taking to address cases of indictment as quickly as possible. Ms. Loucka stated that the Board is currently working on legislation that would allow the Board to take action based on an indictment. Ms. Loucka speculated that there will be some resistance to this legislation due to concerns that a conviction will have not yet occurred; however, the fact patterns the Board has seen in some cases are so egregious that they lend themselves to more immediate action. Ms. Loucka stated that the Board's communications team monitors the news daily.

**Dr. Feibel moved to approve and issue proposed Citation #2, an Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based upon Presumption of an Admission of Impairment. Dr. Soin seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

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**Dr. Feibel moved to approve and issue proposed Citation #6, an Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based upon Presumption of an Admission of Impairment. Dr. Johnson seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

**Dr. Johnson moved to approve and issue proposed Citations #'s 1, 3, 4, 5, 7, and 8. Dr. Soin seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

### **SETTLEMENT AGREEMENTS**

#### **Perry Monroe Hux, M.D.**

**Dr. Kakarala moved to ratify the proposed Permanent Surrender with Dr. Hux. Dr. Reddy seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

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**Nicholas Vincent Rimedio, D.O.**

**Dr. Kakarala moved to ratify the proposed Permanent Surrender/Retirement with Dr. Rimedio. Dr. Schottenstein seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

**Vincent J. Malkovits, D.O.**

**Dr. Kakarala moved to ratify the proposed Consent Agreement with Dr. Malkovits. Dr. Johnson seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	N
Ms. Montgomery	Y

The motion carried.

**Maureen Miller Pelletier, M.D.**

**Dr. Kakarala moved to ratify the proposed Permanent Surrender with Dr. Pelletier. Dr. Johnson seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

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## **OPERATIONS REPORT**

**Human Resources:** Ms. Loucka stated that the Board is in the midst of hiring for a few positions. The Central Region Investigator Supervisor position has been filled by Jeff Bradford, who has served as a Board investigator for many years.

**Finance:** Ms. Loucka stated that some licensees continue to delay renewal of their licenses under the deadline extension to July 1 granted by House Bill 404. About 8,000 Board licensees have not renewed, though Ms. Loucka noted that in a normal cycle about 4,000 to 5,000 allow their licenses to lapse.

Ms. Loucka stated that Ms. Wonski will provide a full legislative report later in the meeting. Ms. Loucka and Ms. Wonski has been very busy speaking with legislators and other decision-makers as the budget has moved through the process. Amendments to the bill were received last night and are being reviewed. In its current form, the Board's appropriations are unchanged from the executive version and includes some new hires.

Ms. Loucka stated that Dr. Schottenstein will give a more detailed report during the financial update later in the meeting.

**Complaints:** Ms. Loucka stated that the number of complaints remains very high. The Board is resolving complaints by closing, citing or settling them at the same pace at which they come in. There is a considerable backlog in the Hearing Unit and options are being considered with regard to both contracting and full-time staffing. Responding to a question from Ms. Montgomery, Ms. Loucka stated that a proposal for addressing the backlog will be ready for the Board's consideration in July or August.

Ms. Montgomery asked if there will be a Board retreat this year. Ms. Loucka replied that there will be a retreat, if the Board approves. Ms. Loucka will discuss possible dates with Ms. Montgomery and Dr. Johnson

**SalesForce Training:** Ms. Loucka stated that standardized SalesForce training will be created for the Board staff and for those Board members who use SalesForce. This training will result in efficiencies in the way data is created and expectations for how data is stored.

**Licensure:** Ms. Loucka stated that the Licensure staff has been extremely busy this year, especially with being short a staff member and processing training certificate applications which are at an all-time high. The Licensure staff continues to do a great job and have volunteered for overtime work, which Ms. Loucka is grateful for. Emails and calls to Licensure also continue at a high rate.

**Communications:** Ms. Loucka thanked the Communications staff for the duty-to-report video, which has been released and has garnered overwhelmingly positive feedback from the physician community. Some negative comments have been received, such as complaints that the Board should not be requiring physicians to take continuing medical education (CME). Ms. Loucka noted one comment that the Board is eroding trust by making the public aware of problems that exist, which led Ms. Loucka to acknowledge that making the public aware of problems is indeed the goal.

Ms. Loucka continued that the duty-to-report video is still not where it needs to be in a technical sense. The staff is working with others to get the video to a more optimal platform and to develop a printable certificate. Some organizations have asked if they can have groups of physicians view the video together. Ms. Loucka opined that this is a great idea and would encourage dialogue, so staff is working on how to make this possible while ensuring the Board knows who has watched it.

Dr. Schottenstein opined that having an actual victim speak in the video was moving and impactful. Dr. Schottenstein felt the Dr. Johnson did a great job in the video. Dr. Schottenstein also appreciated Dr. Stephen Levine's contribution to the video. Dr. Schottenstein commented that all of the Board's licensees have a duty to report, also only physicians have the continuing education requirement. Ms. Loucka agreed.

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Dr. Feibel stated that staff has done a great job on the video and stated that all licensees should be made aware of this new requirement. Ms. Loucka stated that the Board is working with medical associations to publicize this new requirement and it has also been posted to the Board's website.

**Other Items of Business:** Ms. Montgomery asked if there has been ongoing discussions about interim degrees of discipline that could be made available to the Board. Ms. Loucka answered that that topic will be part of the larger conversation between staff and the Secretary and Supervising Member. That will be brought back to the Board for full discussion at a later meeting, most likely in August.

Ms. Loucka thanked Board investigator Michelle Richards, who has been serving in the victim advocate role for the past year. Ms. Richards has now been credentialed as an advocate by the National Organization for Victim Assistance. Mr. Richards took the initiative on her own to obtain the credentialing, which included a significant amount of training sessions and testing.

### **RULES & POLICIES**

#### **Rule Review Update**

Ms. Anderson stated that the proposed consult rules have been released from the Common Sense Initiative (CSI) and are ready to be filed with the Joint Committee on Agency Rule Review (JCARR).

There will be a public rules hearing on June 28, where the public will have an opportunity to comment on proposed rules concerning the Ohio Automated Rx Reporting System (OARRS), pronouncement of death, delegation of medical tasks, and sexual misconduct.

The light-based medical device rules have been placed in To Be Refiled (TBR) status to give the Board an opportunity to consider public comments. The dietetics rules and hearing rules are also part of that package. Ms. Anderson stated that Dr. Schottenstein has pointed out a typographical error in one of the dietetics rules, 4759-6-02, which will be corrected.

#### **Podiatric Scope of Practice**

Ms. Anderson stated that following the Board's meeting in May, she sent a letter to the Chair of the Joint Committee on Agency Rule Review (JCARR) advising him that the Board had voted to pursue the rule-making process. Afterwards, Ms. Anderson was notified that she does not need to attend the June 7 JCARR meeting. Ms. Anderson did view the meeting on video and saw that the Chair notified JCARR of the Board's decision and that JCARR does not need anything else from the Board on the policy-to-rule issue.

A notice requesting public comments on this issue has been drafted; any comments received can be considered the Board as it starts the rule-making process. The notice includes the Board's response to Dr. Logan and proposed draft rules. Ms. Anderson planned to send the notice to interested parties and have the notice posted to the Board's website, with a deadline of July 2 for comments.

In response to a question from Ms. Montgomery, Ms. Anderson stated that if the General Assembly considers legislation on this issue, she would communicate with JCARR on that matter. At this time, Ms. Anderson is not aware of any pending legislation on this subject. Ms. Montgomery noted that anything the Board does could be precluded by legislative action. If interested parties pursue legislation, the Board should endeavor to remain relevant in that process.

#### **Light-Based Medical Device Rules**

Ms. Anderson stated that a public rules hearing on the proposed light-based medical device rules was held on May 17. The rules were put into To Be Refiled status so that the Board has an opportunity to review the comments from the hearing. Because the emergency rule will expire on August 8, Ms. Anderson must file all

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of the Board's amendments tomorrow so they can be on the schedule for the June 28 meeting of the Joint Committee on Agency Rule Review (JCARR). That will allow the Board to adopt the rule at its July meeting so it can be effective before the August 8 expiration of the emergency rule.

The first comment is that physician assistants should be able to provide more types of laser treatment. Ms. Anderson noted that in this proposed rule package, physician assistants will be allowed to perform additional types of laser treatment. For instance, use of non-ablative vascular laser can be delegated to physician assistants under these rules.

Ms. Anderson stated that a comment from Scott Cackler, P.A., who sits on the Board's Physician Assistant Policy Committee, recommended removing the phrase "authorizing the service" so there is no confusion about what needs to be in the supervisory agreement. Ms. Anderson recommended making that change in 4731-18-03 and 4731-18-04.

The next comment has already been addressed by the Board when it determined that the supervising physician must do the initial review of the patient and a review following initial application of the lasers. The Board had also determined that those review may be performed via telemedicine.

Ms. Anderson continued to the next group of comments, which concern the training, education, and supervision requirements of cosmetic therapists. Regarding the comment that cosmetic therapists should be able to use light-based medical devices for procedures other than laser hair removal, Ms. Anderson recommend against this suggestion. Ms. Anderson stated that the comment is based on meeting minutes, but those statements were an error and there is no indication that cosmetic therapists have the training and education to perform other kinds of laser treatment besides laser hair removal.

Ms. Anderson noted comments suggesting a Board discussion on whether the training and education required for delegation could occur during the cosmetic therapist's initial education. Ms. Montgomery elaborated that the suggestion is to have cosmetic therapy educational programs develop a curriculum in accordance with Board requirements and that it would be the physician's responsibility to ensure that the cosmetic therapist is properly trained before delegating the tasks to them. Further, a physician could be liable if he or she does not verify the appropriate training and a problem occurs.

Dr. Schottenstein opined that cosmetic therapists are correct to question why they have to duplicate their education by having to do additional procedures under observation with the delegating physician. Dr. Schottenstein felt it was entirely reasonable to allow an attestation that the requirements for training and observation were completed during the educational program. If the criteria of the Board's rule were not met during the cosmetic therapist's education, then he or she should engage in education and training to fulfill that requirement.

Ms. Anderson stated that proposed changes in Rule 4731-18-03 provide details on the training and education that is required for people to apply the light-based medical devices. These provisions were developed with the aid of a group of dermatologists. Ms. Anderson stated that an amendment can be crafted to allow an educational program to provide the physician with written verification that the training met all or part of the requirements and that the physician would not have to repeat what had already been done.

Regarding the availability of the delegating physician, Ms. Anderson stated that under current rules the delegating physician must be within a 60-minute travel time from the location of the procedure and must be available for direct communication with the cosmetic therapist. Dr. Schottenstein suggested deleting the requirement that the delegating physician be within a 60-minute travel time, noting comments that if the physician is on vacation or is otherwise more than 60 minutes away then the office must shut down. With the availability of telemedicine, Dr. Schottenstein stated that the travel-time requirement is unnecessary.

Dr. Feibel asked if there could be negative consequences during these procedures that would require the physician to actually travel to the site. Dr. Kakarala stated that the kinds of medical lasers under discussion

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would have to be left directly on the skin for something like an hour to do real damage, and if there were real damage the remote delegating physician would probably have the patient sent to an emergency department. Dr. Rothermel agreed.

After discussion, the Board agreed with eliminating the 60-minute travel time requirement.

Ms. Anderson pointed out that there is a “grandfather” provision that will allow those who have been performing these procedures for at least two years to continue and not be subject to the additional requirements.

Ms. Anderson stated that the Executive Director of JCARR had pointed out a typographical error in Rule 4731-18-03, which will be corrected. The Executive Director also questioned if the Board should have a definition of direct physical oversight by the physician that is different from the definition for onsite supervision. Ms. Anderson stated that she can add language to Rule 4731-18-01 to specify that direct physical oversight means the physical presence of the supervising physician in the same room to directly observe the procedure. No Board member objected to the suggestion.

Ms. Montgomery congratulated the staff in taking the time to make certain that cosmetic therapists are able to continue their work safely as unlicensed individuals.

**Dr. Johnson moved to proceed with amendments as stated by Ms. Anderson; Dr. Johnson further moved that if any further changes are required, Ms. Anderson should discuss those with Ms. Montgomery. Dr. Kakarala seconded the motion.** A vote was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

### **Telemedicine Discussion**

Ms. Loucka stated that the state of emergency declared by the Governor in March 2020 currently remains in effect. Subsequent to that declaration, the Board held a Special Meeting and voted to suspend enforcement of in-person patient visit requirements for a variety of scenarios, thus allowing those visits to be done via telemedicine. That action was to remain in effect until the end of the state of emergency. The Board also noted at that time that licensees would be given time to readjust to the end of the emergency. Ms. Loucka emphasized that the state of emergency has not been lifted, but speculated that it could be lifted very soon based on current statistics. Ms. Loucka stated that the Board should be prepared in the event that the emergency declaration is lifted between Board meetings.

Ms. Loucka stated that this issue is further complicated by the fact that there is also a federally-declared state of emergency which affects prescribing. Based on legal research conducted by Mr. Smith, it has been determined that the federal suspension of enforcement sets the minimum and that prescribers must be in compliance with state law. This means that a federal suspension of enforcement does not mean the state must also suspend enforcement of its rules and laws.

Ms. Loucka asked the Board to discuss its suspension of enforcement in the event that the state declaration of emergency is lifted. The staff has recommended a 60-day phase-in once the emergency is lifted so that the

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Board can communicate fairly with licensees about resumption of enforcement of the in-person visit requirements.

Dr. Schottenstein stated that the Board could lift its suspension of enforcement independently of the federal action, but opined that that could introduce an element of confusion to the process and require a great deal of communications to licensees to minimize that confusion. Alternatively, the Board could lift the suspension of requirements simultaneously with the lifting of federal requirements. Dr. Schottenstein agreed that there should be a substantial time between the lifting and the resumption of enforcement so that medical offices are not overwhelmed with patients who would suddenly be required to visit the office in person instead of through telemedicine.

Ms. Montgomery respectfully disagreed with the suggestion to tie the lifting of the suspension of requirements to that of the federal government, opining that the federal government has not shown an aptitude for solving problems in a timely fashion. Ms. Montgomery preferred that Ohio steer its own course and move as quickly as possible to lift the suspension when appropriate. Ms. Montgomery could not say with certainty when the state declaration of emergency would be lifted, but strongly suspected that it would be lifted before the Board's July meeting.

Dr. Feibel agreed with Ms. Montgomery, stating that the Board is an Ohio board and should follow Ohio's lead. Dr. Feibel also agreed with Dr. Schottenstein's comment about enforcement and recommended a three-month phase-in between the lifting of the suspension and the resumption of enforcement. Dr. Rothermel agreed, noting that patients who require routine appointments would have upcoming appointments already scheduled; these patients should have flexibility to adjust future appointments. Dr. Kakarala also agreed with a three-month cushion so patients can safely transition back to in-person visits.

Ms. Loucka stated that if the declaration of emergency is lifted before the next Board meeting, the staff will be prepared to propose a plan at that meeting for resuming enforcement.

**Dr. Feibel moved that the Board resume enforcement of its rules, as discussed, three months after the lifting of the state declaration of emergency. Dr. Kakarala seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

Dr. Schottenstein suggested that the Board communicate with its licensees in a specific way to help them understand what the Board is doing and that it is independent of any federal lifting of suspension of requirements. Ms. Loucka agreed.

### **Legislative Update**

Ms. Wonski stated that the Board's biggest priorities continue to be the budget and the Interstate Medical Licensing Compact. The legislative staff will continue to closely monitor various other bills that could have an impact on the Medical Board.

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House Bill 110, State Operating Budget: Ms. Wonski stated that this bill was passed out of the Senate Finance Committee yesterday and will now go to the floor for a full Senate vote. Both the Senate and the House versions of the bill will then go to a joint Conference Committee to address the differences between the two versions.

Several amendments were added to the Senate version of the bill that impact the Board and its licensees:

- A Department of Health amendment would authorize establishment of drug overdose death and suicide death review committees at the county or regional level, to include a licensed physician.
- A medical practitioner conscientious clause that would allow a medical practitioner, health care institution, or health care payor to decline to perform, participate in, or pay for any health care service that conflicts with their moral, ethical, or religious beliefs.
- A change in existing provisions for written transfer agreements for ambulatory surgical facilities, including the following:
  - The hospital to which the consulting physician has admitting privileges must be within a 25-mile radius of the ambulatory surgical facility.
  - The consulting physician cannot teach, be employed by, or consult with a medical school, state hospital, or other public institution.
  - The consulting physician must actively practice clinical medicine within a 25-mile radius of the ambulatory surgical facility.
- A provision was added regarding the One-Bite program which specifies that a practitioner or applicant who discloses a previous impairment is not subject to discipline for that impairment if the petitioner or applicant has completed treatment and complies with aftercare or remains in good standing with another state's version of the one-bite program.
- An amendment to permit a physician assistant to personally furnish supplies of specified drugs and therapeutic devices at employer-based clinics. Physician assistants can currently do this in certain locations; the amendment simply expands it to employer-based clinics.
- An amendment to modify an existing law that allows a physician licensed in another state or territory to provide consultation to a physician licensed in Ohio, by eliminating the specification that the Ohio-licensed physician who receives the consultation must also be responsible for the examination, diagnosis, and treatment of the patient who was subject of the consultation. Essentially, the physician referring the patient for consultation to an out-of-state provider does not have to be the physician who initially provided the examination, diagnosis, or treatment.
- An amendment that exempts from dietetics licensure a person who provides wellness and lifestyle recommendations, individualized nutritional guidance or counseling, individualized food, and diet assessment or education, so long as the person does not use the title "dietitian" or any other title indicating that the person is practicing dietetics.
- An amendment from the Board of Pharmacy that permits a pharmacist to dispense tobacco cessation drugs without a prescription in accordance with a physician-established protocol that meets specified requirements and establishes record-keeping and notice requirements. The amendment limits the dispensing authority to nicotine cessation therapy, as opposed to all tobacco cessation drugs. The amendment also requires the Board of Pharmacy to adopt rules in consultation with the Medical Board and the Department of Health.

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- An amendment for the Department of Mental Health and Addiction Services which earmarks \$2,000,000 each fiscal year to be used to support new or expand existing confidential treatment and monitoring programs offered by occupational licensing boards for health care workers with mental health or substance use disorders.
- A provision to create a massage therapist advisory council under the Board. This provision was added in the House passed version was removed in the senate passed version.

Ms. Wonski stated that all these proposed amendments are subject to change. All provisions that do not rely on an appropriation will become effective 90 days after the governor's signature, unless otherwise stated in the language. Ms. Wonski stated that a majority of this information was received last night and she is working with the legal team to flag and address any concerns.

Senate Bill 6: Ms. Wonski stated that the fourth hearing for Senate Bill 6 is scheduled for the Families, Aging, and Human Services Committee tomorrow and may be voted on at that time. The language being considered includes the amendments requested by the Board to extend the implementation timeline from six months to one year, and also to provide appropriations for start-up costs.

House Bill 122: Ms. Wonski stated that this bill would permit specified health care professionals to provide telehealth services. The bill was passed out of the House and is awaiting its first hearing the senate health committee.

House Bill 176: Ms. Wonski stated that House Bill 176 has had two hearings in the Senate Health Committee. The legislation would allow athletic trainers to enter into a collaborative agreement with a physician or podiatrist and conduct expanded services under that agreement. Ms. Wonski extended thanks to Dr. Feibel for the advice he provided on the provisions of this bill.

House Bill 318: Ms. Wonski stated that this bill makes changes to the existing anesthesiologist assistant statutes. The language includes provisions that would allow an anesthesiologist assistant to supervise registered nurses, licensed practical nurses, and respiratory care professionals. Anesthesiologist assistants would also be allowed to prescribe drugs or drug therapy related devices in the course of professional practice and expands upon other services that an anesthesiologist assistant may provide under a supervision agreement. This bill is awaiting its first hearing. Ms. Wonski thanked Dr. Sojin for his help in reviewing this legislation.

Senate Bill 151: Ms. Wonski stated that this bill would establish standards and conditions for the medical care and treatment provided by hospitals and physicians to certain pregnant women, pre-term infants, and infants born with a disability. The bill would require hospitals to perform aggressive life-saving treatment for viable pre-term infants 21 weeks of gestation or later if the hospital has a level 3 or level 4 neo-natal intensive care unit. If the hospital does not have a level 3 or level 4 neo-natal intensive care unit, they must transfer the pregnant woman to a hospital with those services. This bill has had one hearing with sponsor testimony in the Senate Health Committee.

Senate Bill 157: Ms. Wonski stated that this bill would create reporting requirements and penalties for any physician who fails to report a failed abortion attempt. This bill requires the Department of Health to annually publish the number of failed abortion attempts. This bill had its second hearing this morning in the Senate Government Oversight and Reform Committee with proponent testimony.

House Bill 196: Ms. Wonski stated that this bill would create a new license type for surgical assistants, to be placed under the purview of the Medical Board. The staff has worked with the bill's sponsors to request that the language be amended to mirror some of the Board's other license types for consistency and ease of implementation.

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Dr. Schottenstein asked if this bill is different from a previous bill which would have established a registry for surgical assistants. Ms. Wonski answered that this bill is different in that it established licensure for surgical assistants rather than a registry. The Board had requested licensure so that it could take action in cases of misconduct.

Senate Bill 131 and House Bill 203: Ms. Wonski stated that these bills would require occupational licensing authorities to issue a government certification to an applicant who currently holds a license, government certification, or private certification in another state. House Bill 203 has had two hearings in the House State and Local Government Committee. Senate Bill 131 is scheduled for a third hearing this afternoon in the Senate Workforce and Higher Education Committee.

### **COMMITTEE BUSINESS**

#### **Appointments to Dietetics Advisory Council & Respiratory Care Advisory Council**

**Dr. Schottenstein moved to appoint Stacy Shawhan to a three-year term on the Dietetics Advisory Council commencing June 9, 2021.; and reappoint Ashley Pax to a three-year term on the Dietetics Advisory Council commencing June 9, 2021. Dr. Johnson seconded the motion. All members voted aye. The motion carried.**

**Dr. Kakarala moved to appoint Dr. Richard Gregg to a three-year term to fill the physician position on the Respiratory Care Advisory Council with a term beginning on June 9, 2021; appoint Matthew Munroe to a three-year term to fill the respiratory care professional position on the Respiratory Care Advisory Council with a term beginning on June 9, 2021; and reappoint Cindy Groeniger to a three-year term to fill the consumer on the Respiratory Care Advisory Council with a term beginning on June 9, 2021. Dr. Saferin seconded the motion. All members voted aye. The motion carried.**

Ms. Montgomery thanked Ms. Reardon for her work with the Ohio Society for Respiratory Care and the Ohio Academy of Nutrition and Dietetics and these and other issues.

#### **Respiratory Care Advisory Council Report**

Dr. Kakarala stated that the Respiratory Care Advisory Council met yesterday. A brief legislation update was given. A presentation was provided by Nelson Heise, Clinical Director of the Ohio Physicians Health Program, regarding the services his organization offers to get assistance to impaired licensees.

Sue Ciarlariello of the Ohio Society for Respiratory Care spoke about respiratory care professionals renewing their licenses. Ms. Ciarlariello stated that there was probably a pandemic-related phenomenon in which people less than two years from retirement chose not to renew their license because they preferred not to go through the pandemic working in the intensive care unit with all the high-risk patients. The Council will continue to monitor the situation to identify emerging trends.

#### **Medical Marijuana Expert Review Committee Report**

**Dr. Soin moved to approve the May 12, 2021 Medical Marijuana Committee minutes as drafted. Dr. Reddy seconded the motion. All members voted aye. The motion carried.**

Dr. Schottenstein stated that from November 1 through December 31, 2020, the Medical Board received 30 petitions for potential new qualifying conditions for treatment with medical marijuana. Petitions for six qualifying conditions were moved forward for further review and discussion: Autism spectrum disorder; restless leg syndrome; Huntington's disease; panic disorder with agoraphobia; terminal illness; and spasticity and spasms.

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The Committee wished to have additional input on restless leg syndrome, Huntington’s disease, terminal illness, and spasticity and spasms, as these conditions had not previously been discussed by the Committee. Dr. Robert Albright, who is board-certified in both neurology and in hospice and palliative medicine, submitted written reports which all Board members have had an opportunity to review. The other two conditions, autism spectrum disorder and panic disorder with agoraphobia, had come before the Board previously, but there was new scientific information submitted this year. The Committee reviewed the new information, but did not feel there was compelling evidence that medical marijuana could provide better outcomes with less consequence than current medical treatments. The Committee decided, based on Dr. Albright’s recommendations, to separate the petition for spasticity and spasms into two topics.

The Committee has recommended approval of the petitions for Huntington’s disease, terminal illness, and spasticity.

**Dr. Kakarala moved to approve the petitions to add Huntington’s disease, terminal illness, and spasticity to the list of qualifying conditions for treatment with medical marijuana. Dr. Reddy seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

The Committee recommended rejecting the petitions for autism spectrum disorder, restless leg syndrome, panic disorder with agoraphobia, and spasms.

**Dr. Johnson moved to reject the petitions to add autism spectrum disorder, restless leg syndrome, panic disorder with agoraphobia, and spasms to the list of qualifying conditions for treatment with medical marijuana. Dr. Kakarala seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

Dr. Schottenstein noted that the Board will accept new petitions for qualifying conditions from November 1 to December 31, 2021. Previously-rejected conditions may be considered again if the petition includes new scientific information. The Board will also vote this fall to set the petition window for 2022.

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## **FSMB Recommendations Review Committee**

Dr. Schottenstein stated that the Committee discussed the proposed Salesforce template for the nascent Quality Assurance Committee, which will be utilized by the reviewer to provide a roadmap of the case. Dr. Schottenstein briefly reviewed the proposed process for case reviews.

Dr. Schottenstein stated that a memo should go out to Board members next month outlining the process and asking for volunteers for the Quality Assurance Committee. It is anticipated that the Committee will be made up of four physicians and one consumer member. The Committee will meet quarterly and each member will review two cases per month. It is suggested that sexual misconduct complaints will be assigned to the consumer member, while minimal standards cases will be assigned to one of the physician members. Staff is working on training materials for Board members to use Salesforce in the review process. A dedicated staff members will be assigned to this process.

Dr. Schottenstein stated that the Federation of State Medical Boards (FSMB) had also recommended the addition of a consumer member to the complaint review process at the Secretary and Supervising Member level to review sexual misconduct cases. This change would require legislation to implement. Dr. Schottenstein stated that there has been substantial stakeholder feedback on the proposed legislation and it will hopefully be considered by the legislature after the budget process is complete.

Dr. Schottenstein stated that the Office of Budget and Management should complete its review of the Board's sexual misconduct protocol by the end of this fiscal year.

## **ICD-10 Code Data Review Committee**

Dr. Soin stated that the Committee met this morning and reviewed work on the website tool that will allow physicians to track prescriptions by ICD-10 code. The Committee will continue discussions with the Board of Pharmacy to ensure data integrity for the tool and that there are strong quality controls.

## **Finance Committee Report**

Dr. Schottenstein stated that in April 2021 the Board's revenue was \$1,387,486, a substantial increase from the previous month. This increase is due to licensees renewing their licenses in anticipate of the expiration of the renewal deadline extension on July 1. The Board's cash balance was \$5,895,665. Payroll and spending are essentially unremarkable. The Board received \$7,180 in disciplinary fines in April.

As a preview of the May 2021 figures, Dr. Schottenstein stated that Board revenue will be over \$1,000,000 and the cash balance will be over \$6,000,000

## **Nurse Reviewer Contract**

Dr. Schottenstein stated that the Standards Review unit currently consists of two nurse reviewer positions, one of which became vacant this year. The unit supervisor, Brandi Dorcy, continues to assess the volume and type of work done by these staff prior to making a determination regarding permanent backfilling of that vacancy to see if any restructuring of the duties would be more efficient. As a temporary measure, in order to avoid a backlog of case reviews in the unit, the Board had entered into a contract with Jack Holdford, R.N., a former employee of the Board, as a case reviewer during Fiscal Year 2021. This contract has been very beneficial in addressing a potential backlog; Mr. Holdford has completed the review of 37 cases as of May 27, averaging five cases per week. Staff is seeking approval to renew this contract during Fiscal Year 2022 in an amount not to exceed \$24,000 for the continuation of this effort. The hourly rate for this review work is \$29.16, which is equal to the starting base pay of a nurse reviewer. The terms require 15 to 30 hours per week, extending through the fiscal year or until the maximum is reached.

The Committee has recommended approval of this request.

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**Dr. Saferin moved to enter into a contract with Mr. Holdford for FY22 in an amount not to exceed \$24,000. Dr. Reddy seconded the motion.** All members voted aye. The motion carried.

### Special Counsel Assignment

Dr. Schottenstein stated that at the beginning in December 2019, Shumaker, Loop & Kendrick was appointed as special counsel to defend the State Medical Board of Ohio in responding to subpoenas *duces tecum* and subpoenas for deposition issued in opioid-related lawsuits, including the multi-district litigation in Federal court in the Northern District of Ohio, and litigation filed against pharmaceutical manufacturers and distributors in Ross and Madison counties. The opioid litigation is ongoing. The projected cost of this continuing litigation is estimated at \$75,000 for FY 22. Any controlling board request needed to cover this contract will be handled by the Attorney General's office.

The Committee has recommended approval of this request.

**Dr. Kakarala moved to authorize the payment of up to \$75,000 during FY 22 for the law firm of Shumaker Loop & Kendrick to perform special counsel services on behalf of the Board in the opioid litigation. Dr. Reddy seconded the motion.** All members voted aye. The motion carried.

### Hearing Attorney Examiner Services

Dr. Schottenstein stated that the Medical Board currently employs two full-time hearing examiners and has been utilizing the services of Ronda Shamansky, a private attorney, for contract hearing examiner services as the need arises. Ms. Shamansky has years of familiarity with the Board's hearing processes and has the experience necessary to take on large, complex cases. Approval of this request will allow the Hearing Unit to continue to shift a number of cases to Ms. Shamansky during Fiscal Year 2022 as the need arises. The contract will not exceed \$48,925.

The Committee has recommended approval of this request.

**Dr. Saferin moved to enter into a contract with Ronda Shamansky for FY22 not to exceed \$48,925 to perform Hearing Attorney Examiner Services. Dr. Kakarala seconded the motion.** All members voted aye. The motion carried.

### Purchase of Additional Salesforce Development Hours

Dr. Schottenstein stated that, as has been done in previous years, the Board has been requested to approve dedicated IT support from the Department of Administrative Services (DAS) to prioritize the Board's enhancement projects in Salesforce/ELicense. During Fiscal Year 2021 the Board pursued and deployed 13 system enhancements totaling \$32,500.60. Several of these enhancements refined application questions and background sections to improve the application process and streamline the review of a more completed application upon submission. Legislative changes were also included to comply with House Bill 442. Several enhancements improved and automated processing and monitoring functions such as name change requests, complaint record activity data, and subpoena authorization workflows.

The need for further system enhancements is anticipated for Fiscal Year 2022. Many of these enhancements will likely not be known until the fiscal year has commenced. Those currently slated for development in the coming year are license verification request automation and an entire system buildout to handle the expert process from start to finish. The rate per hour for Fiscal Year 2022 is \$118.40. The staff has requested that the Board approve up to \$35,000 for FY22 with an estimated 300 hours of development.

The Committee has recommended approval of this request.

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Dr. Saferin moved to authorize up to \$35,000 for dedicated Salesforce development hours from DAS OIT. Dr. Kakarala seconded the motion. All members voted aye. The motion carried.

### Licensure Application Reviews

Dr. Kakarala moved to approve the Licensure staff recommendations for the requests of Sarai McCathren; Navdeep Singh, M.D.; Laura Anzano; Leah Novinger, M.D., Ph.D.; Jacob Kaufman, M.D., Ph.D.; and Erin Wortman, M.T. Dr. Reddy seconded the motion. A vote was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

### PROBATIONARY REPORTS AND REQUESTS

#### Reinstatement Request

Dr. Kakarala moved to approve the request for the reinstatement of the license of John Zaino, M.D., effective immediately, subject to the probationary terms and conditions as outlined in the November 13, 2019 Board Order for a minimum of two years. Dr. Johnson seconded the motion. A vote was taken:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Abstain
Ms. Montgomery	Y

The motion carried.

#### Office Conference Review

Dr. Johnson moved to approve the Compliance staff's Reports of Conferences for May 10 and 11, 2021. Dr. Kakarala seconded the motion. All members voted aye, except Dr. Rothermel and Dr. Saferin, who abstained. The motion carried.

#### Probationary Requests

Dr. Kakarala moved to approve the Secretary and Supervising Member's recommendations for the following probationary request:

- a) Mark H. Meacham, M.D.: Request for approval of the course *Intensive Course in Medical Ethics*,

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*Boundaries and Professionalism*, offered by Case Western University, to fulfill the professional ethics course requirement.

**Dr. Johnson seconded the motion.** A vote was taken:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Ms. Montgomery	Y

The motion carried.

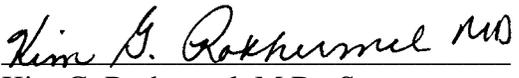
## **ADJOURN**

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

The meeting adjourned at 1:33 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on June 9, 2021, as approved on July 14, 2021.

  
Betty Montgomery, President

  
Kim G. Rothermel, M.D., Secretary

(SEAL)

