

January 14, 2009

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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**January 14, 2009**

Dalsukh Madia, M.D., President, called the meeting to order at 1:00 p.m., in the Administrative Hearing Room, 3<sup>rd</sup> Floor, the James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Jack C. Amato, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Marchelle L. Suppan, D.P.M.; Jeffrey M. Jacobson, Esq.; W. Frank Hairston; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; and Susan E. Stephens, M.D. The following did not attend the meeting: Nandlal Varyani, M.D.

Also present were: Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; Sallie J. Debolt, General Counsel; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, David P. Katko, Angela S. McNair, Karen H. Mortland, Marcie P. Pastrick, Cheryl D. Pokorny, Sheldon Safko and Daniel S. Zinsmaster, Enforcement Attorneys; Barbara J. Pfeiffer, Karen A. Unver, and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Michael K. Miller, Public Policy & Government Affairs Officer; Karry Thacker, Executive Staff Assistant; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant.

MINUTES REVIEW

**DR. STEINBERGH MOVED TO APPROVE THE MINUTES OF DECEMBER 10-11, 2009. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

EXECUTIVE SESSION

**DR. STEINBERGH MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONFER WITH THE ATTORNEY GENERAL'S REPRESENTATIVES ON MATTERS OF PENDING OR IMMINENT COURT ACTION. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

VOTE:	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

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The motion carried.

Pursuant to Section 121.22(G)(3), Revised Code, the Board went into executive session.

Mr. Albert, Dr. Egner, Dr. Stephens and Richard A. Whitehouse, Executive Director, joined the meeting during the Executive Session.

The following joined the meeting after the executive session: Patricia A. Davidson, Chief Hearing Examiner; R. Gregory Porter and Gretchen Petrucci, Hearing Examiners.

#### REPORTS AND RECOMMENDATIONS

Dr. Madia announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He noted that the Report and Recommendation in the Matter of Lary R. Korn, D.O., has been pulled from this month's agenda.

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of Haroon Akhtar, M.D.; Glenn A. Bollard, M.D.; Mark Owen Henson, M.D.; Andrew John Holan; Kymberly L. Jacobs; Randall Lewis Knox; and John Fred Sylvester, Jr. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

Dr. Madia 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:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye

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Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

Dr. Madia noted that, in accordance with the provision in Section 4731.22(F)(2), 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 these matters. They may, however, participate in the matter of Dr. Akhtar, as that case is not disciplinary in nature and concerns only the doctor's qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

HAROON AKHTAR, M.D.

Dr. Madia directed the Board's attention to the matter of Haroon Akhtar, M.D. He advised that no objections were filed to Hearing Examiner Petrucci's Report and Recommendation.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF HAROON AKHTAR, M.D. DR. MAHAJAN SECONDED THE MOTION.**

Dr. Madia stated that he would now entertain discussion in the above matter.

Dr. Steinbergh advised that this case involved a physician's not completing the U.S.M.L.E. within the required seven-year period. Dr. Akhtar asked for a waiver, and the Hearing Examiner reviewed his credentials and background. Dr. Steinbergh reviewed Dr. Akhtar's history, as documented in the Report and Recommendation. Dr. Steinbergh noted that the Hearing Examiner did not feel that information submitted by Dr. Akhtar was sufficient to establish that the injuries he claimed caused a delay in his medical study, and did not rise to the level of an appropriate waiver. She noted that the Hearing Examiner's Proposed Order is to deny Dr. Akhtar's request.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye

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Dr. Mahajan - aye  
Dr. Steinbergh - aye  
Dr. Madia - aye

The motion carried.

GLENN A. BOLLARD, M.D.

Dr. Madia directed the Board's attention to the matter of Glenn A. Bollard, M.D. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation and were previously distributed to Board members.

Dr. Madia continued that a request to address the Board has been timely filed on behalf of Dr. Bollard. Five minutes would be allowed for that address.

Dr. Bollard was accompanied by his attorney, Elizabeth Y. Collis, Esq. Ms. Collis referred the Board to her written objections, and stated that she would defer to Dr. Bollard.

Dr. Bollard thanked the Board for giving him the opportunity to appear before it to make his amends. He read the following statement into the record:

In the late 1980s, while I was a resident, I was diagnosed with alcohol dependence. I sought treatment at Shepherd Hill for two months and then was transferred to Talbot Recovery Center in Atlanta, Georgia for an additional eight months. I successfully completed two years of OPEP monitoring after my discharge. I've remained alcohol and drug-free since December 13, 1988, and the misuse of the Adderall some 18 years later was the first time that I'd used a prescription medication inappropriately. Not only was I able to work as a physician for many, many years without problems, but I consistently ranked in the upper tier of patient satisfaction surveys and the quality of my work allowed me the privilege of assuming many positions of leadership.

These things were only possible because I stayed vigilant about my physical, mental and emotional health, and because I carefully self-monitored whether I was working a good program of recovery. It also occurred because I remained open to the feedback of others.

Due to sleeplessness and depression in 1992 or '93, I voluntarily sought treatment at the William J. Farley Institute, where my initial diagnosis of Bipolar Type 2 was made. I volunteered to stay at the Institute for eleven weeks to allow the medications to be regulated. My employer and family physician did not feel that residential treatment was necessary, but I sided with the recommendations of the Institute. I used all my accumulated sick leave time and about \$20,000 of my own funds to pay for my stay.

In 1999 I underwent five surgical procedures. I was prescribed pain medications after some of them. Prior to 1999 I had slowly allowed a busy work schedule and my move to

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rural Pennsylvania that lead to a decrease in my twelve-step meeting attendance and a decreased contact with the recovering community. I use the phrase, “thinking like an addict,” not to describe actual relapse behavior with substances during that time, but to describe the relapse mindset that was already underway. I sought out the Physicians Health Programs of PA and voluntarily signed a five-year agreement at that time. I became so active in the program that I was asked by the PHP to participate in interventions on other impaired professionals and to serve as a urine toxicology monitor for many individuals.

In 2002 I was prescribed Adderall by my psychiatrist at Cleveland Clinic Foundation. I had been treated by this psychiatrist for more than eight years and he was well aware of my medical and psychological issues and my past history of substance abuse. He did not initiate treatment with this medication without thought. He tried numerous other medications first and had me contact the PHP, which was the Physicians Health Programs, to receive their approval prior to beginning the Adderall. For about three years I was able to take the Adderall as prescribed; however, somewhere in 2005, as my tolerance increased, I began, on occasion, to take larger doses. Then in 2006 I made the poor decision to write myself a prescription for this medication. It is this poor decision that brings me to the Board today.

I wish to be very clear on this point. I was wrong in what I did, and I was well aware both at that time and presently that what I was doing was wrong. It’s important to note that in contrast to the Hearing Examiner’s impressions, I was aware that I had slipped and I had made plans to go to treatment prior to being questioned by the PA Attorney General’s Office about that incident. I made no deals with anyone to go to treatment in lieu of conviction, and no charges were filed until about a month after I returned from treatment. Prior to the A.G.’s office contacting me, I had already contacted my psychiatrist and asked him to stop prescribing Adderall to me. I had already informed my counselor about what was going on and that I was going to treatment. I discontinued the Adderall on my own about two weeks prior to entering three months of treatment, residential treatment, at Santé Treatment Center in Texas. I voluntarily surrendered my D.E.A. license to eliminate any possibility that I would further, write further prescriptions for a controlled substance, and I also disclosed on my renewal license to Ohio, for the Ohio Medical Board, that I had turned in my D.E.A. license.

I have always taken my medical, psychiatric and chemical dependency issues very seriously. Contrary to the conclusions of the Hearing Examiner at hearing, I never minimized, rationalized, blamed others or intellectualized my medical condition. In fact, I consistently erred on the side of putting my patients first by stopping work, thereby forfeiting personal income and entering treatment when necessary. Additionally, I have paid thousands of dollars out of pocket over the past 20 years for treatment, medications, counseling, medical and psychological evaluations, aftercare groups and travel to and from thousands of twelve-step meetings, in an effort to meet my obligations to myself and to the public. I’ve never entered a treatment program unless it was specifically

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designed to treat professionals and had a formal aftercare relationship with both state licensing boards and impaired physician mentoring programs.

I'm currently being monitored by two different programs in PA. I'm subject to random drug screens and monitoring by both the PA Medical Board and the PA Medical Society. I'm asking that the Ohio Board not require that I start a third monitoring program, but rather accept the results of the two PA programs. I understand that I made a mistake, but this incident did not directly endanger patients, as it did not occur while I was actively seeing patients in any clinical context. I was out on medical leave. It occurred while I was fighting for my life against a poorly defined neurologic illness. I sought treatment, I've remained sober, and have been working a strong program of recovery for over two years. My psychological health has been stable for over two years, and my physical health has improved to the point where serious consideration can now be given to returning to clinical work.

As soon as I was well enough physically, I wasted no time in becoming up-to-date with my journal reading. I have documentation that can prove that I far exceeded the State's CME requirements for physicians by completing hundreds of hours of Category I and II credit.

Dr. Madia advised Dr. Bollard that he has one more minute to complete his statement.

I've just finished editing a 300-page medical textbook with the keynote speaker of a trauma conference in Cleveland last spring. I have traveled to Washington, D.C., and Dallas, Texas, multiple times to work on projects to further improve emergency care and advocate for patients' rights. I've also received three separate awards from the American College of Emergency Physicians for the quality and quantity of my volunteerism.

I do not believe that requiring examinations or imposing a two-year suspension of my Ohio license will make me a better physician clinically, nor would it protect the public. While I currently live in PA, and it appears that I will be able to return to work there, I trained in Ohio and have many friends here. If possible, I would like to keep my Ohio license so I can work here at some point in the future.

Dr. Madia asked whether the Assistant Attorney General wished to respond.

Mr. Wilcox stated that he doesn't have a great deal to add to what the Hearing Examiner has laid out in her Report and Recommendation. He noted that, as the Board can tell from reading the Report and Recommendation, this is a physician who has a myriad of problems. He stated that he thinks that the proposed Report and Recommendation addresses them in an appropriate fashion.

Mr. Wilcox stated that Dr. Bollard is dependent on drugs and alcohol, and he has used cocaine in his past. He has been diagnosed with Bipolar Disorder Type 2 as recently as February 2008. He has used his position as a physician to write false prescriptions for Adderall and used these drugs to feed his addiction.

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He has been diagnosed and suffers from a chronic inflammatory disorder of the peripheral nervous system, known as CIDP. He received this diagnosis in 2005 and has suffered many debilitating symptoms, including chronic fatigue, muscle weakness and spasms and loss of motor control.

Mr. Wilcox stated that in July 2007, an expert opined that Dr. Bollard cannot safely practice emergency medicine, especially tasks such as suturing and intubation.. He is currently receiving disability benefits through the federal government. Mr. Wilcox stated that it is important to note that Dr. Bollard has not clinically practiced medicine in over four years. As the Report and Recommendation reflects, he has not practiced since June 2004.

Mr. Wilcox stated that with all these profound obstacles to Dr. Bollard being able to safely return to the practice of medicine, he finds the Report and Recommendation to be a good attempt to address these problems, and he supports its adoption, as written.

**DR. EGNER MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF GLENN A. BOLLARD, M.D. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Madia stated that he would now entertain discussion in the above matter.

Dr. Egner stated that she falls somewhere in between these two discussions. On the one hand, Dr. Bollard has a very significant, worrisome history. She stated that he has a history of alcohol abuse, a history of bipolar disorder, and he has a significant medical condition that may or may not go into remission and may truly affect his physical ability to practice medicine. On the other hand, if you look at each one of these issues individually, in all cases in his history he addressed it early on and it has been very well controlled. Dr. Egner stated that there is a history of alcohol abuse that dates back very far but with no relapses. He has a history of bipolar disorder, which was treated, and he has remained stable. As far as his physical condition goes with his disease, it sounds like he is improving greatly.

Dr. Egner stated that when she looks at the recommendation which is for a suspension of two years, five years of probation, and another set of monitoring, it does seem rather onerous for a person who has demonstrated a fairly good degree of success. Dr. Egner referred to Dr. Bollard's objections which suggest a 30-day suspension, no duplicative monitoring, no quarterly appearances and no requirement that he complete an additional 28-day program. She added that she believes a two-year suspension is really too much. She stated that she doesn't agree with what Dr. Bollard did, but he was prescribed the Adderall by his psychiatrist, but it was addressed quickly. Dr. Egner stated that she feels that Dr. Bollard shows that he is not only remorseful, but is willing to do something to make up for that.

Dr. Egner suggested a less than two-year suspension. She added that if Dr. Bollard is already doing monitoring for Pennsylvania, and since he doesn't live in Ohio, the Pennsylvania monitoring results should be able to be sent here. She does believe that he should make an appearance every quarter, because she believes that there is value in that. If he chooses to hold an Ohio license, there's a responsibility with that, and he should show up every quarter to say that he is complying and that he knows that what the Board has told him is important. Dr. Egner stated that she also doesn't particularly feel that Dr. Bollard needs to go

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through another 28-day program. She added that she would like to hear some discussion on this matter before she makes a motion.

Dr. Suppan stated that she agrees philosophically with what Dr. Egner is saying. She asked Dr. Egner what type of suspension she had in mind.

Dr. Egner stated that she would probably suggest a year's suspension.

Dr. Steinbergh stated that she sees Dr. Bollard as an ill man. He's got a lot of problems with chemical dependency and other medical illnesses. He has, in fact, addressed these. Dr. Steinbergh stated that she's read through all of the reports and noted that he practices in Pennsylvania, and does not practice in Ohio. His Pennsylvania consent agreement went into effect in September 2008. Pennsylvania gave him an indefinite suspension of not less than three years, which it then stayed. She noted that Pennsylvania then imposed a three-year probationary term.

Dr. Steinbergh stated that she's comfortable with staying a suspension, and putting him on probation for the normal term, which is five years. She stated that he is being monitored in the state in which he's practicing. She stated that she would stick with the Proposed Order, in terms of permanent revocation with a stay, and suspension of not less than three years with a stay. She would place him on probation for five years and all of the stipulations that are in the current Proposed Order would remain the same. She agrees with quarterly reports and his coming back to the State, noting that Ohio is one state away from Pennsylvania. She stated that she agrees with Dr. Egner that there is value in this Board's being able to assess him as he goes along.

Dr. Stephens asked why Dr. Steinbergh would favor a five-year probationary period as opposed to the three-year period in Pennsylvania.

Dr. Steinbergh stated that she's fine with the five-year period, noting that that is what Ohio imposes for chemically dependent physicians, and Dr. Bollard is no different from anyone else. Dr. Steinbergh added that the testing has to be done, noting that Dr. Bollard has not been in practice since 2004. He's been away from clinical medicine for almost five years, so she agrees with the SPEX. She added that she also agrees with the requirement for a psychological assessment and continued psychotherapy, everything that is in the probationary terms. He'd also have to have a practice plan.

Dr. Steinbergh stated that she would suggest tabling this matter for purposes of drawing up an alternative order.

Dr. Amato stated that he's in basic agreement with what's being said so far. He added that it's silly that the Board put Dr. Bollard through the Ohio program when he seems to have gone through an inpatient program that has worked quite well for him. Dr. Amato stated that he's not so sure that he wants to stay everything. Dr. Amato stated that it seems that Dr. Bollard is coming out of his impairment; but there was another issue, and that's self-prescribing. Dr. Amato stated that that's on the downside. The upside is that Dr. Bollard was not endangering his patients when this occurred because he was already on medical leave. Dr. Amato stated that self-prescribing is not an issue that the Board should overlook.

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Dr. Amato commented that he assumes that if the Board stays a permanent revocation and a two-year suspension, and Dr. Bollard then violates his probation, the two year suspension becomes moot because the stayed permanent revocation would kick in.

Dr. Egner stated that Dr. Bollard would be cited again. She explained that when the Board stays a permanent revocation, it's not like you're permanently revoked when you commit your next offense. The doctor is cited again, the case will probably go to hearing, and the stayed permanent revocation and suspension will be part of the evidence considered at the hearing. She added that it doesn't automatically buy the physician the permanent revocation.

Dr. Amato indicated that he understands, and added that he thinks that there should be some suspension since Dr. Bollard did self-prescribe.

Dr. Steinbergh stated that she would agree with a one-year suspension with five years' probation. She asked whether the Board accepts the terms proposed by the Hearing Examiner for the suspension year.

Dr. Egner stated that she does.

**DR. STEINBERGH MOVED TO TABLE THE MATTER OF GLENN A. BOLLARD, M.D. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

When the matter was removed from the table later in the meeting, Mr. Albert was out of the room.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF GLENN A. BOLLARD, M.D. BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED, that:

A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of

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**Glenn Alden Bollard, M.D.**, to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED; such revocation is STAYED, and Dr. Bollard's certificate shall be SUSPENDED for an indefinite period of time but not less than one year.

- B. **INTERIM MONITORING:** During the period that Dr. Bollard's certificate to practice in Ohio is suspended, he shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Bollard shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in any state in which he practices.
  2. **Comply with Other State's Orders/Agreements:** Dr. Bollard shall comply with all the terms, conditions, and limitations imposed pursuant to the consent agreement entered with the Pennsylvania Board of Medicine ("Pennsylvania Board"), any orders issued by that board, and the monitoring agreement(s) with the Pennsylvania PHP and/or PHMP.
  3. **Quarterly Appearances and Quarterly Declarations:** Dr. Bollard shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Dr. Bollard shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

At the time he submits his quarterly declarations, Dr. Bollard shall also submit declarations under penalty of Board disciplinary action or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the Pennsylvania Board, and the Pennsylvania PHP and/or PHMP. Moreover, Dr. Bollard shall cause to be submitted to the Board copies of any reports that he submits to the Pennsylvania Board, whenever that board requires such submission. Further, Dr. Bollard shall provide to the Board a copy of any further order or modification of the

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consent agreement issued or approved by the Pennsylvania Board.

4. **Sobriety**

- a. **Abstention from Drugs:** Dr. Bollard shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed, or administered to him by another so authorized by law who has full knowledge of Dr. Bollard's history of chemical dependency. Further, in the event that Dr. Bollard is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Bollard shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Bollard received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Bollard shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
- b. **Abstention from Alcohol:** Dr. Bollard shall abstain completely from the use of alcohol.

5. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**

- a. Dr. Bollard shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Bollard shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Bollard's drug(s) of choice.
- b. Dr. Bollard shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Bollard shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Bollard shall abstain from the use of any substance that may produce a

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positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Bollard shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.

- d. All screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site, except as provided in Paragraph 6 below (“Alternative Drug-testing and/or Collection Site”). Further, the screening process shall require a daily call-in procedure.
- e. Within 30 days of the effective date of this Order, Dr. Bollard shall enter into the necessary financial and/or contractual arrangements with a Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Bollard shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Bollard and the Board-approved DFCS. Dr. Bollard’s failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Bollard shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Bollard and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- g. Dr. Bollard shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order and whether all urine screens have been negative.

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- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Bollard must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Dr. Bollard shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
  - i. Dr. Bollard acknowledges that the Board expressly reserves the right to withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Bollard shall submit urine specimens to a Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Bollard, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Bollard.<sup>1</sup>
- a. Within 30 days of the date on which Dr. Bollard is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Bollard, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Bollard shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Bollard's residence or employment location, or to a physician who practices in the same locale as Dr. Bollard. Dr. Bollard shall ensure that the urine-screening process performed through the alternative DFCS or supervising physician requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Bollard acknowledges that the alternative DFCS or supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

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<sup>1</sup> As an alternative to the requirements of paragraph B.6.a. of this Order, the Board will accept the reports of toxicology screens performed pursuant to the September 2008 consent agreement between Dr. Bollard and the Pennsylvania Bureau of Professional Affairs, State Board of Medicine [Pennsylvania Board] as the alternative DFCS, as long as those screens meet this Board's requirements under Ohio law. Paragraphs B.6.b. through B.6.d remain in effect.

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- b. Dr. Bollard shall ensure that the alternative DFCS or supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
  - c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Bollard must immediately notify the Board in writing. Dr. Bollard shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Bollard shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Bollard.
  - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Bollard's designated alternative DFCS or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug & Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Bollard's quarterly declaration. It is Dr. Bollard's responsibility to ensure that reports are timely submitted.
  8. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Dr. Bollard must provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Bollard, or for any other purpose, at Dr. Bollard's expense. Dr. Bollard's refusal to submit a specimen on request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.
  9. **Rehabilitation Program:** Dr. Bollard shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three

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times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Bollard shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Bollard's quarterly declarations.

10. **Psychiatric Assessment and Treatment:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Bollard shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Bollard's choice, to provide a psychiatric assessment to the Board. Dr. Bollard may request that the Board consider his treating psychiatrist in Ohio or the psychiatrist approved (if any) by the Pennsylvania Board pursuant to his consent agreement with that board, on the condition that the treatment provider approved under the Pennsylvania consent agreement continues to be accepted by the Pennsylvania Board under the terms of Dr. Bollard's probation in that state.

Upon approval by the Board, Dr. Bollard shall obtain from the approved psychiatrist an assessment of Dr. Bollard's current psychiatric status. Prior to the initial assessment, Dr. Bollard shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, relevant exhibits, and any other documentation that the Board may deem appropriate or helpful to the psychiatrist.

Upon completion of the initial assessment, Dr. Bollard shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Bollard's current psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. Bollard's current needs;
- c. A statement regarding any recommended limitations upon his practice; and
- d. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend psychiatric treatment, and upon approval by the Board, Dr. Bollard shall undergo and continue psychiatric treatment weekly or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Bollard shall comply with his psychiatric treatment plan, including taking medications as prescribed for his/her psychiatric disorder.

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

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

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

11. **Prescription of Mood-Altering Substances by Board-Approved Psychiatrist Only:** Dr. Bollard shall assure that any mood-altering or psychotropic medication prescribed for him shall be prescribed by the psychiatrist approved by the Board pursuant to paragraph 10 above.
12. **Psychological Assessment/Continued Psychotherapy:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Bollard shall submit to the Board for its prior approval the name and curriculum vitae of a psychologist or counselor (hereinafter "therapist") of Dr. Bollard's choice. The Board may consider Ms. Kightlinger as an approved provider.

Upon approval by the Board, Dr. Bollard shall obtain from the approved therapist a written assessment of Dr. Bollard's current status. Prior to the initial assessment, Dr. Bollard shall furnish the approved therapist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record which the Board may deem appropriate or helpful to the therapist.

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Upon completion of the initial assessment, Dr. Bollard shall cause a written report to be submitted to the Board from the approved therapist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Bollard's current status and condition;
- b. A detailed plan of recommended treatment, if any, based upon the therapist's informed assessment of Dr. Bollard's current needs;
- c. A statement regarding any recommended limitations upon his practice, and
- d. Any reports upon which the treatment recommendation is based, including reports of examination and psychological or other testing.

Should the Board-approved therapist recommend psychological treatment, and upon approval by the Board, Dr. Bollard shall undergo and continue treatment weekly or as otherwise directed by the Board. Dr. Bollard shall comply with his treatment plan, including taking medications as prescribed for his disorder.

Dr. Bollard shall continue in psychological treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved therapist. The reports shall contain information describing Dr. Bollard's current treatment plan and any changes that have been made to the treatment plan since the prior report, Dr. Bollard's compliance with the treatment plan, Dr. Bollard's status, Dr. Bollard's progress in treatment, and results of any studies that have been conducted since the prior report. Dr. Bollard shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Bollard's quarterly declaration.

In addition, Dr. Bollard shall ensure that his therapist immediately notifies the Board of Dr. Bollard's failure to comply with his treatment plan and/or any determination that Dr. Bollard is unable to practice due to his disorder.

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

13. **Releases:** Dr. Bollard shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of

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whatever nature, by any and all parties that provide treatment or evaluation for Dr. Bollard's chemical dependency/abuse and psychiatric and/or physical conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Bollard further shall provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

14. **Absences from His State of Residence:** Dr. Bollard shall obtain permission from the Board for departures or absences from the state where he resides (where his urine screens, counseling, etc., are performed). Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

In the event that Dr. Bollard resides and/or is employed at a location that is within fifty miles of the geographic border of his state of residence and a contiguous state, Dr. Bollard may travel between his state of residence and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Bollard is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

The Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Order for occasional periods of absence of fourteen days or less.

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

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

1. **Application for Reinstatement or Restoration:** Dr. Bollard shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

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2. **Compliance with Interim Conditions:** Dr. Bollard shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph B of this Order.
3. **Demonstration of Ability to Resume Practice:** Dr. Bollard shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
  - a.. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
  - b. Evidence of continuing full compliance with this Order.
  - c. Two written reports indicating that Dr. Bollard's physical ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

These reports shall have been made by physicians knowledgeable in the area of neurology and who have been approved in advance by the Board to provide an assessment of Dr. Bollard. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Bollard shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Bollard, and any conditions, restrictions, or limitations that should be imposed on Dr. Bollard's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- d. Two written reports indicating that Dr. Bollard's ability to practice has been assessed and that he has been found capable of practicing according to

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acceptable and prevailing standards of care, with respect to chemical dependence/abuse and any psychiatric disorder(s).

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Bollard. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Bollard shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Bollard, and any conditions, restrictions, or limitations that should be imposed on Dr. Bollard's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

4. **Additional Evidence of Fitness To Resume Practice/SPEX:** Prior to submitting his application for reinstatement or restoration, Dr. Bollard shall take and pass the SPEX examination, or other written examination that the Board approves, to assess Dr. Bollard's clinical competency.

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

1. **Obey the Law:** Dr. Bollard shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in any state in which he is practicing.
2. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Bollard shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
3. **Practice Plan:** Prior to Dr. Bollard's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Bollard shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless

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otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Bollard's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Bollard shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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

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

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

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

4. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Bollard is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Bollard's certificate will be fully restored.

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

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

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Bollard shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

In the event that Dr. Bollard provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Bollard shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Bollard shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. Bollard further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Bollard received from the Board written notification of the successful completion of the probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Bollard shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Dr. Bollard.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Bollard shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of

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the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

**DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF GLENN A. BOLLARD, M.D. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

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MARK OWEN HENSON, M.D.

Dr. Madia directed the Board's attention to the matter of Mark Owen Henson, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

Dr. Madia continued that a request to address the Board has been timely filed on behalf of Dr. Henson. Five minutes would be allowed for that address.

Dr. Henson thanked the Board for allowing him to address it, and he commented that he has nothing formally prepared. He added that it is his thoughts and experiences over the past few years that brings him before the Board today. Dr. Henson advised that he's not here to dispute the issue at hand. He's only here to go on the record to help clarify some things and to bring the Board up to date on where he is in his recovery and personal life.

Dr. Henson stated that this violation of his Step II agreement, which occurred some time in July, was stupidity. It was a snap decision at that moment in time. Dr. Henson stated that he had been doing quite well and was compliant with the agreement. He was practicing medicine and actively participating in his own recovery. He was not completely happy with the situation because of where he lives and the distance he has to drive for aftercare at Parkside, and various things. It was very demanding on his schedule. Dr. Henson stated that, as far as twelve-step meetings and things like that, it's very easy. There's plenty available where he lives. However, aftercare was difficult.

Dr. Henson stated that the day he took the Darvocet, it was not anything that was premeditated, nothing that he had planned. It was over the holiday, around July 4, and he'd gone out running with his wife. He stated that a year and a half to two years ago they used to run together frequently. He did experience a back injury with a herniation and he went through surgery in March a couple of years ago. After that time, it interfered with his running. He went through a period of recovery from that injury and he has completely recovered in that respect. He was out of shape when he ran in July. Dr. Henson stated that it wasn't so much a problem with discomfort from running, but his allergies were bothering him, they'd run out to his mother's, and he was actually looking for some Visine. Dr. Henson stated that that's his home, where he grew up, and he felt comfortable looking through things. He was looking for some Visine when he happened upon an old prescription for Darvocet. Dr. Henson stated that it was almost a knee-jerk reflex. He was in some discomfort, and Ibuprofen would have probably been as valuable and much less problematic with his agreement with the Board, but he made the mistake of taking a couple Darvocet. He commented that that certainly changed a lot of things.

Dr. Henson stated that in one respect, though, it has changed a lot of things for the better. It's enabled him to look at his recovery in a different light, realizing how fragile this condition is and how easily you can go from recovery to that addictive way of thinking again. He stated that he knew it was a mistake when it happened, but, being fearful, he opted not to tell anybody what had happened. A few days went by and he was not called for a toxicology screen. It was four or five days after the fact when he was called for a random urine screen, and although in the back of his mind he had some concerns, he thought that maybe it would slip through and it didn't. His first thought was to deny it and come up with some harebrained scheme to fight it, but then he thought that that was just self-defeating.

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Dr. Madia advised Dr. Henson that he has one more minute to complete his statement.

Dr. Henson stated that he just wants to apologize for violating his agreement with the Board, but after that time his thinking was that he probably wouldn't even try to regain his license. There was a lot of confusion and whatnot. After a period of time, reality set in as to what he would be giving up, and he decided that he would actively participate in a treatment program. Today he's fully prepared. He is back to work, teaching at a community college, and he is now more financially able to pay for the cost of the toxicology screens and aftercare. At this point, he would like to come back into compliance with the Ohio State Medical Board.

Dr. Madia asked whether the Assistant Attorney General wished to respond.

Ms. Unver stated that she has no response.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MARK OWEN HENSON, M.D. MR. HAIRSTON SECONDED THE MOTION.**

Dr. Madia stated that he would now entertain discussion in the above matter.

Dr. Steinbergh noted that the Hearing Examiner's Proposed Order is for revocation, which was developed because Dr. Henson did not want to be monitored by this Board. The Proposed Order would give Dr. Henson time out to get well and does not force him to comply with a consent agreement. It would be Dr. Henson's responsibility to come back if he wants to, and it would be his responsibility to demonstrate his wellness and competency. Dr. Steinbergh stated that she came ready to vote on that Proposed Order. However, today Dr. Henson comes before the Board and asks that the Board develop another consent agreement for him. Dr. Steinbergh stated that, although she's in favor of that, she would have to ask how the Board should proceed.

Ms. Thompson suggested that the Board could handle this with an alternative order.

Dr. Egner stated that she would like to see Dr. Henson get better and added that she's disappointed when a young person gives up on medicine. She expressed concern, however, for Dr. Henson showing up today and saying, not very enthusiastically, that he's had an epiphany. Dr. Egner stated that she thinks that Dr. Henson needs significant suspension time to know that medicine is what he truly wants to do and that he's ready to do it, so that he doesn't violate the Board's Order in the next six months and find himself right back where he is because, mentally, he really wasn't ready to do this. She suggested that Dr. Henson's license be non-permanently revoked and that he take the time that he needs to really make sure that this is the right decision for him, and then he can reapply. Dr. Egner stated that either way is fine with her, as long as she's assured that he really does mean this. She stated that she's not sure of that today.

Mr. Hairston stated that he feels that Dr. Henson was honest with the Board, and that he was intimidated a little bit by sitting in front of the Board. Mr. Hairston stated that he believes that Dr. Henson has taken this

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seriously. He stated that the Board should give Dr. Henson the opportunity to work the program that the Board had set up for him. Mr. Hairston commented that, sometimes when you're out there and something happens to you, you don't respond the way everyone wants you to respond. Mr. Hairston stated that, with Dr. Henson's willingness to come before the Board today and be honest about his being here and what he wants to do, the Board should work with him.

Dr. Amato agreed with Mr. Hairston that the Board should work with Dr. Henson. He added that he's not sure that the Board would want to allow a 180 turn at this late stage in the process. He suggested that an alternative order be drafted that would stay the proposed revocation and then go into a consent agreement. Dr. Amato stated that he can see where, with the economics involved, he could not afford the kind of program he needed. Dr. Amato commented that Dr. Henson's gotten his life together a little bit, and this is somebody who really realizes he's not done what he should have done and he wants another chance. Dr. Amato stated that he wants to give Dr. Henson another chance. He would like to stay the Proposed Order and enter into a consent agreement, if that's legally possible.

Dr. Steinbergh stated that Dr. Henson entered into a Step I Consent Agreement in December 2006. He had a suspension of not less than 90 days. On June 13 he entered into a Step II. In August 2008, the Board summarily suspended his license due to his relapse, and his license has been suspended since that time. Dr. Steinbergh suggested that an alternative be drafted that would order a revocation, stay the revocation, and suspend his license for not less than nine months or a year. Dr. Steinbergh stated that she would not personally agree to reduce any suspension time by the time he's already been suspended. She added that, then, the Board could develop a Step I agreement, consistent with the Board's other step 1 agreements. The question is whether or not he needs to reenter a 28-day program. She stated that she doesn't know when his last treatment program was, but the Board could take a look at that.

Dr. Suppan asked whether Dr. Steinbergh would suggest an evaluation in this case to determine whether a 28-day inpatient program is necessary.

Dr. Steinbergh stated that she would.

**DR. STEINBERGH MOVED TO TABLE THE REPORT AND RECOMMENDATION IN THE MATTER OF MARK OWEN HENSON, M.D., TO DEVELOP AN ALTERNATIVE ORDER. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye

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Dr. Madia - aye

The motion carried.

When the matter was removed from the table, later in the meeting, Mr. Albert was absent.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MARK OWEN HENSON, M.D., BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED, that:

- A. **REVOCATION, STAYED; SUSPENSION:** The certificate of Mark Owen Henson, M.D., to practice medicine and surgery in the State of Ohio shall be REVOKED; such revocation is STAYED, and Dr. Henson's certificate shall be SUSPENDED for an indefinite period of time but not less than nine months from the effective date of this Order.
- B. **INTERIM MONITORING:** During the period that Dr. Henson's certificate to practice in Ohio is suspended, he shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Quarterly Appearances and Quarterly Declarations:** Dr. Henson shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order, or as otherwise requested by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.  
  
Dr. Henson shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  3. **Sobriety**
    - a. **Abstinence from Drugs:** Dr. Henson shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed, or

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administered to him by another so authorized by law who has full knowledge of Dr. Henson's history of chemical dependency. Further, in the event that Dr. Henson is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Henson shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Henson received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Henson shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

- b. **Abstinence from Alcohol:** Dr. Henson shall abstain completely from the use of alcohol.

4. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**

- a. Dr. Henson shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Henson shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Henson's drug(s) of choice.
- b. Dr. Henson shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Henson shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Henson shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Henson shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to

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mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result in a toxicology screen is prohibited under this Order.

- d. All screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and a Board-approved collection site, except as provided in Paragraph 6 below (“Alternative Drug-testing and/or Collection Site”). Further, the screening process shall require a daily call-in procedure.
- e. Within 30 days of the effective date of this Order, Dr. Henson shall enter into the necessary financial and/or contractual arrangements with a Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Henson shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Henson and the Board-approved DFCS. Dr. Henson’s failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Henson shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Henson and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- g. Dr. Henson shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Henson must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6 below, as soon as practicable. Dr. Henson shall further ensure that the Board-approved DFCS also notifies the Board directly of its

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inability to continue to serve and the reasons therefor.

- i. Dr. Henson acknowledges that the Board expressly reserves the right to withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
5. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Henson shall submit urine specimens to a Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Henson, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Henson.
- a. Within 30 days of the date on which Dr. Henson is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Henson, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Henson shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Henson's residence or employment location, or to a physician who practices in the same locale as Dr. Henson. Dr. Henson shall ensure that the urine-screening process performed through the alternative DFCS or supervising physician requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Henson acknowledges that the alternative DFCS or supervising physician shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Henson shall ensure that the alternative DFCS or supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Henson must immediately notify the Board in writing. Dr. Henson shall further ensure that the previously designated alternative DFCS or the supervising physician

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also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Henson shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Henson.

- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Henson's designated alternative DFCS or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
6. **Reports Regarding Drug & Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declaration. It is Dr. Henson's responsibility to ensure that reports are timely submitted.
7. **Additional Screening without Prior Notice:** On the Board's request and without prior notice, Dr. Henson must provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Henson, or for any other purpose, at Dr. Henson's expense. Dr. Henson's refusal to submit a specimen on request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.
8. **Rehabilitation Program:** Dr. Henson shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Henson shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Henson's quarterly declarations.
9. **Releases:** Dr. Henson shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for

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Dr. Henson's chemical dependency/abuse, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Henson further shall provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

10. **Absence from Ohio**: Dr. Henson shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the term of suspension, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
14. **Required Reporting of Change of Address**: Dr. Henson shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

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

1. **Application for Reinstatement or Restoration**: Dr. Henson shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions**: Dr. Henson shall have maintained compliance with all the terms, conditions and limitations set forth in Paragraph B of this Order.
3. **Evidence of Unrestricted Licensure in Other States**: At the time he submits his application for reinstatement or restoration, Dr. Henson shall provide written documentation acceptable to the Board verifying that Dr. Henson otherwise holds a full and unrestricted license to practice in all other states in which he is licensed at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
4. **Demonstration of Ability to Resume Practice**: Dr. Henson shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with

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acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:

- a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Henson has successfully completed a minimum of twenty-eight days of inpatient/residential treatment for chemical dependency/abuse. Such treatment shall be completed without interruption. Further, such treatment shall be provided in accordance with Rule 4731-16, Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code, who has access to Dr. Henson's treatment records and this Order.
- b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Henson's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependence/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Henson. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Henson shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Henson, and any conditions, restrictions, or limitations that should be imposed on Dr. Henson's practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any

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reason.

5. **Additional Evidence of Fitness To Resume Practice/SPEX:** In the event that Dr. Henson has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- D. **PROBATION:** Upon reinstatement or restoration, Dr. Henson's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Obey the Law:** Dr. Henson shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Henson shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
  3. **Practice Plan:** Prior to Dr. Henson's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Henson shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Henson's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Henson shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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

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

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

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the due date for Dr. Henson's quarterly declaration.

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

4. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Henson is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Henson's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Henson violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**
  1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Henson shall provide a copy of this Order to all employers or entities with which he is under contract to provide health-care services (including but not limited to third-party payors), or is receiving training, and the chief of staff at each hospital or health-care center where he has privileges or appointments.

In the event that Dr. Henson provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, Dr. Henson shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

2. **Required Reporting To Other Licensing Authorities:** Within 30 days of the

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effective date of this Order, Dr. Henson shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate.

Dr. Henson further shall provide a copy of this Order at the time of application to the proper licensing authority of any State or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Henson received from the Board written notification of the successful completion of the probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Henson shall promptly provide a copy of this Order to all persons and entities that provide chemical-dependency treatment to or monitoring of Dr. Henson.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Henson shall provide the Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

**DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

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The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF MARK OWEN HENSON, M.D. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

ANDREW JOHN HOLAN

Dr. Madia directed the Board's attention to the matter of Andrew John Holan. He advised that no objections were filed to Hearing Examiner Petrucci's Report and Recommendation.

**DR. SUPPAN MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ANDREW JOHN HOLAN. DR. MAHAJAN SECONDED THE MOTION.**

Dr. Madia stated that he would now entertain discussion in the above matter.

Dr. Egner stated that in this case, Mr. Holan graduated from massage therapy school with a very significant history of three DUI convictions. A 72-hour evaluation showed that he does have an issue with impairment. Mr. Holan does not want to do the 28-day program, and he has no recognition of his problem. Dr. Egner stated that she tried to look at this in the big picture. She reminded the Board that there will be new rules, and if the issue were the cost and the time out of his life, which is a huge issue for people who are trying to live their lives, and the Board is going to allow intense outpatient treatment under the new rules, it would be appropriate to deny and allow him to return and do the outpatient treatment. She continued that, on the other hand, she doesn't see anything in the record that makes her say that those are his issues. Generally speaking, this is not someone that the Board would want to license in Ohio, as any licensee.

Dr. Egner stated that she had written a note to herself that this should probably be a permanent denial. She

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acknowledged that that sounds kind of harsh, but added that this isn't like the last individual discussed, who, even in the record, you could tell was wavering back and forth as to whether or not he should give up medicine. There's nothing that she read in Mr. Holan's record that makes her think that he really wants to do this. He has a very troubled past to be a licensee of Ohio. He doesn't recognize that he has an impairment, he completely denied it at hearing, he won't go to treatment. She added that that's not to say that sometime later he may come to that realization, and, if his licensure application is permanently denied, the door would be shut to him. Dr. Egner stated that she's mindful of that, but that's not what she's really concerned with today. She stated that she would go with a permanent denial.

Dr. Steinbergh stated that she sees this as a case of impairment and is in agreement with the Proposed Order of denial. Dr. Steinbergh stated that she always feels that in cases of chemical dependency, people are perhaps not clearly thinking. Dr. Steinbergh added that she's always very thankful that she doesn't have to deal with this type of thing in her life, so she doesn't know what it's like to deal with it. All she knows is that, if there is a chance that a person would be able to prove to the Board that he has the ability to practice the profession in which he studied, then she's in favor of giving him a chance. She stated that she's in favor of denial, but not permanent denial.

Dr. Madia agreed with Dr. Steinbergh.

Mr. Jacobson stated that he's concerned about the fact that there were three DUIs. He stated that that's different than just impairment. That's endangering others, and, obviously, on repeated occasion. Mr. Jacobson stated that he agrees with Dr. Steinbergh on impairment issues, noting that all human beings are imperfect and have different sets of issues with which they struggle. His concern is that this is not just a personal problem, but one that put at risk a lot of other people on multiple occasions. Mr. Jacobson stated that on multiple occasions, Ohio, in general, struggles with multiple DUI offenders and what to do with them. Mr. Jacobson stated that that puts this into a different category from his perspective.

Dr. Steinbergh stated that impaired individuals do get convicted of DUIs, and it's part of the disease, obviously. He won't be able to practice under the Proposed Order. The only way that he would ever have the ability to come back and ask for a license is to prove over a very long period of time that he is in recovery.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- nay
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- nay
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye

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Dr. Madia - aye

The motion carried.

KYMBERLY L. JACOBS

Dr. Madia directed the Board's attention to the matter of Kymberly L. Jacobs. He advised that no objections were filed to Hearing Examiner Siobhan R. Clovis' Report and Recommendation.

Dr. Madia continued that a request to address the Board has been timely filed on behalf of Ms. Jacobs. Five minutes would be allowed for that address.

Ms. Jacobs stated that she is here today for the Board's decision on her massage therapy license. She stated that she has a written statement in response to the Report and Recommendation. Ms. Jacobs read the following statement into the record:

I believe there were a few important facts that were overlooked in the findings of the Hearing Examiner. It is true that my submission to the Board was inconclusive, but there was no attempt to deceive the Board. This is a situation that happened numerous years ago, the details of which were fairly vague to me. The items I bought were random and completely unrelated to my reasons for using the card. I admit that the repairs were not what I obtained, but, rather was the motivation for using the card. This was confirmed by Officer Truitt, page 42, lines four through ten. Soon after using the card, I realized my error and placed the card so it would be found and returned to its rightful owner. I also willingly and fully cooperated with enforcement when I was found out.

I was wrong for what I did, regardless of my motivation. There is no rationalization for what I did, though at one point in time I did feel validated. I did, however, fully account for my indiscretion.

I submitted my explanation in ignorance. I did not remember the specifics of the case because I have tried to distance myself from the situation. At no time did I purport that our debt was a valid reason for my crime. I do maintain that I did not steal the card, the word "stealing" simulates force and secrecy from, obtained from Merriam-Webster's on-line dictionary, which were not used in obtaining this card. This is not a rationalization, but a matter of context. I did not realize the weight of my words could cause the status of my license to hang in limbo. There are no words that can make me look better in this situation. I ignorantly oversimplified my requested explanation after submitting the particular information to the Board. I thought that explaining my motivation would add clarity to the case. On the contrary, I complicated matters more.

I hope that the Board can see that the strides I have taken prove that I am not a dishonest nor opportunistic individual, though I may have acted that way at one point in time over six years ago. My only motivation now is to serve the health needs of others. I've put a

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lot of time and energy into finding a career path that works for me. I only hope that the Board will grant me my license so I can continue to find success in Ohio.

Dr. Madia asked whether the Assistant Attorney General wished to respond.

Ms. Pfeiffer indicated that she did. She reminded the Board that there were really two bases for the proposed disciplinary action. It was not only that Ms. Jacobs made a false statement or misrepresentation in her application, but also that she was, in fact, convicted of a misdemeanor crime of moral turpitude, the attempted use of a credit card, which she didn't dispute.

Ms. Pfeiffer stated that at hearing, Ms. Jacobs repeatedly said that she was not trying to mislead the Board in her written statement about the nature of the conviction; but her statement, itself, reflects a bit of a pattern for her. Her pattern is to not completely own up to her wrongdoing, or , owning up only when she's confronted with the proof against her. Ms. Pfeiffer noted that in her written of explanation to the Board, Ms. Jacobs made a point to state, like she did today, that she did not steal the credit card. She referenced the dictionary definition of force and secrecy. At hearing, Ms. Jacobs explained how she came into possession of this credit card. The woman with whom she had the dispute worked at the same location she did, and preceded her at the worksite. On one day, Ms. Jacobs came in and at the desk location she saw the victim's credit card statement and a few other miscellaneous items, and so she takes it and uses it.

Ms. Pfeiffer stated that in Ms. Jacobs' perception of things, that's not stealing. Ms. Pfeiffer disagreed and stated that when you purposely take something that doesn't belong to you, you're stealing it. After she took this credit card, one of the items she purchased was a video camera. After she bought the camera, which wasn't necessarily for her own use, she said she tried to sell it. She approached several people to try to sell it, but was unsuccessful. When she was confronted by Officer Truitt about the purchases at Wal-Mart and Radio Shack, she readily admitted them. Ms. Pfeiffer stated that what Officer Truitt didn't know at that time was that she had used the card at a few other restaurants and a Mobil Station. Ms. Pfeiffer stated that, while Ms. Jacobs did admit to the use of the credit card at Wal-Mart and Radio Shack, she didn't offer the information that she also used it at a Chinese restaurant, at the Great Steak restaurant and the Mobil Station. She didn't admit to them until she was confronted about the other purchases later on.

Ms. Pfeiffer stated that one of the last questions she asked Officer Truitt was whether he sensed any type of remorse from Ms. Jacobs regarding what had transpired. His answer was: "I think it was pretty clear to me that she realized she was wrong in what she had done, but I still got the feeling that she felt she was justified in that she was owed a debt."

Ms. Pfeiffer advised that, at hearing, Ms. Jacobs initially could not remember how she disposed of the credit card. After Officer Truitt testified, her memory was jogged. She then testified that she snuck back into the residence hall, where the card owner lived, and she dropped the card in the hallway close to the residence director. Her hope was that it would ultimately get back to the owner of the credit card, which it did. Ms. Jacobs' explanation was that she wanted to get that card back to the rightful owner. Ms. Pfeiffer stated that if you want to give the card back to the rightful owner, you give it to the rightful owner. If you want to do something that might throw the police off and divert suspicion from yourself, you do what she did. Ms. Pfeiffer stated that she doesn't find Ms. Jacobs' explanation credible.

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Ms. Pfeiffer stated that she believes that Ms. Jacobs was very calculated in her conduct, she was deliberate, and she was devious. On the other hand, when she was confronted, she readily acknowledged her wrongdoing. Ms. Pfeiffer asked that the Board take both of Ms. Jacobs' actions into consideration in its deliberations.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF KIMBERLY L. JACOBS. MR. HAIRSTON SECONDED THE MOTION.**

Dr. Madia stated that he would now entertain discussion in the above matter.

After confirming that Ms. Jacobs was 19 years old and in college at the time of these events, Dr. Stephens stated that when she was 19 she did so many stupid things, although not like this. She stated that she would hope that Ms. Jacobs learned her lesson. Dr. Stephens spoke against permanently denying her a license.

Mr. Jacobson stated that he finds it very hard to reconcile the Proposed Order in this case with the one in the last case. He stated that for those Board members who recommended permanent denial in the previous case, even though it involved a criminal violation that put at risk the health and wellbeing of however many people happened to be on the roads those days. Those who argued for permanent denial were told that maybe the person might some day exhibit some interest. The Board had nothing from the person in that case to show any interest in going forward and having any kind of opportunity in the future, and yet the Board wrote one for him, or imagined one for him. Here is someone who made a mistake at an age where everyone is more prone to mistakes than they would be later in life, and the Board is talking about permanent denial. Mr. Jacobson stated that he finds that very hard to reconcile, and he will vote against this order.

Dr. Mahajan asked whether, if the Board gives Ms. Jacobs a chance, there is any way to monitor her behavior in the future for the next three years or more, until she is mature. If so, it may be reasonable for the Board to monitor her and give her a chance.

Dr. Suppan asked whether, since this event, there has been any other issues with the law for her.

Dr. Egner stated that if it's not part of the record, it can't be considered by the Board.

Dr. Stephens stated that this happened in 2003, and she feels that the time, the punishment, has been served. She would propose that the Board return her license. She hasn't been practicing, and this was three years ago. It happened when she was young and stupid. Dr. Stephens stated that she doesn't think that Ms. Jacobs' application should be denied at all.

Dr. Suppan stated that she supports Dr. Stephens opinion on this. She stated that it might not be a bad idea, though, to require her to complete an ethics course, to kind of get her off on the right foot.

Dr. Steinbergh stated that this young lady still doesn't understand what stealing is about.

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Dr. Egner agreed, adding that that's what Ms. Jacobs said to the Board today. She said today that she didn't think that this whole thing should turn on a definition of stealing. Dr. Egner stated that Ms. Jacobs was 19 and stupid at the time, but Dr. Egner, personally, has just lived with three people who recently were 19 and they are stupid. She has to take that into account. But then Ms. Jacobs gave this explanation that it wasn't really stealing, and she tried to justify it, and then the whole case gets concentrated on this one statement. Dr. Egner stated that Ms. Jacobs knows what stealing is, and she got herself into a mix of words that took on a life of their own.

Dr. Steinbergh stated that at the age of 19, the frontal lobe has not developed, 19-year-olds make stupid mistakes. She stated that she's in favor of granting a license with certain stipulations because she was 19 when she did it. Dr. Steinbergh agreed with Dr. Suppan that an ethics course should be required. Dr. Steinbergh stated that she's still offended by the fact that at Ms. Jacobs' current age she doesn't understand what stealing is. Stealing is taking something that doesn't belong to you. It doesn't mean that you have to break into someone's house to do it, but if you remove something that isn't yours, it's stealing. Dr. Steinbergh stated that the Board doesn't have to focus on that, though. Her concern is that if the Board grants Ms. Jacobs a license to practice massage therapy in Ohio, she understand her responsibilities to other human beings and what to do and not do.

Dr. Suppan stated that, even though the Board is dealing with what is being called a "stupid" occurrence, she feels the Board is also dealing with a very intelligent young woman who can be educated in what is okay and what isn't. That's why the Board should provide the education and she can go on from there. It was a bad choice, a bad decision, but it's over and she paid her dues. Dr. Suppan suggested that she go from there, have a good, forthright life and do good for people.

Dr. Stephens asked whether the Board didn't have another credit card issue with a massage therapist a few months ago. She stated that she's sure that it did, and added that she doesn't recall an ethics course being required. Dr. Stephens stated that she thinks that if you surveyed a million 19-year-olds in the definition of stealing, it's very situational. If you look at the situation Ms. Jacobs was in at the age of 19, the judgment that she used at the age of 19 doesn't indicate that she's unethical. Dr. Stephens stated that she thinks that this lesson is enough. She doesn't think she would subject to her any more of anything.

Dr. Suppan stated that the only reason she suggests it is because when Board members are appointed, they attend an ethics course at the command of the governor. She stated that she really learned a lot at the course, and she thought that she was a highly ethical person. What happens is that, when you get into those grey areas of "is it or isn't it," it gives you a decision-making process and helps to keep you out of trouble. She stated that she thinks that that is very helpful. Dr. Suppan added that she would like to believe in this young woman, and she wants to give her whatever tools it takes so that she can go forward and be successful.

Dr. Egner agreed with Dr. Suppan. She added that she doesn't want it to be some philosophical, existentialist approach to life; she wants it to be a down-to-earth, how do you make decisions when decisions are hard to make, course. She stated that every one of the medical students sitting in the room today has no clue as to the number of ethical decisions that they are going to make in their lifetimes. Dr. Egner stated that a course is greatly beneficial.

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Mr. Hairston stated that he totally agrees with allowing Ms. Jacobs the opportunity for a license. He totally disagrees about the stealing. He commented that stealing is stealing, and you know what you're doing. Mr. Hairston stated that he believes that Ms. Jacobs has probably gone through enough, personally, and with her family, that she's made whatever restitution she probably had to do, but stealing is stealing.

Dr. Mahajan stated that he feels that a course would be good for her. He commented that once she starts practicing massage therapy, she will be faced with so many other temptations. It's always good for anybody to learn ethics.

Dr. Madia stated that he agrees that she should have to complete an ethics course. He asked for a motion to table this matter to prepare an alternative order.

**DR. MAHAJAN MOVED TO TABLE THE MATTER OF KYMBERLY L. JACOBS TO PREPARE AN ALTERNATIVE ORDER.** The motion died for lack of a second.

Dr. Steinbergh suggested that the alternative could be very simple. The Board could grant the license with stipulations that she complete an ethics course.

**DR. STEPHENS MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER, GRANTING MS. JACOBS A LICENSE, WITH A STIPULATION THAT SHE SUCCESSFULLY COMPLETE AN ETHICS COURSE WITHIN THE NEXT SIX MONTHS, AND THAT SHE APPEAR BEFORE THE BOARD AT THE END OF ONE YEAR. DR. MAHAJAN SECONDED THE MOTION.**

Ms. Thompson asked whether the Board wanted the standard requirement that Ms. Jacobs be required to report this action should she apply for a position or another license.

Dr. Stephens stated that she doesn't.

Ms. Thompson said that the Amended Order would then grant Ms. Jacobs a license and place her on probation, with the only probationary terms being that she completes a personal ethics course within six months of the Order, and that she appears before the Board at the end of the year.

Dr. Stephens stated that if the word "probation" is used, then that's something she would have to report. She asked whether, if someone wants to know how she's doing after the ethics course, the Board could just order her to take the course and appear before the Board after completing it.

Mr. Whitehouse stated that for the order to have teeth, he thinks that it will have to be labeled or considered as probation; otherwise, it's just a suggestion.

Dr. Steinbergh agreed.

Mr. Jacobson asked for clarification. He asked whether, if the Board grants a license with a condition, that



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Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Suppan	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF KYMBERLY L. JACOBS. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

#### RANDALL LEWIS KNOX

Dr. Madia directed the Board's attention to the matter of Randall Lewis Knox. He advised that no objections were filed to Hearing Examiner Petrucci's Report and Recommendation.

Dr. Madia continued that a request to address the Board has been timely filed on behalf of Mr. Knox. Five minutes would be allowed for that address.

Mr. Knox was accompanied by his attorney, Jessica L. Johnson Olsheski, Esq. Ms. Olsheski stated that in January 2007, Mr. Knox learned that there was going to be an investigation into his application to practice massage therapy. When he learned there was going to be an investigation, he immediately participated in a 72-hour inpatient program for alcohol addiction. After he completed that 72-hour program, he immediately participated in a 30-day outpatient program. Unfortunately for Mr. Knox, he was unaware of the statutory

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requirements for a continuing aftercare contract. He, in fact, was not aware of those requirements until he came to visit her and asked her to assist him in preparing for the hearing he had in October.

Ms. Olsheski stated that Dr. Edna Jones has reviewed Mr. Knox's file and submitted a letter to the Board, which was admitted into evidence during the October hearing. Ms. Olsheski stated that Dr. Jones could not find any evidence in the Center for Chemical Addictions Treatment (CCAT) records that Mr. Knox had been informed of his continuing requirements for aftercare. She commented that CCAT is a Board-approved treatment center. Ms. Olsheski stated that she's not making excuses for Mr. Knox, but is only giving an explanation to the Board as to why, as of today, he has not completed his two-year aftercare contract.

Ms. Olsheski continued that, despite the fact that he didn't have any awareness of the statutory requirements, he did continue with aftercare on his own, doing 90 A.A. meetings in 90 days. He is, and continues to be, committed to a twelve-step program for alcohol addiction recovery, and he completed aftercare programs with both Greene Leaf and TCN, a behavioral modification program. She noted that Dr. Jones describes Mr. Knox as sincere, motivated and honest. Dr. Jones recommended that Mr. Knox be able to have contact with the public and with patients after he has had three months of sobriety. Ms. Olsheski stated that Mr. Knox did have a long stretch of sobriety from October 3, 2007 to October 9, 2008, while he was participating in these various aftercare programs on his own. He had a one-day relapse, but since October 10, he has been sober. Ms. Olsheski stated that that meets Dr. Jones' requirement that he not have contact with the public until he has three months of sobriety. He has, in fact, had three months of sobriety at this time.

Ms. Olsheski stated that now that Mr. Knox knows the State of Ohio's requirements for aftercare contracts, Mr. Knox is absolutely committed to becoming a licensed massage therapist. He's willing to do what he needs to do to comply with the Board's requirements for continuing oversight. She stated that they would propose that Mr. Knox be able to obtain his license immediately on the condition that he continue with aftercare for six months.

Mr. Knox thanked the Board for allowing him to appear before it. He stated that the disease of alcoholism can be frustrating at times, but, like with everything else in life, it's what you do with what life throws at you that's important. The last 18 months for him probably have been the most rewarding time of his life. He feels that he's had a lot of growth as a person. He made some mistakes in his life, but he wouldn't take any of that back because it's helped make him the person that he is today.

Mr. Knox stated that after starting a period of sobriety, he'd been to numerous colleges to find something that he loved to do in life. He started pursuing massage therapy after that. He talked to some people who told him that he was crazy, that the money and the time expenditure would be outrageous. But he'd finally found something he loved to do in life, and he decided that he'd take a chance and do everything he could, comply with everything he was told to do. Right now, his A.A. program, the people he's met in that community, the friendships he's made, and the Caduceus meetings he goes to every week are the most important things in his life.

Mr. Knox stated that something else important in his life is massage therapy. For him, working with a

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client, helping people out with issues, is not just work or a job. It makes him feel good and right. Mr. Knox stated that he hasn't found anything else that makes him feel that way; it's kind of a spiritual experience for him. He gets done working with a client and he feels great afterwards. He commented that it feels like the thing he's been searching for his whole life. He added that he prays that he's done enough to show that he's serious and committed about this. He's willing to do anything that he needs to do to pursue this as a career. He stated that he hopes that he'll have the chance to do that.

Dr. Madia asked whether the Assistant Attorney General wished to respond.

Ms. Unver stated that in August 2006, Mr. Knox filed an application for a certificate to practice massage therapy in Ohio. Today the Board must decide whether to approve that application and give a license to him. Ms. Unver stated that the State agrees with the Report and Recommendation that proposes that Mr. Knox's application be denied, and for good reason. She advised that Mr. Knox was cited by the Board for two separate types of violations: impairment of ability to practice according to acceptable and prevailing standards of care, and his history of felony convictions.

Ms. Unver stated that Mr. Knox's history is troubling because it involved destructive behavior, which was evidenced by his conviction for felony theft and vandalism in the year 2000, when he broke into a science building, destroyed property and stole students' property while he was a senior at a university. Mr. Knox's history also involved dangerous behavior, which is evidenced by his 2004 conviction for operating a vehicle while impaired, a felony of the fourth degree based on his three prior convictions for operating a vehicle while impaired.

Ms. Unver stated that while the felony theft and vandalism convictions are troubling because they involve victims' property, it is Mr. Knox's repeated pattern of operating a motor vehicle while impaired which is a more serious threat to the safety of the public.

Ms. Unver stated that this brings the Board to the other violation she mentioned: the impairment of ability to practice. She noted that Mr. Knox has been receiving treatment to address his impairment issue for approximately the past ten years. A lot of this has been court-ordered treatment. Most recently, Mr. Knox completed a 72-hour inpatient impairment evaluation ordered by the Board. He then entered a 28-day treatment program at CCAT in 2007. Although he was discharged with treatment complete, he admitted to having a relapse just six days before the hearing. Since this relapse happened within one year following treatment, contrary to Dr. Jones' opinion, Mr. Knox is required by statute to complete another 28-day inpatient treatment program. The State agrees with the Hearing Examiner's assessment that this recent relapse demonstrates that Mr. Knox is not stable enough to safely practice massage therapy at this time. Ms. Unver stated that the State asks that the Board adopt the Report and Recommendation.

**MR. HAIRSTON MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF RANDALL LEWIS KNOX. DR. AMATO SECONDED THE MOTION.**

Dr. Madia stated that he would now entertain discussion in the above matter.

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Dr. Stephens stated that this is another case where wrong is wrong; and of the list of things that are wrong, DUI is the worst. You can replace goods, you can replace money, you can serve time for stealing; but when you drive under the influence and kill somebody, you cannot replace that life. Dr. Stephens stated that there's a greater issue as to why this is just a proposed denial and stealing is a permanent denial. Dr. Stephens noted that Mr. Knox has four DUIs and the Proposed Order is for denial only. She stated that she wonders what the difference is.

Dr. Egner stated that she looks at Mr. Knox a lot more seriously. She stated that Mr. Knox has a terrible pattern in short periods of time. She added that Mr. Knox has not demonstrated at all that he can stop drinking and driving. Dr. Egner stated that she looks at this case and asks whether this is someone that the Board wants to license. The next time he goes out and drinks and drives, maybe something absolutely tragic will happen, but the Board has said, "we believe in him." Dr. Egner stated that she doesn't know that Mr. Knox has provided evidence to the Board that it should believe in him. If he's going to have a license, he has got to go through treatment again. She stated that this case is scary.

Dr. Egner stated that there's a part of her that says, if the Board is acting in the public good, it would not turn him away and tell him to go through treatment because maybe he will have more success at recovery. If the Board is just interested in someone demonstrating their ability to be a licensee, she doesn't think that Mr. Knox has done that.

Dr. Mahajan stated that if the Board doesn't give Mr. Knox a license, there is no guarantee that he won't still drink and drive. By licensing him and monitoring him, the Board can keep an eye on him.

Dr. Steinbergh stated that she is in favor of the Proposed Order denying the license.

Mr. Hairston agreed with Dr. Steinbergh.

Dr. Steinbergh stated that the Proposed Order means that Mr. Knox can come back in the future when he has things together. He will need to stay sober for a long period of time before she would be willing to license him.

A vote was taken on Mr. Hairston's motion to approve and confirm:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

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The motion carried.

JOHN FRED SYLVESTER, JR.

Dr. Madia directed the Board's attention to the matter of John Fred Sylvester, Jr. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

Dr. Madia continued that a request to address the Board and a request for a continuance have been timely filed on behalf of Mr. Sylvester. He stated that the request for a continuance was considered by Dr. Amato in his absence, and that Dr. Amato denied that request. Dr. Madia advised that a second request for a continuance was filed the previous day, and he personally denied that request. He advised that he denied the request because Mr. Sylvester's reason for making the second request for a continuance was that he has a sprained ankle; however the documentation that he submitted from his doctor stated that Mr. Sylvester would be able to return to work on January 12. Dr. Madia stated that he if can return to work on January 12, he can appear before the Board on January 14. Dr. Madia advised that five minutes would be allowed for Mr. Sylvester's address.

Mr. Sylvester was not present at the time of the meeting to make his statement.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JOHN FRED SYLVESTER, JR. DR. SUPPAN SECONDED THE MOTION.**

Dr. Madia stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that Mr. Sylvester is attempting to get a massage therapy license. He has been convicted of a felony. He attempted to murder a former girlfriend in 1996 by shooting her three times in the head and neck. She did survive that shooting.

Dr. Steinbergh stated that Mr. Sylvester has spent a good deal of time defending himself. He came to the hearing, brought many sound witnesses who attested to his current character, his work ethics, and his desire to move forward in his life. They feel his moral character is sound. One of his colleagues who came to testify about his character knew that he had a felony conviction but didn't know that it was for attempted murder.

Dr. Steinbergh stated that she struggled with this case. She stated that on the surface, there was no way that she could allow someone convicted of attempted murder to get a massage therapy license. On the other hand, she listened to the character witnesses, she saw what he's done in his life so far, and she's sensitive to that. She stated that she comes with a somewhat open mind, although she probably supports the Proposed Order. Dr. Steinbergh commented that she has a great deal of difficulty, morally, with this type of thing.

Dr. Egner stated that she has the same issue, but she thinks that there are certain things that just cross the

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line. For her, this is definitely one of them. He attempted to kill someone with a gun. Dr. Egner stated that she was ready to permanently deny some of the previous cases, and Mr. Sylvester tops those cases.

Dr. Egner stated that it is a shame. Mr. Sylvester may have turned his life around; he may be a different person today. She added that one's past doesn't always get erased. It's a fact of life. It's unfortunate sometimes. Many would like to have things from the past forgotten and erased, and this is one of those. She added that the Board won't be alone in taking that into consideration.

Dr. Egner stated that she also was thinking about the job of a massage therapist, noting that it's a pretty isolated thing. You're really on your own, you're not supervised directly in what you're doing. She can't see the Board putting the public in a situation like that. It's like there will be a sign outside the massage therapy door saying that this man was convicted of attempted murder but the Medical Board stands behind him, thinks he's made a turn-around. Dr. Egner stated that it's unfortunate, but this was over the line.

Dr. Stephens stated that although she doesn't think that credit card fraud as a college student rises to the level of permanent revocation or denial, she thinks that attempted murder at any age definitely does. There are consequences and people need to remember that. This is just one of those consequences that Mr. Sylvester will have to live with.

A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

Dr. Egner stated that she feels like the Board is perhaps inadequately talking with massage therapy schools. They're taking everyone and anyone. The Board doesn't know whether the schools are looking at potential students' histories. Are they asking them for any information when they come in? If not, they should be. If they are, they really owe it to these people to tell them that they may attend the school but be unable to obtain licensure or to work as a massage therapist. The students should know that going into the school.

Dr. Egner stated that she looks at how awful the pass/fail rate on the December exams is. She stated that this is not right. The schools are stealing people's money.

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Mr. Hairston stated that he's been on the Board for a year, and this is probably the fourth case he's seen where a massage school has done a dishonor to the person who has spent hard-earned money at the school and the Board has had to deny a license. He stated that he thinks it's wrong.

Dr. Steinbergh stated that the Limited Branch and Alternative Medicine Committee has discussed the issue of communication with the schools. She stated that there's a question as to whether or not the Board can predispose that kind of thing. An individual has the right to that kind of education. She stated that there was some evidence in one hearing that the school did educate the potential student about licensure issues and that there was an inquiry even at the Medical Board. She commented that this is a huge issue for the Board.

Mr. Jacobson stated that it's not just the students who lose their money, but also the taxpayers and Federal Government. The reason a lot of these schools operate in the way they do is because they want the subsidies they get. They don't care if the students default later on their student loans. They exist to run them through and to take as much student loan money as they can. Mr. Jacobson stated that if the Board does anything, it ought to be a dual course:

- 1.) The Board ought to be in touch with the Federal student loan people and urge them to recognize this as an issue. Graduates of these schools require licenses to practice when they've finished school, and the schools need to do an appropriate job of giving people all they need to know whether or not this is going to be worthwhile. Otherwise, in a different way, it's just stealing from the government.
- 2.) The Board may not know what to do here, but it is an appropriate topic to explore for potential legislation, at least for Ohio-based massage schools, requiring counseling with applicants to the schools.

Mr. Albert stated that Ohio has about 11,000 licensed massage therapists. He stated that he thinks that the schools oversell their expectations of what's available to these young people. At some point in time the Board needs to discuss withdrawing accreditation from schools whose pass/fail rate falls below a certain rate. He stated that they take the money and he thinks that some of the schools don't care whether or not their students pass the licensing examination.

Dr. Talmage stated that there is a rule where pass/fail rates will be examined and the Board can decertify schools whose students fall below that rate.

Dr. Suppan stated that it's her understanding that in order to obtain a nursing license, there is a criterion that you have to be able to pass, i.e., you cannot have a felony conviction, and that that was actually a piece of legislation that was passed. She asked whether that is correct.

Ms. Debolt advised that there has been Legislation that says that you cannot bar someone flat-out on a felony conviction.

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Mr. Miller stated that the Nursing Board does have statutory authority that prevents individuals who have been convicted of certain sexual crimes from being eligible even to file an application.

Mr. Albert asked Mr. Miller to get the Board a copy of that.

Dr. Madia suggested that this discussion be held in Group 2.

FINDINGS, ORDERS & JOURNAL ENTRIES

Dr. Madia advised that in the following matters, the Board issued Notices of Opportunity for Hearing, and documentation of service for each was received. There were no requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. The matters are therefore before the Board for final disposition. He added that Dr. Talmage and Mr. Albert may participate in the discussion and vote in the matters of Dr. Charles, Dr. Hartman and Dr. Matheson, as those cases are not disciplinary in nature and concern only the individuals' qualifications for licensure.

RONALD ALBERT CHARLES, M.D.

**DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 3, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. CHARLES' APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO, SUBJECT TO HIS PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF DECEMBER 3, 2008. DR. AMATO SECONDED THE MOTION.**

A vote was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Suppan	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

Mr. Jacobson left the room at this time.

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MELISSA KAY HARTMAN, M.D.

**DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 3, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. HARTMAN'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO, SUBJECT TO HER PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF DECEMBER 3, 2008. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

Mr. Jacobson returned to the room at this time.

MICHAEL ROBERT MATHESON, M.D.

**DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 3, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. MATHESON'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO, SUBJECT TO HIS PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF DECEMBER 3, 2008. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye

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Dr. Steinbergh - aye  
Dr. Madia - aye

The motion carried.

KELLEY LYN STINGLEY

**DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE NOVEMBER 12, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING MS. STINGLEY'S APPLICATION FOR A CERTIFICATE TO PRACTICE MASSAGE THERAPY. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Suppan	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

Dr. Stephens left the meeting at this time.

CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSION

SHEILA ANNETTE BARNES, D.O. – CITATION LETTER

At this time the Board read and considered the proposed citation letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. BARNES. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Suppan	- aye

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Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

**GEORGE D. J. GRIFFIN, III, M.D. – CITATION LETTER**

At this time the Board read and considered the proposed citation letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. GRIFFIN.  
DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

Dr. Stephens returned to the meeting at this time.

**JOHN MARK HATHEWAY, M.D. – CITATION LETTER**

At this time the Board read and considered the proposed citation letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. HATHEWAY.  
DR. STEPHENS SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye

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Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

MICHAEL ANTHONY LISTON – CITATION LETTER

At this time the Board read and considered the proposed citation letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO MR. LISTON.  
DR. STEPHENS SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

JENNIFER MARIE TUCKER - LETTER OF PROPOSED DENIAL

At this time the Board read and considered the letter of proposed denial in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

**DR. STEINBERGH MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO  
MS. TUCKER. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye

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Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

#### RATIFICATION OF SETTLEMENT AGREEMENTS

Board members were provided with copies of settlement agreements negotiated by Board staff and/or the staff of the Office of the Attorney General, as authorized by the Board's Secretary and Supervising Member, and as appropriate, the Board President, as well as copies of summaries of the agreements. The names and license numbers of the licensee or applicant subjects of such settlement agreements were removed from these documents.

#### HERMAN BRYANT, M.T. – PERMANENT SURRENDER/ CONSENT TO REVOCATION OF LICENSE

**DR. STEINBERGH MOVED TO RATIFY THE PERMANENT SURRENDER WITH CONSENT TO REVOCATION OF MR. BRYANT'S LICENSE TO PRACTICE MASSAGE THERAPY IN OHIO. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

#### RONALD MICHAELS JOHNS, P.A. – CONSENT AGREEMENT

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED STEP 1 CONSENT AGREEMENT WITH MR. JOHNS. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:



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Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

STEPHEN T. MCCARREN, M.D. – CONSENT AGREEMENT

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED STEP II CONSENT AGREEMENT WITH DR. MCCARREN. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

SHAILEN RAJENDRA PATEL, M.D. CONSENT AGREEMENT

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED STEP 1 CONSENT AGREEMENT WITH DR. PATEL. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

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The motion carried.

LARY RICHARD KORN, D.O. – PERMANENT SURRENDER/ CONSENT TO REVOCATION OF LICENSE

**DR. STEINBERGH MOVED TO RATIFY THE PERMANENT SURRENDER WITH CONSENT TO REVOCATION OF DR. KORN'S LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY IN OHIO. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

ELIZABETH JEAN MARTIN, P.A. – CONSENT AGREEMENT

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MS. MARTIN. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

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MADLYN RENEE SARTAIN, D.O. – CONSENT AGREEMENT

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. SARTAIN. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

LYNNE A. EATON, M.D. CONSENT AGREEMENT

**DR. MAHAJAN MOVED TO RATIFY THE PROPOSED STEP 1 CONSENT AGREEMENT WITH DR. EATON. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- abstain
	Dr. Madia	- aye

The motion carried.

Dr. Madia asked for a motion to table this topic until the following morning.

**DR. STEINBERGH MOVED TO TABLE THE TOPIC UNTIL THE THURSDAY MORNING SESSION. DR. MAHAJAN SECONDED THE MOTION.** All members voted aye. The motion carried.

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The Board took a brief recess at this time. When the meeting reconvened, the following members were present: Dr. Madia; Dr. Steinbergh; Dr. Amato; Dr. Mahajan; Dr. Stephens; Mr. Hairston; Dr. Talmage; and Mr. Jacobson.

PROBATIONARY APPEARANCES

JEANNE M. KIRKLAND, M.D.

Dr. Kirkland appeared before the Board pursuant to her request for release from the terms of her January 12, 2005 Consent Agreement.

Ms. Bickers reviewed Dr. Kirkland's history with the Board.

In response to Board members' questions, Dr. Kirkland stated that she has been in practice since 1981. She had been practicing pain management on some of her patients, and her chart documentation for those patients was not satisfactory to the Board. The patients she'd been seeing testified for her at hearing, and she's still seeing most of those patients, however, they're now also being followed by pain management specialists, which she feels is appropriate. Dr. Kirkland stated that she thinks that she's learned a lot from this experience, and she thinks that it's very important to document in the charts. Her documentation was not good. Dr. Kirkland stated that she now feels that her documentation is very good, compared to what it was when she first started practice.

**DR. MAHAJAN MOVED TO RELEASE DR. KIRKLAND FROM THE TERMS OF HER JANUARY 12, 2005 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION.**

All members voted aye. The motion carried.

Dr. Steinbergh, Dr. Egner and Dr. Suppan returned to the meeting at this time.

SIMON G. KOVALIK, M.D.

Dr. Kovalik appeared before the Board pursuant to his request for release from the terms of his January 10, 2007 Consent Agreement.

Ms. Bickers reviewed Dr. Kovalik's history with the Board.

In response to Board members' questions, Dr. Kovalik advised that this has been a rough four years for him, but he is now doing fine. He stated that he's a good man, shamed, and this has been an ordeal for him. He stated that it was not his usual method of behavior and he should have known better. He was the doctor and the licensed professional, and he should have known better on many levels.

Dr. Kovalik explained that a woman with whom he had had a longstanding sexual relationship asked him to do sclerotherapy treatment for her years into the relationship, and he did. The relationship soured and she made threats against him. He did not know what to do, so he sought the advice of the Medical Board. The Medical Board advised him to come clean, and he did so with his self-report. Although he thought that

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the ethical violation was not serious, he has realized what it means to be a licensed physician and he does realize the ethical standards to which a physician is held.

Dr. Kovalik stated that now both his professional and personal lives are okay, and he would be very happy to get this behind him.

**DR. STEINBERGH MOVED TO RELEASE DR. KOVALIK FROM THE TERMS OF HIS JANUARY 10, 2007 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Stephens stressed to the students in the room that it is completely unethical to have a sexual relationship with a patient, no matter how you try to justify it..

CHARLES CHRISTIAN RICKEY, P.A.

Mr. Rickey appeared before the Board pursuant to his request for release from the terms of the Board's Order of December 14, 2005.

Ms. Bickers reviewed Mr. Rickey's history with the Board. She added that Mr. Rickey has completed the ethics course required by the Board's Order and has submitted a summary, but she has been unable to locate it. She added that he will provide a copy, but he has just moved and he has to find it.

In response to Board members' questions, Mr. Rickey stated that he completed his required ethics course in November 2006. He stated that he went to Cuyahoga College in Cleveland and attended two days there with Dr. Homenko.

Dr. Steinbergh stated that Mr. Rickey should have submitted his summary of the course some time ago.

Ms. Bickers stated that the Board records show that the summary was received from Mr. Rickey, but it cannot be located.

Mr. Rickey stated that currently he is working with the 3<sup>rd</sup> Special Forces Group, 82 Airborne at Fort Bragg. He works as a private military contractor. He also works in the State of Kentucky at Three Rivers Hospital in Louisa, KY as a part-time physician assistant for Whitaker National Emergency Services.

Mr. Rickey explained to the students in the room that his troubles began in 1995, long before he was ever in the medical field. He stated that it's important for people who are considering a medical career to think about the future and what they're going to do. Mr. Rickey stated that he's not proud of the things he did in his youth, but he did make the choice to be a productive member of society and to help people. Mr. Rickey stated that the ethics course is one of those things that does enlighten you and show you that you do make a difference in people's lives.

Mr. Rickey thanked the Board for giving him the opportunity. He stated that he worked hard to get out of a hole – he went to school, did all the right things, worked minimum wage jobs, did everything possible to

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make sure that he was able to pay for his own college to get through this and to be a productive member. Now he's helping people. He's helping the members of the Armed Forces, and he's very proud of that.

**DR. STEINBERGH MOVED TO RELEASE MR. RICKEY FROM THE TERMS OF THE BOARD'S ORDER OF DECEMBER 14, 2005. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

MARIE T. SHEDLOCK, P.A.

Ms. Shedlock appeared before the Board pursuant to her request for release from the terms of her January 14, 2004 Consent Agreement.

Ms. Bickers reviewed Ms. Shedlock's history with the Board.

In response to Board members' questions, Ms. Shedlock stated that she is doing well and is working as an orthopedic P.A. She spends two days a week in the operating room and three days in the office.

Ms. Shedlock stated that her problems arose when a nurse reportedly smelled alcohol on her from the night before. She entered a 28-day treatment program, which was successful. She has been sober since June 25, 2003.

Ms. Shedlock stated that she's very happy and very pleased with her life right now. She has a wonderful job and a wonderful family. She thanked Mr. Albert, Ms. Bickers and Ms. Gillman for their support.

**MR. HAIRSTON MOVED TO RELEASE MS. SHEDLOCK FROM THE TERMS OF HER JANUARY 14, 2004 CONSENT AGREEMENT. DR. AMATO SECONDED THE MOTION.** All members voted aye. The motion carried.

MARK D. BALDWIN, D.O.

Dr. Baldwin made his initial appearance before the Board, pursuant to the terms of his October 8, 2008 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Baldwin's history with the Board.

Dr. Steinbergh advised Dr. Baldwin that she's disappointed in seeing him here again.

Dr. Baldwin stated that he thinks that he put other things before his recovery. He got over-confident. He advised that his wife has been very supportive, as have his friends. He added that now he's focusing on what he knows worked in the past. He's putting his sobriety first.

In response to further questions about his relapse, Dr. Baldwin explained that he went through a stretch without a day off, he was having financial issues with his insurance company, and he had a lot of stress. He was at a party and it kind of just "hit" him. He had a drink and that was it.

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Dr. Baldwin advised that he does understand the terms of his new consent agreement.

Dr. Steinbergh advised that when a physician relapses, not only is it devastating to the physician but also to his patients because the patients have to find a new physician. She added that sometimes the physician will never regain the ability to return to practice.

**DR. STEINBERGH MOVED TO CONTINUE DR. BALDWIN UNDER THE TERMS OF HIS OCTOBER 8, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

ANDREW J. CASTELLANOS, M.D.

Dr. Castellanos made his initial appearance before the Board, pursuant to the terms of the Board's Order of September 10, 2008.

Ms. Bickers reviewed Dr. Castellanos' history with the Board.

In response to Board members' questions, Dr. Castellanos stated that he is doing fine. He's finished his residency and he is now chief resident at the same hospital. Dr. Castellanos advised that he does understand the Board Order.

Dr. Castellanos stated that his problems stem from something that occurred when he was a third year medical student. One of his close friends asked for a letter of recommendation. He put himself in a position to have a letter facilitated for her. Dr. Castellanos stated that he has learned from his mistake and understands that it's very important for physicians to be honest to both themselves and to their patients.

Dr. Castellanos thanked the Board for the opportunity to practice medicine and to move forward.

**DR. MAHAJAN MOVED TO CONTINUE DR. CASTELLANOS UNDER THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 10, 2008, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

PAUL E. DUNCAN, M.D.

Although scheduled to appear before the Board, Dr. Duncan did not appear.

SRIPRIYA DOSS KOLAKALUR, M.D.

Dr. Kolakalur made her initial appearance before the Board, pursuant to the terms of her October 8, 2008 Consent Agreement.

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Ms. Bickers reviewed Dr. Kolakalur's history with the Board.

In response to Board members' questions, Dr. Kolakalur advised that she is currently in a group practice as a hospitalist in Akron. The medications she is currently taking are Lamictal and Effexor. She advised that the Lamictal was prescribed because she has epileptic activity in her frontal lobe. She added that Lamictal is also a mood stabilizer.

Dr. Kolakalur advised that she does understand the terms of her consent agreement.

**MR. HAIRSTON MOVED TO CONTINUE DR. KOLAKALUR UNDER THE TERMS OF HER OCTOBER 8, 2008 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION.** All members voted aye. The motion carried.

RAVI DUTT MADAN, M.D.

Dr. Madan made his initial appearance before the Board, pursuant to the terms of his October 8, 2008 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Madan's history with the Board.

Dr. Madia asked Dr. Madan how he got on all those medicines.

Dr. Madan advised that he was working 18 hours a day and he was having a lot of pain. He lost ten pounds at that time because he couldn't keep anything down. In oncology, you use Ativan for nausea if nothing else works. He took it a few times. He stated that for the last four months he hasn't taken anything. He added that he has been compliant with the program. He attends ten to twelve A.A. meetings a week rather than two or three. He stated that he's very active in A.A., he's going in for all of his screenings, and he's trying to get back on track.

Dr. Steinbergh stated that this is a significant impairment. She asked how he got started with it and what the trigger was.

Dr. Madan stated that he had stress and he started hurting in the back. He thought it was back pain, but he eventually went to a gastroenterologist, who found that he has 150 ulcers in his stomach and one big ulcer in the duodenum, which was causing the back pain. So, once that started to heal up, he started to get better. He was self-medicating, which he should not have done.

Dr. Steinbergh asked how long he's had this dependency.

Dr. Madan stated that it's only been for the last 12 to 18 months. When he went into the rehab program, he didn't need anything for withdrawal.

Dr. Egner asked whether, when he prescribed for his family members, he was giving them prescriptions to

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get filled.

Dr. Madan stated that he prescribed for his mother-in-law, who had medical conditions. He stated that she was getting used to Loricet and she needed something. She needed a hip replacement but did not want to have surgery.

Dr. Egner asked whether Dr. Madan took his mother-in-law's Oxycontin.

Dr. Madan stated that he did a few times, but not on a regular basis.

Dr. Egner asked for whom he prescribed Percocet.

Dr. Madan stated that he never prescribed Percocet. He mostly prescribed Loricet. He never took Ultram, that was for his mother-in-law. The Xanax was also for her. He took that once in a while.

Dr. Egner stated that this is a problem, adding that Dr. Madan is lying to her.

Dr. Madan stated that he's not lying. He added that he never took Ultram. He took Xanax and Loricet.

Dr. Egner stated that she has a long history with the Board, and she trusts that when a record says, "Dr. Madan further admitted that he ingested Oxycontin, Percocet, Loricet, Ultram, Xanax and diazepam that he prescribed for family members and another individual associated with his household from in or about November 2006 to May 2008," that that record is factual. She asked whether it is factual.

Dr. Madan stated that he would say that most of it is factual.

Dr. Egner stated that she thinks that Dr. Madan purposely prescribed controlled substances to family members, knowing that that would give him easy access to them himself.

Dr. Madan stated that it was an easy way to relieve his pain, and to some extent that's also true.

Dr. Egner asked Dr. Madan whether he is an addict.

Dr. Madan stated that he would say that he was abusing. He stated that there's a fine line in addiction. He added that he accepted that he's an addict and that's why he went to the programs and he's working hard in the program. He has not ingested anything in the last four months, not a single pill of any type except Tylenol or Advil.

Dr. Egner stated that she's really concerned about Dr. Madan. She stated that she thinks that his likelihood to relapse is extremely high because she doesn't think that he has a good sense of what his problem is. She stated that she may be wrong.

Dr. Madan stated that he's accepted it and he's working very diligently. He's going to more meetings than he should be going to, and he participates in the meeting. He doesn't just go there and sit and listen. He's

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very proactive. He again stated that he attends ten to twelve meetings in a week and he's very active in teaching other addicts how to get help from them. He stated that he's not taking it passively, but he's working the steps actively and he's now on the eighth step. At the request of his sponsor, he bypassed Step 4. He stated, though, that he's working the steps practically. He's not just reading them and doing nothing. He's been very active since he went to Toledo Hospital. He advised that he has not written any prescriptions for anyone since May.

Dr. Madia asked whether Dr. Madan has taken a course on ethics.

Dr. Madan stated that he has not.

Ms. Bickers advised that it is not required by the consent agreement.

Dr. Madia told Dr. Madan to take his consent agreement seriously. He added that if he doesn't, Dr. Madan will relapse, as Dr. Egner said. Dr. Madia stated that with the different types of medications Dr. Madan was taking, it would be very easy to relapse.

Dr. Madan stated that he's working for himself, not anybody else, and he's taking it very seriously.

**DR. STEINBERGH MOVED TO CONTINUE DR. MADAN UNDER THE TERMS OF HIS OCTOBER 8, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Steinbergh told Dr. Madan that the Board wants him to succeed.

Dr. Madan stated that he is determined, adding that he works on it one day at a time.

JASON R. MOLDER, M.T.

Mr. Molder made his initial appearance before the Board, pursuant to the terms of the Board's Order of October 8, 2008.

Ms. Bickers reviewed Mr. Molder's history with the Board.

In response to Board members' questions, Mr. Molder stated that he doing well. He does have the support of his family. He advised that he is also employed. He is currently working at a Pizza Hut, but it's not what he really wants to do. He stated that he would much rather be working in his practice. He stated that when he first got into school, he somehow got it into his head that he has to do everything on his own. He learned a lot through doing that, but now he still wants to pursue that angle. He also wants to work with more people, such as employers, and work for someone a little bit. He added that he feels that he can use that support.

Dr. Egner asked Mr. Molder what his misdemeanors were.

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Mr. Molder stated that he doesn't know, but he had a bunch of misdemeanors when he was younger, He just kept getting into trouble. He's 32 now.

Dr. Egner asked Ms. Bickers what he did.

Ms. Bickers stated that it would take her a moment to find that information.

Dr. Egner told Mr. Molder that he should be able to remember.

Dr. Stephens asked how old he was when he committed those misdemeanors.

Mr. Molder stated that he got into trouble the most between the ages of 18 to 21. He was just really troubled and negative. He drank a lot. He stated that he had a lot of problems and as a result, he just kept doing things that the law didn't like. He added that they weren't huge violations.

Ms. Bickers stated that in 1995 there was a disorderly conduct, assault, three misdemeanor counts of theft; in 1996 there was disorderly conduct, resisting arrest, assault, carrying a concealed weapon; in 1997 there was disorderly conduct, intoxication, criminal damaging, resisting arrest, aggravated menacing; in 2000 a misdemeanor count of reckless operation.

Dr. Egner stated that she would assume that most of those were under the influence of alcohol.

Mr. Molder stated that they were for the most part. He added that they sound a lot worse than they actually were. They're extremely blown out of proportion. He stated that it sounds bad.

Dr. Egner asked whether he still drinks alcohol.

Mr. Molder stated that he doesn't.

Dr. Egner asked whether he considers himself an alcoholic.

Mr. Molder stated that he doesn't. He stated that he hasn't drank in many, many, many years because he discovered spirituality and self-healing and all that. That has replaced his need to want to depend on things to make him feel better. He stated that he found out that he can go inward, do things with himself and bring about good results by switching things from the inside. He doesn't really need substances or drugs or any of that stuff to cover it up.

Dr. Egner stated that that's wonderful. She added that he will need support when he goes back into practice because he doesn't know what he's doing. He would like to make a living and he would like it to be secure. Dr. Egner stated that there is a lot of stresses in being an individual practitioner and provider. She stated that, at least in the beginning, she would advise him to hook himself up with people who would be good mentors for him from a business standpoint, a practice standpoint, somebody he could go to if he has questions about some client interaction, what to do when a client doesn't pay his bill but wants to come

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back another time. She stated that these things add up to cause a lot of stress in life. She stated that she would hate to see him fall back into his old ways. She added that she knows that he said that he was really young when those things happened, but the last one happened in 2000, and that's not that long ago.

Dr. Madia asked Mr. Molder when he went to school.

Mr. Molder stated that he went to massage school in 2003.

Dr. Madia asked whether the school asked him whether he had any substance or legal problems.

Mr. Molder stated that he doesn't really remember.

Dr. Madia asked whether the school told him that, with this background, even if he finished school, he would have a hard time getting a license.

Mr. Molder stated that he wasn't aware of any of that.

Dr. Suppan stated that when he listens to Mr. Molder's story, it sounds like he's really taken himself through the school of hard knocks and he's learning a lot by all the trouble he's getting in, and he's now figured out that there's a better pathway. She stated that that's a good thing. Dr. Suppan stated that she agrees with Dr. Egner that he needs to create a network of support for himself.

**DR. STEINBERGH MOVED TO CONTINUE MR. MOLDER UNDER THE TERMS OF THE BOARD'S ORDER OF OCTOBER 8, 2008, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.**

STEVEN THOMAS REED, M.D.

Dr. Reed made his initial appearance before the Board, pursuant to the terms of his October 8, 2008 Consent Agreement.

Ms. Bickers reviewed Dr. Reed's history with the Board.

In response to Board members' questions, Dr. Reed stated that, sobriety wise, everything's going great. He works weekly with Dr. Janus at the Cleveland Clinic and the Caduceus group. He stated that he attends the main Caduceus group, and then he stays for an extra small group meeting with Dr. Janus. He goes to the other A.A. meetings during the week, and he talks to his sponsor.

In response to further questions, Dr. Reed stated that his family support is great. He's recently divorced, and that wasn't very good, but he's doing better. He does not have any children.

**DR. STEINBERGH MOVED TO CONTINUE DR. REED UNDER THE TERMS OF HIS OCTOBER 8, 2008 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE**

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**BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION.** All members voted aye. The motion carried.

STEPHEN J. ROLFE, M.D.

Dr. Rolfe made his initial appearance before the Board, pursuant to the terms of his October 8, 2008 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Rolfe's history with the Board.

In response to Board members' questions, Dr. Rolfe stated that he is currently taking Wellbutrin for chronic depression. He was first prescribed it in 2001. He stated that it's hard to say how much his depression contributed to the drug and alcohol use. Dr. Rolfe advised that he had been sober since 2001, but he quit doing the things he needs to do to stay sober.

Dr. Amato stated that he's sorry that Dr. Rolfe is back before the Board. He added that Dr. Rolfe knows what he did wrong, and he asked Dr. Rolfe to please not do it again because Ohio needs its physicians.

**DR. SUPPAN MOVED TO CONTINUE DR. ROLFE UNDER THE TERMS OF HIS OCTOBER 8, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION.** All members voted aye. The motion carried.

Mr. Albert left the meeting during the previous discussion.

EXECUTIVE SESSION

**MR. HAIRSTON MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONFER WITH THE ATTORNEY GENERAL'S REPRESENTATIVES ON MATTERS OF PENDING OR IMMINENT COURT ACTION. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- yes
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

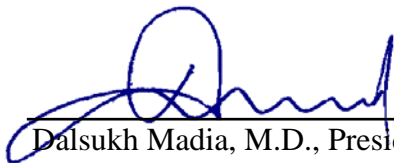
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Pursuant to Sections 121.22(G) (3), Revised Code, the Board went into executive session.

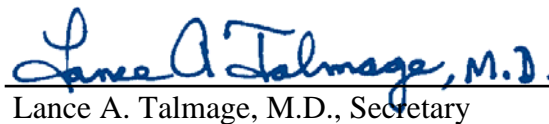
Thereupon at 4:50 p.m. the January 14, 2009 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on January 14, 2009, as approved on February 11, 2009.



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Dalsukh Madia, M.D., President



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Lance A. Talmage, M.D., Secretary

(SEAL)



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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

January 15, 2009

Dalsukh Madia, M.D., President, called the meeting to order at 8:10 a.m., in the Administrative Hearing Room, 3<sup>rd</sup> Floor, the James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Jack C. Amato, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Marchelle L. Suppan, D.P.M.; W. Frank Hairston; and Susan E. Stephens, M.D. The following joined the meeting at a later time: Jeffrey M. Jacobson, Esq. The following did not attend the meeting: Anita M. Steinbergh, D.O.; and Nandlal Varyani, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; Sallie J. Debolt, General Counsel; Rebecca J. Marshall, Chief Enforcement Attorney; Barbara J. Pfeiffer, Karen A. Unver, and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Michael K. Miller, Public Policy & Government Affairs Officer; Karry Thacker, Executive Staff Assistant; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant.

#### LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

Dr. Madia advised that at this time he would like the Board to consider the probationary reports, the probationary requests, and the licensure applications on today's consent agenda. Dr. Madia asked whether any Board member wished to consider either an application for licensure or a probationary report or request separately. He noted that all probationers are in compliance.

**MR. HAIRSTON MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON DECEMBER 8 & 9, 2008, WITH: DAVID E. ALLEN, M.D.; TODD S. CARRAN, M.D.; ALLAN W. CLARK, M.D.; GREGORY G. DUMA, M.D.; WILLIAM H. FIEGENSCHUH JR., M.D.; MARY JO FOOTE, P.A.; DEBORAH LYNNE FRANKOWSKI, M.D.; LAMBERTO T.R. GALANG, JR., M.D.; RICHARD DAVID GRECZANIK, D.O.; ADAM P. HALL, D.O.; MARK O. HENSON, M.D.; ROBERT L. HUBLEY, D.O.; ANIL H. JHANGIANI, M.D.; JAMES M. KENNEN, D.O.; ALBERTO LEON, M.D.; DONALD C. MANN, M.D.; GREGORY S. MASIMORE, M.D.; MARK S. MCALLISTER, M.D.; STEPHEN T. MCCARREN, M.D.; FRANCINE R. MOSLEY, M.D.; CARLA M. MYERS, D.O.; TANIA RENEE (ECK) NEATER, M.T.; MARK A. RHODEBACK, M.T.; JOSEPH ALOYSIUS RIDGEWAY, IV., M.D.; WILLIAM DENNY ROBERTSON, M.D.; WILLIAM A. ROMER, M.D.; JOHN W. SHAW, M.D.; JOSEPH COOPER SIMONE, D.O.; BRIAN D. SOUTHERN, M.D.; ALAN B. STORROW, M.D.; DEBORAH L. TAYLOR, M.D.; ROSS PUTMAN TURNER, D.O.; KERRIE VAN WAGONER, P.A.; RANDALL G. WHITLOCK, JR., P.A.; AND JAMES F. ZIMMERMANN, D.P.M.;**

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**MR. HAIRSTON FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:**

- **TO GRANT DAVID B. AXELSON, M.D.'S REQUEST FOR APPROVAL OF VALERIE JO DEL MEDICO, M.D., TO SERVE AS HIS NEW MONITORING PHYSICIAN;**
- **TO GRANT ASHRAF S. BADOUR, M.D.'S REQUEST FOR A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS AND A REDUCTION IN PSYCHIATRIC SESSIONS TO EVERY FOUR WEEKS;**
- **TO GRANT MARK E. BLAIR, M.D.'S REQUEST FOR APPROVAL OF MARK E. REYNOLDS, M.D., TO PERFORM THE PSYCHIATRIC ASSESSMENT REQUIRED FOR REINSTATEMENT;**
- **TO GRANT ELIZABETH A. DORIOTT, D.O.'S REQUEST FOR A REDUCTION IN PERSONAL APPEARANCES TO ANNUALLY;**
- **TO GRANT RYAN STEVEN FRYMAN, D.O.'S REQUEST TO DISCONTINUE THE CONTROLLED SUBSTANCE PRESCRIBING LOG REQUIREMENT, AND TO ELIMINATE THE CHART REVIEW REQUIREMENT;**
- **TO GRANT ARLAN MARCUS GUSTILO-ASHBY, M.D.'S REQUEST FOR APPROVAL OF CHARLES C. WATSON, D.O., TO SERVE AS HIS NEW MONITORING PHYSICIAN;**
- **TO GRANT JONATHAN L. HAIMES, M.D.'S REQUESTS FOR APPROVAL OF *PACE MEDICAL RECORD KEEPING*, OFFERED THROUGH THE UNIVERSITY OF CALIFORNIA SAN DIEGO SCHOOL OF MEDICINE AND APPROVAL OF *CLINICIAN PRESCRIBING COURSE*, ALSO PART OF THE PACE PROGRAM OFFERED THROUGH THE UNIVERSITY OF CALIFORNIA SAN DIEGO SCHOOL OF MEDICINE, AS FULFILLMENT OF PARAGRAPH 10.C OF HIS APRIL 11, 2008 STEP 1 CONSENT AGREEMENT;**
- **TO GRANT ROGER ALAN MILLER, M.D.'S REQUEST FOR A REDUCTION IN THE FREQUENCY OF HIS PSYCHOLOGICAL SESSIONS TO ONCE A MONTH;**
- **TO GRANT NATHAN THOMAS PENNEY, D.P.M.'S REQUEST FOR A REDUCTION IN PSYCHIATRIC SESSIONS TO EVERY THREE MONTHS AND A REDUCTION IN COUNSELING SESSIONS TO AN "AS NEEDED" BASIS;**
- **TO GRANT DIRK I. RODRIGUEZ, M.D.'S REQUEST FOR APPROVAL OF TRACE**

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**W. CURRY, M.D., TO SERVE AS MONITORING PHYSICIAN WITH 10 CHARTS REVIEWED PER MONTH;**

- **TO GRANT MATTHEW ALLAN SNYDER, L.M.T.'S REQUEST FOR A REDUCTION IN ALCOHOL AND REHABILITATION MEETING REQUIREMENT TO 10 PER MONTH;**
- **TO GRANT WILLIAM C. STEPHENSON, M.D.'S REQUEST FOR THE ELIMINATION OF HIS CHART REVIEW REQUIREMENT;**
- **TO GRANT ANDREAS HERBERT SZOKOLOCZY-SYLLABA, D.O.'S REQUEST TO INCREASE HIS WORK HOURS TO 30 HOURS PER WEEK;**
- **TO GRANT MICHAEL J. VJECHA, M.D.'S REQUEST FOR RELEASE FROM THE REQUIRED ADVOCACY CONTRACT WITH THE OHIO PHYSICIANS HEALTH PROGRAM;**

**MR. HAIRSTON FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT "A," THE P.A. APPLICANTS LISTED IN EXHIBIT "B," THE ACUPUNCTURE APPLICANTS LISTED IN EXHIBIT "C," AND THE ANESTHESIOLOGIST ASSISTANT APPLICANTS LISTED IN EXHIBIT "D;" TO APPROVE THE RESULTS OF THE DECEMBER 2008 PMLEXIS (EXHIBIT "D"), THE DECEMBER 2008 MASSAGE THERAPY EXAMINATION (EXHIBIT "E"), AND THE DECEMBER 2008 COSMETIC THERAPY EXAMINATION (EXHIBIT "F"), 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; AND TO GRANT CERTIFICATES OF GOOD STANDING TO THE SCHOOLS OF MASSAGE THERAPY, LISTED IN EXHIBIT "G." DR. MAHAJAN SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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FINDINGS AND ORDER IN THE MATTER OF RESCISSION OF RULES 4731-16-02 AND 4731-16-05, O.A.C., AND ADOPTION OF AMENDED RULES 4731-16-01, 4731-16-08, AND 4731-16-12 O.A.C., AND NEW RULES 4731-16-02 AND 4731-16-05, O.A.C.

Ms. Debolt stated that these rules are impairment rules that were amended to allow for intensive outpatient treatment for limited practitioners, i.e., massage therapists (M.T.s), and cosmetic therapists (C.T.s), based on the fact that their practice is much less invasive than those of the Board's other licensees, i.e., physicians, P.A.s, etc. The limited practitioners will not be required to do the 28 days of intensive inpatient treatment under these rules. Ms. Debolt explained that M.T.s and C.T.s are being separated out because the impact of an M.T. or a C.T. working impaired will be much less than the impact of a physician or a P.A. working impaired. She added that, psychologically, physicians are one of the more difficult groups of professionals to rehabilitate. She stated that it is felt that M.T.s and C.T.s will be as successful in being rehabilitated from an intensive outpatient program.

Mr. Albert indicated that he thinks that this is going to be a very good thing. He noted that when the impairment rules were initially written, there were about 200 M.T.s in the state. Now there are about 11,000. Mr. Albert stated that these individuals don't have the \$3,000 to \$4,000 for the 72-hour evaluation. They also don't have the money for 30 days of inpatient treatment. Mr. Albert stated that a lot of thought went into these revised rules. He echoed Ms. Debolt's statement that M.T.s and C.T.s don't present the same dangers an impaired physician would present.

Dr. Madia asked why, if it works for M.T.s and C.T.s, it couldn't be expanded to work for physicians and P.A.s.

Mr. Albert commented that one thing about impairment, you can ask ten different addictionologists and you'll get ten different answers. Inpatient treatment has become a standard across the country. Inpatient treatment gets physicians away from their families and from their practices. The Boards have been told that they have to be in for a week before they begin to see the light.

Mr. Whitehouse stated that the experts the Board has talked with have said that outpatient treatment would not be the right strategy for treating physicians and P.A.s.

**DR. AMATO MOVED THAT THE FINDINGS AND ORDER "IN THE MATTER OF RESCISSION OF RULES 4731-16-02 AND 4731-16-05, O.A.C., AND ADOPTION OF AMENDED RULES 4731-16-01, 4731-16-08, AND 4731-16-12 O.A.C., AND NEW RULES 4731-16-02 AND 4731-16-05, O.A.C.," AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 15<sup>TH</sup> DAY OF JANUARY 2009, BE ADOPTED, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULES WITH AN EFFECTIVE DATE OF JANUARY 31, 2009. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye

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Dr. Suppan	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

EXECUTIVE DIRECTOR POSITION; POSITIONS EXEMPT FROM CLASSIFIED CIVIL SERVICE

Dr. Madia referred to his memorandum of January 2, 2009, which advises that state law requires that the Board appoint an Executive Director and give him the authority to sign personnel actions and fiscal documents on behalf of the Board. The Board must also designate staff positions that are exempt from classified civil service.

**MR. HAIRSTON MOVED THAT THE BOARD CONTINUE RICHARD A. WHITEHOUSE IN THE UNCLASSIFIED POSITION OF EXECUTIVE DIRECTOR.**

**MR. HAIRSTON FURTHER MOVED TO AUTHORIZE THE EXECUTIVE DIRECTOR TO SIGN, ON BEHALF OF THE BOARD, ANY PERSONNEL ACTIONS, FISCAL DOCUMENTS AND ANY DISCIPLINARY DOCUMENTS THAT WOULD OTHERWISE HAVE TO BE SIGNED BY THE BOARD AS THE APPOINTING AUTHORITY, FOLLOWING RESOLUTION OF THE BOARD TO TAKE SUCH ACTION.**

**MR. HAIRSTON FURTHER MOVED TO GRANT THE EXECUTIVE DIRECTOR THE AUTHORITY TO DELEGATE CERTIFICATION OF DOCUMENTS TO OTHERS, AS THE NEED ARISES.**

**MR. HAIRSTON FURTHER MOVED THAT, PURSUANT TO SECTION 124.11(A)(8), REVISED CODE, THE BOARD DESIGNATE THE FOLLOWING POSITIONS AS UNCLASSIFIED: ADMINISTRATIVE ASSISTANT 3, POSITION NUMBER 20070925, AND SECRETARY, POSITION NUMBER 20070945.**

**DR. STEPHENS SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye

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Dr. Mahajan        - aye  
Dr. Madia           - aye

The motion carried.

#### ADMINISTRATIVE REPORT

Mr. Whitehouse referred to his written report, a copy of which shall be maintained in the exhibits section of this journal.

Mr. Whitehouse advised that the Board now oversees more than 60,000 licensees. In the last year, over 3,254 licenses were processed; 4,258 complaints came in, only 6 shy of last year's record; 240 actions were taken by the Board, as compared to 210 actions in 2007; and there has been an increase in non-disciplinary actions. Mr. Whitehouse stated that the Board has continued its emphasis on minimal standards cases, which is consistent with the strategic plan. It has also increased the output of the Quality Intervention program. He stated that 130 cases, a record, went through the Quality Intervention system last year.

Mr. Whitehouse stated that there are lots of reasons to think that the Board is doing the job that it's been put here to do. All credit goes to the staff for much hard work.

Mr. Whitehouse stated that performance measures were put in place in the Enforcement Unit, with specific emphasis to move aged cases through the system, but to do so in a responsible way and to do so in a way in which the Board is not just getting cases off the books. The cases are being disposed of in a responsible manner. Staff had a goal, with regard to formal actions and closed cases, of 300 cases. The year before the staff moved 276 cases through the system. Mr. Whitehouse stated that, given the fact that the Board has an excellent staff that was at full capacity, 542 formal actions and closed cases went through the system in 2008. Mr. Whitehouse cautioned the Board against expecting that number to be the same every year. He commented that 300 is an ambitious goal and should probably be maintained as the Board's goal.

Dr. Egner asked how many of the cases were closed without action.

Ms. Anderson stated that 351 were closed without action and 191 formal actions were taken.

Mr. Whitehouse stated that additional information will be provided to the Board.

Mr. Whitehouse advised that the Hearing Unit also had an ambitious goal. They identified a group of cases, referred to as the "backlog," and through the use of contract hearing examiners and the efforts of the hearing examiners on staff working long and hard to eliminate that backlog in 2008, they achieved their goal. Mr. Whitehouse commented that this was not an easy goal to reach. Mr. Whitehouse added that a performance plan has been put into place to prevent future backlogs. He stated that the Board was successful last month in getting additional money for hearing examiners, so the Board will continue to use that strategy to avoid slipping further behind. He stated that part of the Board's budget request is to hire a fourth hearing examiner. He stated that there is documentation that strongly supports the need for another

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hearing examiner. He stated that the Unit will continue to streamline the process. He stated that the biggest problem that has been identified, and the thing that can be most controlled within the Unit, is the time between the close of record and the writing of the report. His suggestion to the Hearing Unit is to not schedule a hearing until there is time to write the report.

Dr. Suppan asked whether the Board has ever used law clerks or someone of that caliber to offload the research that the attorneys have to do.

Mr. Whitehouse stated that, with regard to Enforcement, it seems that there were a lot of attorneys doing support functions. A couple of support staff have been added. There are also a couple of paralegals on staff to assist. With regard to the Hearing Unit, he's talked with Ms. Davidson about how the Unit could use clerks or contractors, and for what, and the need is not perceived for a clerk in the Hearing Unit. He stated that they've been bringing in attorneys who have been, to date, pretty much doing a lot of the writing and who are now, with some experience, starting to hear some of the cases. It's been more worthwhile to use the resources the Board has to bring in attorneys..

Mr. Whitehouse stated that staff has met twice with the Ad Hoc Management Group on the development of Key Performance Measures (KPMs). He referred the Board to the staff's report, a copy of which shall be maintained in the exhibits section of this journal. Mr. Whitehouse stated that ten KPMs have been developed, dealing specifically with efficiency and effectiveness.

Dr. Madia stated that the Executive Committee recommends adoption of these KPMs.

**DR. AMATO MOVED TO ADOPT THE KEY PERFORMANCE MEASURES DEVELOPED BY THE STAFF AND RECOMMENDED BY THE EXECUTIVE COMMITTEE. DR. SUPPAN SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Suppan stated that she is extremely pleased with how this turned out, and she appreciates all the hard work everyone did.

Ms. Wehrle stated that the Federation of State Medical Board's annual meeting will be held in Washington, DC, April 30 to May 2. She stated that each regulatory board with Federation membership has two scholarships from the Federation that pays travel expenses. One is for the voting delegate, and one is for the Executive Director. Ms. Wehrle stated that the Executive Committee has recommended that Dr. Madia serve as the Board's voting delegate this year, and that Mr. Whitehouse be the executive scholarship recipient.

**DR. STEPHENS MOVED TO ACCEPT THE EXECUTIVE COMMITTEE'S RECOMMENDATION. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

Mr. Whitehouse advised that a couple of months ago he was appointed to the Executive Director's Council of the Federation. He attended a meeting in Dallas to develop a pilot program on maintenance of licensure,

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competency based medical regulation, what it means and how it can be done. Mr. Whitehouse stated that a copy of the group's report has been distributed to Board members for their review. He asked that members contact him with their thoughts after the review. He stated that a conference call has been scheduled to discuss input from the various boards so that a pilot program can be developed.

Dr. Stephens stated that she's reviewed this document. She stated that she's a member of the American College of Spine Surgeons, which educates, tests, requires passage of an oral exam, etc. The group is recognized in a few states. Dr. Stephens stated that everybody seems to be so dependent upon the ABMS and everybody defers to it. Dr. Stephens stated that she has a problem with that because the ABMS has a different purpose and focus. If what Boards really want to do is focus on quality issues, then any society that is an education society, testing society, whatever, could get recognized by this Board. Dr. Stephens stated that she doesn't feel that the Ohio Medical Board should take on the additional stratosphere of testing, particularly when there are other organizations that do this specifically for whatever area of medicine there is. Dr. Stephens stated that she feels that the ABMS has too much power.

Mr. Whitehouse stated that Dr. Stephens' comments reflect a lot of the discussion that took place. He stated that this movement is going to take a lot of time to develop. No one seems to think that the end result is going to be medical boards doing what is already being done by certifying bodies. He did feel that the end result would be more than just the traditional two certifying bodies, i.e., the ABMS and the AOA, being brought in to provide these functions.

Dr. Talmage stated that the Board of Directors of the Federation is considering this as one of its primary issues. They have had groups, such as the American Board of Physician Specialists, lobby the Federation to become a certifying board, which is outside ABMS. Another problem is in how Boards can look at such groups to determine whether their examination process is, in fact, adequate. When they certify someone, does that mean that that person is a good practitioner? Dr. Talmage stated that ABMS is the screening process that boards have relied on up until now. There are other groups and other ways to test. Those who do not have board certification and have gone beyond the point where they ever will be board certified are not necessarily bad practitioners, but there is going to have to be another testing process and evaluating process to determine that they have maintained competence. He stated that this is a work in progress, and it will probably be ten years down the road before it becomes an accomplished fact. He added that he thinks that it will change complexions several times during that period of time.

Dr. Mahajan stated that all the specialty boards have recertification and so forth, but the Board also gives licenses to people who aren't in clinical practice anymore. They are in administration and they need their 50 hours of CME and the Board keeps giving them a license. Dr. Mahajan stated that his personal feeling is that state medical boards should stay out of recertification and work with other specialty boards and medical education, and so forth, who maintain the quality and competence.

Mr. Whitehouse stated that the general feeling among the Board executives is that that is not something the boards can take on well.

Dr. Madia stated that there are so many different specialties that it would be hard to do.

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Mr. Jacobson arrived during the previous discussion.

Mr. Whitehouse stated that this time last year there was an article in *The Columbus Dispatch* about overtime. He stated that in 2007 the Board was at around \$28,000 overtime, a 198 percent increase from the previous year. For 2008, overtime is at \$23,000. He stated that he doesn't think that that number is high, adding that it can be easily justified. Mr. Whitehouse stated that the use of overtime keeps the Board from having to bring on an additional full-time employee, which isn't really an option anyway. The other alternative to this is not get the work done, and that is unacceptable.

Mr. Whitehouse stated that in the last year, the Administration indicated that agencies have to start keeping better track of comp time. People who formally donated time to the State will no longer be permitted to do so. They will keep track of that time. He stated that this means a couple things beyond the recordkeeping. It means that, eventually, people will use that time. That has an impact in terms of productivity, obviously. If they're not going to be here, additional work is not going to get done. There is also the prospect that those moneys for comp time may be paid out. In the last year, that was the case in the amount of about \$2,000. He stated that for 2007, the Board had comp time recorded of \$16,000 and in 2008 there is \$47,000. Mr. Whitehouse stated that the increase isn't a function of the Board having more people doing more comp time; it's simply more people keeping track of that comp time. That figure will manifest itself later in lost productivity, less work getting done or a payout.

Mr. Whitehouse stated that in the next week or so, Board members will receive a copy of the audit report from the State Auditor's Office. He stated that, as he indicated in December, it was a clean report. They did comment with regard to the timeliness of deposits, but this is not an uncommon finding.

Mr. Whitehouse stated that if Board members have any questions after reviewing the report, he will be happy to answer those questions.

## REPORTS BY ASSIGNED COMMITTEES

### LICENSURE COMMITTEE

Dr. Egner stated that the Committee had a long, excellent discussion regarding the seven-year versus the 10-year rule. She stated that she felt everyone said their piece on this rule, the crux of which revolved around "good cause." She stated that the question is whether the Board stays with the revised rule, as originally written, at ten years, which is more inclusive for applicants, and really stresses the pass/fail, or does it add back in the phrase, "good cause" for those exceptions for people who might be over the ten years and have a good reason.

Dr. Amato joined the meeting at this time.

Dr. Egner continued that the Committee didn't come to a consensus. Those members on the side of "good cause" exceptions, felt that the Board needs wiggle room to have the opportunity to allow someone to have a license if they have good cause for being outside the ten years, and if they haven't failed any step. The

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other side felt that the reason for writing the new rule was twofold: 1.) to get in the piece about the failures that Ms. Thompson has done such great work on to show that it really does reflect a person's ability. By the time you've had a certain number of failures, you really are not competent and should not be licensed; and 2.) consistency, fairness and the legitimacy of the rule and the thought process behind it.

Dr. Egner stated that the Committee comes to the Board with an amendment to the rule. She stated that if anyone has any questions, they should be directed to Ms. Thompson or Ms. Debolt.

Dr. Amato asked whether the revised rule was passed out.

Ms. Debolt stated that it was not. She added that staff would like for the Board to discuss and decide whether it wants a "good cause" exception. Then, the staff would like the Board to give it the discretion to come up with the best language for that. She stated that she and Ms. Thompson have reviewed the language the Committee considered the previous day, and they feel that it could be a little more artfully done.

Dr. Madia clarified that one option is ten years, no more than three failures, and no good cause exception for those over the ten-year period.

Dr. Egner stated that that is correct. The whole reasoning behind initially doing this is that the Board members found themselves very often being rather inconsistent about what "good cause" was. She said that it is extremely difficult to say, "well, we'll make a list of good causes." Dr. Egner stated that it just doesn't work that way. Depending upon the month the licensee came before the Board, what "good cause" was varied. Dr. Egner stated that part of her issue is that it's not fair to the licensees. It's not fair to those licensees who follow the rules and do the traditional system. She stated that it takes some of the legitimacy out of the ten year rule to say that there will be times when the Board will set that rule aside and go with "good cause." She added that the Board will be faced with the same problems with which it was faced before.

Dr. Madia stated that his problem with "good cause" exceptions is that so many times, when the applicant comes before the Committee, the Committee denied the request because it couldn't find good cause. Then the applicant finds a lawyer, who finds good cause, and the Board then approves it.

Mr. Jacobson stated that that is the role of hiring a lawyer. People are not here because they are good at making arguments. They are not here because they are good at spinning and presenting themselves to elected bodies or appointed bodies. The role people have for attorneys is to help them present their best case. Mr. Jacobson stated that the fact that this Board on its own, and quite often, cannot necessarily find what someone who has worked on the case and can help the Board find, it's a good thing that the Board has that process. It's not a bad thing. Mr. Jacobson stated that he is a lawyer, although he doesn't practice, but he thinks that the role of lawyers in this country is to help make sure that people have the opportunity to put their best case forward for themselves, which they don't necessarily do under their own circumstances.

Dr. Stephens commented that what lawyers also do is help people get away with murder. She stated that

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this isn't murder, but lawyers help people get around the rules. She stated that the previous day was a good example of how subjective decisions can be and the subjectivity of denial, permanent denial. The Board saw the variance. There was a convicted attempted murder getting denial and then a credit card fraud college student getting permanent denial. She suggested that that shows the subjectivity that makes things unfair. Dr. Stephens stated that she has done a 180, even a 360, on this rule. She stated that she thinks that the Board has to swallow its centrist ego to say that, "yes, we are going to set the ten-year standard, and if people can't comply, then we know that they can get a lawyer that can help them, and that's their right, but we're not going to do that." Dr. Stephens commented that when you run for president, if you don't get your papers in on time, they don't say, "I'm sorry your grandmother died, so you don't have to do this and you don't have to do that."

Dr. Amato stated that the Board has talked around this, and he accused the Board, collectively, of being schizophrenic. He stated that the Committee spent quite a bit of discussion last month and again this month. He stated that the Board is talking about far less than one percent of the applicants. When you apply the three failures, that figure will go even below that number. He stated that the Board is looking at a very, very small number of applicants. He added that this Board, by a margin of two votes, felt that somebody who had gone ten years and two months should have a license. The Board felt strongly enough that it did it, even with advice from staff that it might not be legal. When the final confirmation came that the Board was going to grant an illegal license, the Board reversed it. Dr. Amato stated that the Board is here to show judgment. The Board has a dual role: it must protect the citizens of the State, that's the prime directive, but part of that protection is also to make sure that it has licensed physicians out there. He added that, coming from a rural area that could use ten more doctors right now, Ohio wants every qualified physician it can get.

Dr. Amato stated that he thinks that the staff did a wonderful job to make sure that that knowledge gap is closed. Historically, when the Board can grant a license to someone who maybe got all three passes in seven years but had a total of ten failures, he would contend that when someone goes ten years and two months with no failures, that person should have a license. He added that it's not going to happen that often, but there are potential "good cause" situations that that license should be granted.

Dr. Amato stated that one of the reasons that Ohio is in such economic chaos is that it takes the EPA of the State of Ohio a lot longer to grant a permit and businesses go elsewhere. It takes DNR twice as long to grant a permit for mining and other operations, and they go to other states. He stated that, in a way, what the rule as initially proposed is saying is that the Board doesn't want to exercise its judgment and the physician should go take the test again. If the physician gets a job offer somewhere else, why come to Ohio, if this is the way the Board treats its doctors.

Dr. Madia stated that Dr. Amato has a good argument, but added that the majority of the states have the ten year rule.

Ms. Thompson stated that almost all states have either a seven-year with exceptions or a ten-year rule. There are a few states that do not have a time limit.

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Dr. Madia asked whether the states that have a ten-year rule have a “good cause” exception.

Ms. Thompson stated that that’s difficult to say. She’d have to call those states for that information. A lot of times the chart will say that they have seven years, but then when you call them they have seven years with some exceptions. She stated that she hasn’t called the states with a ten-year rule to see whether they allow any exceptions. The majority of states have the seven-year rule, but with some exceptions, they can take up to ten years. That’s what the charts say. There are some states with no time limit at all.

Dr. Stephens stated that Dr. Amato was talking about less than one percent would be requesting a “good cause” exception. She asked Ms. Thompson how many people she thinks would come before the Board asking for the exception.

Ms. Thompson stated that it’s difficult to say how many would come here. If you don’t meet the ten year rule, you gravitate toward the state that would let you use your exam sequence, so the Board is going to see more. She added that it is absolutely true that the vast majority of applicants meet the seven-year requirement. Something like 95 to 98 percent of physicians fall within the zero to seven years. She stated that you are dealing with a small percentage falling outside the seven years. It’s a very small percent that are outside the ten percent. It will probably be a little more than the one percent just because when they know that Ohio has the exception, then they would be more willing to look for a job here and come to the Board for the exception. She again stated that it’s difficult to say.

Dr. Stephens asked whether Ms. Thompson could guess at how many people a year that would be.

Ms. Rieve replied that it has been about 20 people a year. It could go up.

Ms. Thompson commented that Ms. Rieve gets the calls and tells them that if they’re not an M.D./Ph.D., there is no exception to ten years, and then they make their decision.

Mr. Jacobson stated that, of course, that’s people who up until now haven’t had an issue of how many failed, so that would still reduce those numbers.

Mr. Jacobson stated that his concern about a Board that writes absolute rules is that to a great degree you don’t need the Board. You don’t need the judge if all the judge is allowed to do is look up the sentence on a chart and say, “I don’t care what happened in your life, I don’t care about your background, I don’t care about trying to make your life better. This chart says I have to sentence you to three years.” Mr. Jacobson stated that the clerk could do that. He stated that he doesn’t see why the Board would cut off its own discretion. He understands that sometimes there is unfairness, but there’s unfairness with hard and fast more often than in assuming that if you have discretion, you’ll abuse it. Mr. Jacobson stated that it’s possible that you’ll abuse discretion, but if there is no discretion, 100% of the time someone who deserves to be heard and have their circumstances considered has no chance at all. Mr. Jacobson agreed that sometimes recommendations like the Board had yesterday don’t match with each other, but if you look at the way the Board functioned, it looked at one case and then the next and asked, “How does this work? Why is this a fair penalty and that a fair penalty, when they’re so different or the circumstances are the

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same and the penalty is different?" Mr. Jacobson stated that what a body such as this Board does is to work together to figure out what is fair. Mr. Jacobson stated that the Board didn't permanently deny a license to the applicant with the issue of stealing. On the other hand, the Board did take the people who properly should never be allowed in the profession and said that it would not approve their licenses under any circumstances.

Mr. Whitehouse stated that he thinks that the Board needs to differentiate between determining a sanction, at which time it's appropriate for the Board to consider whatever comes before it and then make an appropriate judgment, and the act of determining the qualifications for licensure. He stated that the Board can exercise its discretion in developing standards in two ways. They can come up with a rule that says, "This is it. This is the standard you must meet to practice." Or, the Board can consider everybody's case and hopefully be consistent in its considerations. Mr. Whitehouse stated that the Board is here to develop a standard. It's not giving up its discretion if there is not "good cause." It's not being "hard and fast," if it just has a rule that expresses what the Board's view is. The Board's decision today may be different from a decision made ten years ago or ten years from now. What does this Board believe in its discretion is the standard for people to practice? He stated that in so doing, the Board might cut some people off. Some people might not come to Ohio. To that extent, the Board has to consider who won't be coming. He agreed that Ohio needs physicians, but are the ones who are being cut off people that the Board really wants to draw to Ohio.

Mr. Whitehouse advised that in his speeches to various groups, one of the first things out of his mouth is the high licensing standards of Ohio. He stated that he's not sure that he can say that if the Board is expanding the bubble to include more people so as not have to hear them come in, and then keeping open the option of hearing even more and expanding it further. He added that if everybody's in, let's just let everybody in, let's have no standards.

Dr. Suppan stated that that's not it at all. She stated that that's where the discretion part comes in. That's why the Board exists, to make that determination. Dr. Suppan stated that the people that have caused the Board the greatest concern have been the ones that have done the research fellowships and things like that, that recruited into a major medical center where they potentially have a huge impact, not only on the health and welfare of the citizens of Ohio, but also on Ohio economy. Dr. Suppan stated that she really struggles with closing that window. Dr. Suppan stated that she does support a rule, narrowing the number of failure rates.

Dr. Amato stated that he believes that there are members of the Board who would say, forget the ten years, leave it at seven years, but give the Board the wiggle room.

Dr. Suppan stated that she's okay with that.

Dr. Amato stated that he also likes the three-failure issue. He stated that that's more important.

Mr. Jacobson stated that if Board members are worried about setting absolute standards, high quality standards, using the pass/fail number is the perfect way to do that. He added, however, that the timing

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issue is more set up for discretion. He doesn't think it's better to set up categories of specific exception because there will always be someone with a different personal history. Discretion makes sense. He stated that the Board just needs to make it clear that the regular policy is that the Board says, "no," but has the discretion under "good cause" as a rare thing, not an every time you come thing.

Dr. Amato stated that the Board just had staff suggest that if the majority of the Board want discretion, the hurry up language that he got yesterday is not what they would recommend.

**DR. AMATO MOVED THAT THE STAFF COME BACK NEXT MONTH WITH A DRAFT RULE THAT WOULD ALLOW THE BOARD DISCRETION. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- nay
	Dr. Egner	- nay
	Dr. Talmage	- nay
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- nay
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- nay

The motion failed.

Dr. Mahajan stated that some Board members feel uncomfortable that, if wiggle room is allowed in the rule, some people may be treated fairly and others may not be. He asked Ms. Debolt whether she could come up with some language in which the Board has reasonable assurance that everybody will be treated fairly. He added that he knows that it won't be absolute.

Mr. Jacobson stated that you can have standards for "good cause." It does not have to be undefined. The rule could contain the kind of things that would lead to a granting of good cause.

Dr. Madia stated that it's a tie vote. He asked for a vote on the original proposal to see where the Board stands.

Ms. Debolt stated that the proposal that tied was on whether to amend the rule that has already been filed for promulgation.

Dr. Amato disagreed, stating that the motion he made was that the Board get a consensus and to refer the rule back to her.

Dr. Madia asked whether there has been a vote on the original rule.

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Dr. Egner stated that that was voted on and approved at a previous Board meeting.

Ms. Debolt agreed, adding that the rule was then pulled out for more discussion. She stated that at this time the Board needs either a motion to not change the language of the rule that was previously approved, which gave the Board no exceptions, or the Board can say that it wants to have a “good cause” exception, and that it wants to maintain no more than three failures, have a “good cause” exception for over ten years.

Dr. Madia stated that that motion just failed.

Dr. Stephens stated that the motion that failed was to send the rule back to staff to work on the “good cause” exception language.

Dr. Egner stated that the Board voted on whether to have “good cause” in the rule. Because there wasn’t a majority either way, the motion fails.

Dr. Stephens suggested voting again, stating that half the Board think they voted on one thing and the other half think they voted on another.

Mr. Jacobson stated that he wonders whether it would be worthwhile to wait to see if there is a way to narrow or define the “good cause” exception with parameters that would make everyone more comfortable with allowing it to be there. He stated that he doesn’t know what those might be, but he is familiar with how to draft “good cause” into something that is not unbridled discretion and might give some confidence. He stated that he would be happy to work with staff and come back next month.

Dr. Egner stated that the Board is starting to get into the eternal government just going on and on and on. She stated that this rule isn’t something the Board started working on two months ago. This is something that the Board has been working on for quite a while. She stated that the Board isn’t going to write down what it’s good cause is. That’s the whole point of this discussion. Those people who want “good cause” written into the rule want it not to be constricted. They want to be able to use their judgment and say, and this won’t happen often, “in this particular place, in this particular individual, and in these circumstances, I can see where it would be a benefit to go with the ‘good cause’ and make the exception and let this person have a license.”

Mr. Jacobson stated that, as somebody who wanted to do a “good cause” exception, he was offering to compromise and narrow it to get in between the two positions so that it wouldn’t be unbridled.

Dr. Egner stated that she doesn’t think that that’s necessarily what the Board is looking for. She noted that this is Mr. Jacobson’s first meeting, and the Board has had a long history with this.

Dr. Egner stated that she wants to be clear. She’s not going to fall on a sword over this issue, and her life will go on fine no matter the outcome of this issue. She stated that she’s just trying to solve a problem that this Board has had for a long time over “good cause.” The Board has not been fair to people who have

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applied for license in Ohio. The originally proposed rule is way more inclusive. She stated that she would like to vote on that rule.

**DR. EGNER MOVED TO SEND THE RULE 4731-6-14 BACK TO THE PROMULGATION PROCESS, AS IT IS CURRENTLY WRITTEN WITH TEN YEARS AND NO EXCEPTIONS. MR. ALBERT SECONDED THE MOTION.**

A brief discussion was held, clarifying the rules process for newer Board members, and clarifying the motion made to refile the rule that was earlier withdrawn.

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

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- nay
	Mr. Jacobson	- nay
	Mr. Hairston	- aye
	Dr. Amato	- nay
	Dr. Stephens	- nay
	Dr. Mahajan	- nay
	Dr. Madia	- aye

The motion failed.

Dr. Madia suggested sending the rule back to the Committee.

Dr. Mahajan suggested that staff could come up with reasonable language.

Dr. Amato stated that he believes that the Board wants what's best for the citizens of Ohio. The Board wants to license qualified physicians. He suggested that the Board take Mr. Jacobson up on his offer.

Dr. Amato spoke against sending this matter back to the Committee. He suggested that the Board take Mr. Jacobson up on his offer.

Dr. Egner stated that she does feel that the rule belongs back in Committee, adding that she believes that there is a way to resolve this. She noted that both Dr. Amato and Mr. Jacobson are in that Committee.

Mr. Albert commented that he's reconsidering his earlier vote.

**DR. AMATO MOVED TO SEND THE RULE BACK TO STAFF TO WORK ON THE RULE WITH THE ASSISTANCE OF TWO BOARD MEMBERS, ONE PRO AND ONE CON.**

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The motion died for lack of a second.

**MR. JACOBSON MOVED TO APPROVE THE RULE WITH THE CHANGE TO ALLOW DISCRETION OVER THE TEN YEARS.**

Mr. Jacobson stated that there has been intervening discussion since the earlier vote, and he believes that there has been a change in the thinking of one Board member.

**DR. AMATO SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- nay
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- nay
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- nay
	Dr. Madia	- nay

The motion carried.

Dr. Egner advised that the Committee also discussed licensure applications of two individuals.

Alaa Nadour, MD

Dr. Egner advised that Dr. Nadour is applying for a license and has requested a waiver of the USMLE seven-year rule as he is over the seven-year time limit by 34 months. He recently retook Step 1 and passed it with an 86. He passed Step 2 on the fifth attempt with a 76, and Step 3 on the first attempt with a score of 77. Dr. Nadour sent a letter of explanation claiming he went over the seven-year limit because he didn't arrive in the United States until 2000. He went back to graduate school to obtain a Masters in Molecular Basis of Disease before entering a residency in Internal Medicine.

Dr. Nadour graduated from the University of Aleppo in Aleppo, Syria in March 1995. He practiced in Syria and Lebanon from October 1994 until February 2000. He then immigrated to the U.S., and worked as an Observer and Research Assistant in Pennsylvania from April 2000 until December 2000. Dr. Nadour worked as an Assistant Physician in Secaucus, New Jersey from January 2001 until August 2001. He moved to Toledo, and worked as a Research Assistant from October 2001 until June 2003. Dr. Nadour served his residency in Internal Medicine at the University of Toledo Medical Center from July 2003 until January 2007. Dr. Nadour has practiced in Michigan in an Urgent Care setting from January 2007 until July 2008. Dr. Nadour holds a license in Michigan, and he has been American Board certified in Internal Medicine since August 2007.

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**DR. EGNER MOVED TO DENY DR. NADOUR'S EXAMINATION SEQUENCE ON THE BASIS THAT HE HAS NOT SHOWN GOOD CAUSE. MR. HAIRSTON SECONDED THE MOTION. A** vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Wenonah Harman, LMT

Dr. Egner advised that Ms. Harman is applying for restoration of her LMT license, which was originally issued in 1997. Ms. Harman indicated on her application for restoration that she has not actively practiced Massage Therapy since 2003.

**DR. EGNER MOVED TO APPROVE MS. HARMON'S REQUEST FOR RESTORATION OF HER OHIO LICENSE SUBJECT TO SUCCESSFUL COMPLETION OF THE LIMITED BRANCH PORTION OF THE MASSAGE EXAMINATION AND CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. MR. HAIRSTON SECONDED THE MOTION. A** vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Miller reviewed his written report, a copy of which shall be maintained in the exhibits section of this journal.

P.A. COMMITTEE

Dr. Talmage stated that there were three items on the Committee's agenda to bring to the Board for consideration.

HMT Dermatology

Dr. Talmage advised that HMT Dermatology's application for its P.A.s to perform excisions of benign nevi, skin cysts (clarified to mean epidermal only), and atypical nevi was considered by the Committee. The P.A.C. recommended approval of the request, as did the P.A. Committee.

**DR. TALMAGE MOVED TO APPROVE HMT DERMATOLOGY'S REQUEST FOR ITS P.A.S TO PERFORM EXCISIONS OF BENIGN NEVI, SKIN CYSTS (CLARIFIED TO MEAN EPIDERMAL ONLY), AND ATYPICAL NEVI, IN AN OFFICE SETTING, UTILIZING 10% DIRECT AND 90% ONSITE SUPERVISION, WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY. DR. MADIA SECONDED THE MOTION.**

Dr. Madia asked how they know before excising, that it is an atypical nevus.

Dr. Talmage stated that this was discussed at Committee. He stated that a symmetrical, uniform-colored nevus is not atypical. One which has a slightly irregular border still may be, and probably is, benign, but it needs to have a shave biopsy to confirm that fact. "Atypical" refers to the configuration of the nevus as opposed to the pathology, which is subsequent to the biopsy.

Dr. Egner stated that the Board has not approved this before. She stated that it's a change in direction.

Dr. Talmage stated that the Board did approve it for Advanced Derm in March 2008, and that was if the determination that the biopsy needs to be done was made by the physician.

Dr. Egner stated that she would like the caveat to go with it.

Dr. Talmage stated that part of the current P.A. law requires that physicians observe and approve the site for the biopsy. P.A.s can do the biopsy without the physician being in the room. The approval of the site for the biopsy has already been given by the physician, who directly observes the lesion.

Dr. Egner stated that if the Board is assured that the physician is going to directly observe the lesion, she

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could go with that. However, if the P.A. is determining whether or not it is atypical or should come off or how it should come off, she doesn't think that that's within the scope of the P.A.

Dr. Madia agreed.

Dr. Talmage stated that it is part of the law that the physician will approve this.

Dr. Stephens stated that she agrees with Dr. Egner, and added that there's no way for the Board to enforce that. Besides that, she feels that patients deserve a physician when they're getting cut or stuck or any skin is penetrated. Dr. Stephens stated that one of her problems is that oftentimes people don't realize that a P.A. is not a physician. She stated that, obviously, it's not the Board's problem, but if the patient was given the choice of having the P.A. cut it off or a physician cut it off, everyone would say they want the doctor to do it.

Dr. Amato agreed with Dr. Stephens, stating that there are many times when a surgeon will think that a sample will come back with a result of negative and then be surprised by a positive result. He added that there are times a surgeon will think that something is benign, but when you lay the scalpel, it has that funny feel to it and you go out and get a wider margin. He stated that P.A.s don't have that experience, education or training to do that. Dr. Amato stated that there are certain things that doctors ought to do.

Dr. Talmage stated that the P.A. by the scope of practice, has to be clearly identified with a nametag that states that they are a P.A. If the Board receives a complaint, the P.A. is subject to discipline.

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

VOTE:	Mr. Albert	- nay
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- nay
	Dr. Stephens	- nay
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

### Spectrum Orthopedics

Dr. Talmage stated that the Committee reviewed Spectrum Orthopedics special services plan for its P.A.s to perform the injection/aspiration of major joint/bursa-hip. He stated that the Board had asked the group to reconsider its request for generalized injection of the hip, including joint. They had modified their

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request to request injection of the greater trochanteric bursa only. He stated that both the PAPC and P.A. Committee, given that modification, recommend approval.

**DR. TALMAGE MOVED TO APPROVE SPECTRUM ORTHOPEDICS SPECIAL SERVICES PLAN FOR ITS P.A.S TO PERFORM INJECTION/ASPIRATION, MAJOR JOINT/BURSA-HIP, GREATER TROCHANTER ONLY, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY. DR. EGNER SECONDED THE MOTION.**

Dr. Stephens stated that part of this injection is for treatment, but also part of it is for diagnosis. Oftentimes when you inject, you might not be in the right spot and you have to relocate and redirect. Dr. Stephens stated that, as an orthopedic surgeon, she just really believes that this is something that orthopedic surgeons should do in the best interests of the patient.

Dr. Mahajan stated that he had the same question, but then he felt that you can't do much damage in the greater trochanter.

Dr. Stephens stated that that's not true. You could slip behind and get into the sciatic nerve. There are all kinds of things. You can inject directly into the tendon. You can miss the bursa, particularly in a thin person. You can miss the bursa in a fat person also. Injections are not benign. You can cause skin necrosis, fat necrosis, muscle necrosis. You can cause tendon lesions and ruptures.

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

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- abstain
	Mr. Jacobson	- nay
	Mr. Hairston	- nay
	Dr. Amato	- nay
	Dr. Stephens	- nay
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Dr. Suppan stated that she recused herself from this case, due to a conflict of interest.

Rachelle Cameron, PA-C

Dr. Talmage stated that the Committee also reviewed Ms. Cameron's application for a Provisional

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Certificate to Prescribe. He advised that the masters degree course that Ms. Cameron completed is not included in Rule 4730-2-02 (A)(1), which lists various courses of study which have been determined as acceptable or “clinically relevant.” He noted that Ms. Cameron’s course, “Exercise and Health Studies” was presented to the Committee for approval as to whether or not this course could be deemed “clinically relevant.” Dr. Talmage stated that the course curriculum was reviewed by both the Committee and the PAPC, and both feel that it is equivalent to the courses listed in the rule.

**DR. TALMAGE MOVED TO ACCEPT THE MASTERS OF SCIENCE FROM MIAMI UNIVERSITY IN “EXERCISE AND HEALTH STUDIES” TO BE DEEMED “CLINICALLY RELEVANT” TO ALLOW MS. CAMERON TO RECEIVE HER PROVISIONAL CERTIFICATE TO PRESCRIBE. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- nay
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Dr. Talmage stated that the Board is approaching the one-year anniversary of the approval of the formulary for P.A. prescribing. He stated that there have been a number of requests for modification or addition of certain drugs. The discussion is ongoing. Dr. Talmage stated that if Board members have any concerns about the formulary as it currently exists, the PAPC would like to hear from them.

#### RATIFICATION OF SETTLEMENT AGREEMENTS

##### PAUL HENRY GOODMAN, D.O. – STEP I CONSENT AGREEMENT

**DR. EGNER MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. GOODMAN. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye

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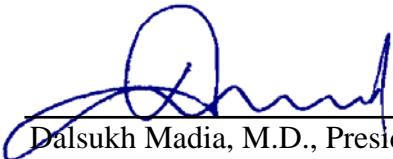
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye

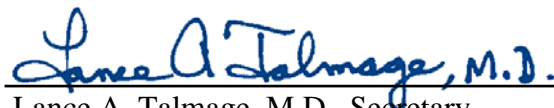
The motion carried.

**MR. HAIRSTON MOVED TO ADJOURN. MR. JACOBSON SECONDED THE MOTION.** All members voted aye. The motion carried.

Thereupon at 10:10 a.m. on January 15, 2009, the January 14-15, 2009 meeting of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on January 14-15, 2009, as approved on February 11, 2009.

  
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Dalsukh Madia, M.D., President

  
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Lance A. Talmage, M.D., Secretary

(SEAL)

