



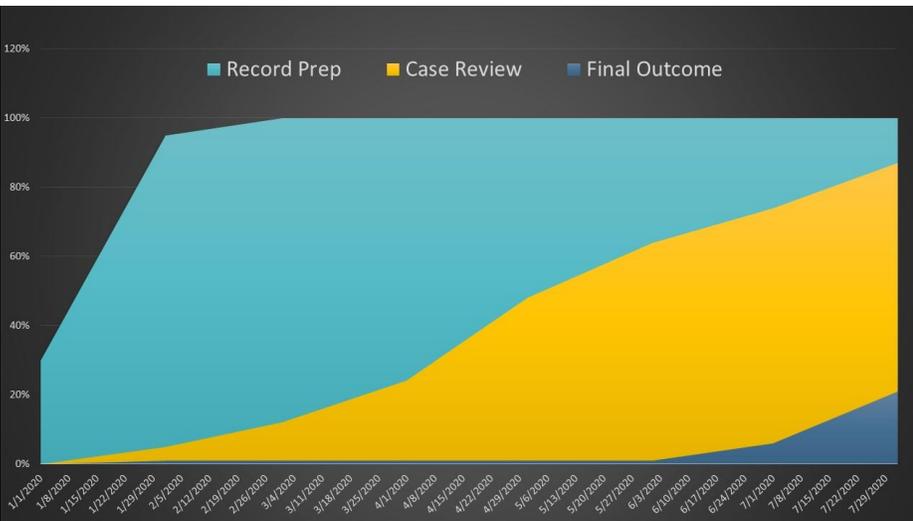
The Governor’s Working Group on Richard Strauss
C/O: Director Thomas J. Stickrath, J.D.
Ohio Department of Public Safety
1970 W Broad St.
Columbus, OH 43223

August 14, 2020

Director Stickrath and Members of the Governor’s Working Group on Richard Strauss:

On behalf of the State Medical Board of Ohio (SMBO) members and staff, I have attached the updated project plan for implementing the Working Group’s suggested changes to SMBO processes and procedures. Since our last report, significant work has continued on the historical case review, the Working Group’s recommended statutory changes and our external audit.

For the historical case review, our external reviewers have completed a little over 85% of the review of the closed sexual misconduct cases from the past 25 years. Our internal team continues to work through the



with the FSMB team about the report and ask questions. That portion of the Board meeting can be watched on the SMBO YouTube channel [here](#). Additionally, staff presented a breakdown of recommended next steps of the report's recommendations. Specifically, the recommendations were broken into four categories: recommendation to immediately proceed; recommendation for further Board discussion and/or to identify strategies to overcome roadblocks such as finances or legislation; recommendation for discussion at the Board's annual retreat; or recommendation to not proceed with the FSMB recommendation or to modify the recommendation for implementation. That draft list and accompanying memo to the Board are attached.

We anticipate the SMBO's next sexual misconduct committee meeting to be held in the morning of September 9, 2020, prior to our regular Board meeting. We anticipate the meeting will continue in our virtual format and will be available for viewing on our YouTube channel.

We appreciate the continued partnership of the Working Group and welcome your continued feedback.

Respectfully,

A handwritten signature in black ink, appearing to read "MS", is positioned above the typed name.

Michael Schottenstein, M.D.
President, State Medical Board of Ohio



MEMORANDUM

TO: Michael Schottenstein, M.D., President and Chairman
Sexual Misconduct Committee Members

FROM: Stephanie Loucka, Executive Director

RE: FSMB Report

DATE: August 12, 2020

SMBO staff has reviewed the FSMB report and has developed a tracking spreadsheet to help visualize the recommendations put forth in the report.

To simplify and organize the recommendations of staff, we have color coded them to make the spreadsheet easier to read. The colors used in the tracking spreadsheet are described below.

Green – These are recommendations that could be started right away by board staff, and progress can be made quickly, in most cases.

Red – These are recommendations that after careful review and consideration would be difficult or impractical to implement in the manner suggested. These recommendations would not move forward, although there may be ideas generated from these recommendations that we bring back to you in the future.

Yellow – These recommendations would require either substantial statutory changes or funding/budget requests to move forward with implementing them. We also believe these recommendations merit further board discussion. Therefore, though the recommendations are valid, there are outside factors that would influence how quickly they could be implemented.

Orange – These are recommendations that lend themselves to the Board’s retreat agenda in October.

FSMB Audit

Focus Area	Recommendations	Process or Personnel
Board Structure and Function		
Board Membership and Term Limits	<ol style="list-style-type: none"> 1. Ensure Board Member diversity, especially Public Members, by drawing from as many different regions of the State, as many different specialties and careers as possible, and should reflect the licensee population 2. Add one additional Public Member to the Board 3. Institute a term limit of two terms for Board Members 4. Expand the range of duties performed by the Vice President 5. Institute a term limit for Board officers – two-term limit for President and Vice President; three-term limit for Secretary and Supervising Member 	<p>Personnel</p> <p>Personnel</p> <p>Personnel</p> <p>Personnel</p> <p>Personnel</p>
Board Involvement	<ol style="list-style-type: none"> 1. All complaints, investigative reviews, and dispositions that are handled and reviewed by the Secretary and Supervising Member should also include review by a third board member who is a Public Member 2. Review all Board processes and procedures to ensure governing statutes and internal policies are not unnecessarily constrained by narrow interpretation 3. Board Members should approve all new protocols and procedures 4. Board Members should be provided regular reports on current complaints and caseload 	<p>Process</p> <p>Process</p> <p>Process</p> <p>Process</p>
Committees and Disciplines	<ol style="list-style-type: none"> 1. Identify committees that can be consolidated or eliminated to reduce redundancies and maximize Board member experience and time 2. Establish a three-person Investigations Committee comprised of the Secretary, Supervising Member, and one additional public member 3. Reorganize the Licensure Committee's membership to include only non-Investigations Committee members 	<p>Process</p> <p>Process</p> <p>Process</p>
Board Personnel Structure	<ol style="list-style-type: none"> 1. Utilize a team-based approach for all cases 2. Investigators should be involved in cases beyond completion of the case to ensure opportunities for feedback and improvement, and to identify potential biases. 3. Maintain continuous communication across the organization as changes are implemented 	<p>Process</p> <p>Process</p> <p>Personnel</p>
Additional or Reorganized Positions	<ol style="list-style-type: none"> 1. Employ a Medical Director who reports to the Executive Director 	<p>Personnel</p>

Education and Training	1. Continue to provide educational and training opportunities to Board staff, as well as Board Members, where feasible	Personnel
	2. All staff and board members should complete training in implicit bias	Personnel
Culture	1. Maintain enhanced communication and consistent expectations across departments to ensure positive cultural shifts	Personnel
	2. Conduct staff surveys at least every three to five years to garner feedback on a variety of topics, including board operations and staff morale	Personnel
	3. Involve Board members and staff at all levels in the development of the board's strategic plan.	Personnel
Complaints and Triage	1. Develop uniform guidance for triage in order to standardize the decisions involved in the process of assigning case records	Process
	2. Shift the triage step to the administrative clerks who perform pre-triage	Personnel
	3. Any difficult cases encountered by the administrative triagers should be sent to a multi-departmental group made up of department chiefs who will make a consensus decision	Process
	4. Establish timelines for cases to be triaged	Process
	5. Administrative triagers should report to the Chief Investigative Officer	Personnel
Standards Review and Compliance	1. Complainants should receive an explanation of the nature of the case, including the fact that remedial education was recommended to the complaint subject physician	Process
	2. Consideration should be given to ways of ensuring compliance with remedial education recommendations	Process
Expert Reviewers	1. The board should consider whether different models for utilizing external expert reviewers would increase the efficiency of this process	Process
	2. Board members should be encouraged to leverage their medical contacts within the state to find additional expert reviewers	Process
Chaperones and Practice Monitors	1. Refer to any formal board-imposed monitoring arrangement as "practice monitoring," rather than "chaperone"	Process
	2. Establish requirements for practice monitor backgrounds, training, independence from monitored physicians, and reporting expectations to the board	Process
Compliance	1. Create the position of Compliance Officer to ensure compliance with board orders	Personnel
Investigations	1. Continue to hold in-person meetings, both in the field and at the Board's main offices, between the executive director and investigators, as well as the Board President, when possible.	Process
	2. Integrate investigators into the entire process of case management, all the way through to adjudication	Process
	3. Investigators should be in attendance at rounds when their cases are being discussed to serve as informational resources	Process

Enforcement

Case Management Timelines

- 1. Reassign job tasks currently performed by attorneys that does not require a legal background to administrative staff Personnel
- 2. Reduce the number of enforcement attorneys on staff, or repurpose them to do legal work Personnel
- 3. Consider whether enforcement attorney tasks related to preparing minimal standards cases can be accomplished by staff in the Standards Review department Personnel
- 4. Draft ongoing "Attorney's Reports" which are made available to the Chief Enforcement Attorney and shared regularly with the Board Process
- 5. Set realistic and enforceable deadlines Process
- 6. Break processes up into smaller tasks by establishing milestones; track and share progress based on these milestones Process

Negotiation Settlements

- 1. Offer training in settlement negotiation and encouragement to enforcement attorneys to reach timely and appropriate settlements Personnel

Department Reporting Structure

- 1. The Chief Enforcement Officer, as well as the Enforcement Section, should report to the Chief Legal Officer Personnel

Hearings

- 1. The Board should consider a contract model for hearing examiners, specifically multi-year (3-5 years) contracts Personnel

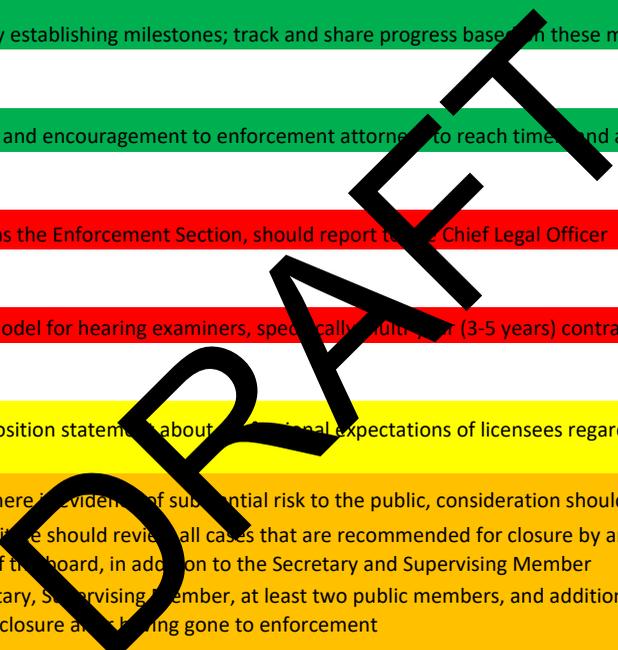
Sexual Misconduct Cases

- 1. The Board should draft a stand-alone position statement about the professional expectations of licensees regarding physical examinations and sexual contact with patients Process
- 2. If at any point during an investigation there is evidence of substantial risk to the public, consideration should be given to immediate cessation of practice Process
- 3. The newly-created, Investigative Committee should review all cases that are recommended for closure by an investigator without going to enforcement, we recommend review by a public member of the board, in addition to the Secretary and Supervising Member Process
- 4. A committee of comprised of the Secretary, Supervising Member, at least two public members, and additional members where feasible, should be directly referred cases that are recommended for closure and having gone to enforcement Process
- 5. No complaint involving allegations of sexual misconduct should be closed without public member input Process
- 6. If a public member disagrees with a recommendation for closure, the case should be sent back to investigations prior to consideration of closure by the full board Process
- 7. Victim coordinators should not be investigators Process

Quality Assurance

Quality Intervention Program

- 1. New QIP panels should be created and utilized in quality of care cases Process



Post-Mortem Review of Closed Cases 1. Reinstatement of the Quality Assurance Committee, comprised of both physician and public members Process

Communication with Licensees and Complainants

Communication with Licensees 1. Provide written notification to licensees when any complaint is received by the Board Process

2. Provide written notification to licensees when investigations are completed or closed Process

Communication with Complainants/Victims 1. Offer complainants a complaint navigator/coordinator Process

2. Provide regular status updates to complainants and key witnesses Process

Case Management Systems

1. Implement case management software that would give the Board the industry-specific tools needed for case management, communication, investigation, and reporting Process

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