

June 10, 2009

MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Dalsukh Madia, M.D., President, called the meeting to order at 1:00 p.m., in the Administrative Hearing Room, 3rd 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; Marchelle L. Suppan, D.P.M.; Nandlal Varyani, M.D.; W. Frank Hairston; Susan E. Stephens, M.D.; Darshan Mahajan, M.D. and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Jeffrey M. Jacobson, Esq.

Also present were: Sallie J. Debolt, General Counsel; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; 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 Jonathan Fulkerson, 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; Patricia A. Davidson, Chief Hearing Examiner; R. Gregory Porter and Gretchen Petrucci, Hearing Examiners.

MINUTES REVIEW

MR. ALBERT MOVED TO APPROVE THE MINUTES OF MAY 13-14, 2009. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

EXECUTIVE SESSION

Dr. Madia announced that Ms. Pfeiffer has advised that she has nothing to discuss with the board this month, and therefore an executive session is not necessary.

REPORTS AND RECOMMENDATIONS, MOTIONS FOR RECONSIDERATION & PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Madia announced that the Board would now consider the Reports and Recommendations, the Motion for Reconsideration and the Proposed Findings and Proposed Order appearing on its agenda. The matter of Muhammad Z. Shrayyef, M.D., will not be considered this month, as the Board has not been able to verify Dr. Shrayyef's receipt of the Report and Recommendation.

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record;

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the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of Gary Charles Gelesh, D.O.; David Miles Barrere, M.D.; Jack David Bennett, M.D.; Shannon Lin Boyer; Heather Victoria Downey; Abby R. Uridel, M.T.; and David Wei Wang, M.D.; the Motion for Reconsideration in the Matter of Jeffrey E. White, M.D.; and the Proposed Findings & Proposed Order in the matter of Andrew Beistel, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- 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. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Hairston	- aye
	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. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.;

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

GARY CHARLES GELESH, D.O.

Dr. Madia directed the Board's attention to the matter of Gary Charles Gelesh, D.O. He advised that

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objections were filed by both the Respondent and the State to Hearing Examiner Davidson's Report and Recommendation on Remand 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. Gelesh. Five minutes would be allowed for that address.

Dr. Gelesh was accompanied by his attorney, Eric J. Plinke, Esq. Mr. Plinke stated that this case dates back to the standard of care in emergency medicine in 2002. The last time they were before the Board, the Board was presented with some information new to the record and the Board asked for a remand. They are now back on that remand with a new Report and Recommendation.

Mr. Plinke stated that in the Report and Recommendation before the Board, there are certain things from his objections with which he agrees and disagrees, and which he will not address. The one term that the Hearing Examiner used, and which he thinks is particularly applicable to this case, is "aberration." Through the course of Dr. Gelesh's career, it is clear that he has been an upstanding, contributing member of the medical community, particularly here in Ohio. This case is an aberration, and he thinks that any person applying a high level, or any level, of intellectual honesty to this case has to come to that conclusion. This was a case where the nurse had misled the Board previously in what she described as having happened. Despite that, the State comes in February and asserts that this is a case of a physician who acted intentionally to hasten the demise of a patient. Mr. Plinke stated that that is a completely baseless charge from this record. Actually, the evidence is so strongly to the contrary, that that charge simply cannot be sustained. That's what the record on remand shows.

Mr. Plinke stated that the record also shows that the first piece of paper upon which this nurse recorded this medication order that she "honestly didn't believe" had been made, shows a dosage amount of one mg. He commented that that introduces a new element to this case. Mr. Plinke stated that when the nurse says that she "honestly didn't believe" the order, he thinks that she's coming very close to what the truth of this matter is. He added that he thinks that as you peel back the layers of this onion, you have to come to the conclusion that this nurse honestly didn't know what the order was. She wasn't at all certain as to what had been said, and took no action whatsoever to try to clear up that order. Otherwise, he doesn't think that any nurse in Ohio would do what happened in this case, which is that she has to say now that she knowingly handed a medicine to a physician, knowing that it would cause harm to the patient and didn't do what nurses do every single day in the emergency room.

Mr. Plinke stated that, with all that being said in the remand record, he's not sure how the Hearing Examiner takes that evidence and actually comes up with greater discipline than had been proposed the last time they were here. He thinks that the remand record is more supportive of Dr. Gelesh than the previous record. Despite that, the Proposed Order is for a stayed suspension with a one-year probation. Mr. Plinke stated that he doesn't think that that is the appropriate discipline in this case, and he thinks that, based on the seven and a half years that have transpired and the otherwise fine conduct of Dr. Gelesh, as a physician in the State of Ohio, the Board should either dismiss this action or take no further action, based on the record.

Dr. Gelesh addressed the Board, stating that he's waited a long time to come to speak with the Board. It's

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been seven long years. Dr. Gelesh stated that he's an emergency physician who practiced emergency medicine in the State of Ohio and other states for about 31½ years. He stated that it's kind of surreal standing before the Board because this is a position he never expected himself to be in. As one of the Board members mentioned before, his record is spotless; yet he stands before the Board because of one instance. That instance occurred seven and a half years ago. Nothing like that happened in his first 24 years of practice, and nothing like that happened in the next seven and a half years of practice. He stated that it's just like the Hearing Examiner said, it's an aberration.

Dr. Gelesh stated that in February there was much discussion about treating him fairly. After all that has transpired in this very, very long hearing, he feels that the only way there can be any fair treatment in this is to not to have any type of disciplinary action. He stated that there are several reasons for that. First, he received a citation letter that said that he didn't meet the standard of care.

Dr. Madia advised Dr. Gelesh that he has one more minute.

Dr. Gelesh stated that in 2002 the Joint Commission had no written standards concerning verbal orders. There were no written standards in 2003. You do not find anything in the Joint Commission manual that says anything about verbal orders in 2004, and that has been changed three times since then. As far as the verbal orders, when he practiced medicine in 2002, since there were no written standards, he learned just the way the physicians on the Board learned; he learned by watching other physicians. Being in a teaching institution for greater than 20 years, he had an opportunity to observe a large number of physicians in a variety of specialties, and their practice habits on verbal orders were not any different than his. If there are no written standards on verbal orders, and everyone is practicing in this way, it's not a deviation of the standard, and therefore there should not be any disciplinary actions.

Dr. Gelesh stated that the second thing is the statement that says he acted in bad faith. Dr. Gelesh stated that in 31½ years of practice in emergency medicine, he has taken care of over 100,000 patients, and everyone of those patients he treated in good faith. That includes Patient 1.

Dr. Madia asked Dr. Gelesh to conclude his statement.

Dr. Gelesh stated that he's asking on his record, and the fact that the information presented at this hearing, to have this case dismissed.

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

John Fulkerson, Section Chief of the Attorney General's Health and Human Services Section, addressed the Board in Mr. Wilcox's absence. Mr. Wilkerson stated that he'd like to hit some key points in the factual record, and he encouraged the Board to read the State's Objections to the final Report and Recommendation in this matter. He stated that he believes they do a very good job in setting forth the relief the State is asking from the Board, and the facts in this case.

Mr. Fulkerson stated that before he talks about what this case is about, he'd like to talk about what it is not about. It's not disputed that Dr. Gelesh was caring for a dying patient who had little time left. What is

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disputed is that his care and comfort of the patient did, in fact, hasten the patient's death. The idea of "do no harm" is a fundamental concept with which the Board members are very familiar, and it is a core tenet of the practice of medicine. Dr. Gelesh ignored that in this case, and he violated the Medical Practices Act, which is why he's here. It's why Dr. Gelesh was terminated from his position with Akron General following these events, and why he settled the civil matter with the patient's family. Mr. Fulkerson stated that not to trivialize this patient's life in a very serious matter, but a doctor should not take a sinking ship and drill larger holes in the hull. That's exactly what happened here.

Mr. Fulkerson stated that he'd like to walk down a little bit of the time line of events and highlight why they're important for him to consider. This patient was a frail 88-year-old woman who arrived at Akron General at 9:00 p.m. in February 2002. Palliative care was initiated around 11:30 p.m., when the shift was ending, and Dr. Gelesh decided to stay on when his replacements arrived. When he decided to stay on, as was outlined in the State's objections, his drug regimen and treatment became extremely aggressive. He ordered 100 mg of morphine in a 100 mg bag infused at 500 cc per hour, twice within approximately an hour and a half of time. It was only after that that Dr. Gelesh asked the nurse to get 60 mg of Anectine. At that point, Dr. Gelesh had told the patient's chaplain, who was in the room, that "it wouldn't be long now." Mr. Fulkerson stated that that's not an aberration. An aberration not what happened in this case. At around 1:20 a.m., Dr. Gelesh administered the Anectine and the patient was dead within a few minutes.

Mr. Fulkerson stated that the record in this case contradicts Mr. Plinke's statement about this "blame the nurse" theory. There is ample evidence in the record to show that the nurse understood the order, that she heard it, that she consulted with other nurses to make sure that she was doing what had been ordered. She, in fact, at the advice of other nurses and her supervisor, did not administer the drug. She handed the vial and the empty syringe to the doctor for him to administer. Everyone knew what was going to happen in this case when this happened.

Mr. Fulkerson stated that the Hearing Examiner conveniently ignored the key points in this case, and simply lost her way in analyzing a resolution of this case. Those key points and contradictions are outlined in detail in the State's Objections. Mr. Fulkerson stated that you can't ignore every piece of contrary evidence to support a conclusion without at least addressing them and dealing with those points.

Dr. Madia advised Mr. Fulkerson that he has one minute to conclude his statement.

Mr. Fulkerson again stated that this was not an aberration case. This was intentionally hastening a patient's death. The relief and Order the State is seeking from the Board is detailed at the end of the State's Objections. He stated that this is a case deserving of the harshest punishment that the Board can deploy.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF GARY CHARLES GELESH, D.O. DR. VARYANI SECONDED THE MOTION.

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

Dr. Varyani stated that the Institute of Medicine has come out and for the last five years we have known

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about medication errors and harm to the patient by physicians and/or healthcare workers. Dr. Varyani stated that he does not believe that this is an aberration. He did hear Dr. Gelesh say that there was a dispute about the verbal order. He stated that he doesn't think that the verbal order comes into play in this case because the injection was carried out by the physician himself. Dr. Varyani stated that he doesn't know whether the succinylcholine was filled by Dr. Gelesh or by somebody else, but even in 2002 there was a standard. It may not be written as much as now, but when you're injecting, a physician or a nurse is supposed to put a sticker on. In 2002 there were stickers. In 2009 there are stickers. He stated that if a physician is going to inject a medication, he has to make sure, it's his duty to make sure, that what he's injecting is what he wants to inject, and it has to be confirmed by himself. So the verbal order theory he doesn't buy because the medication, succinylcholine, was injected by Dr. Gelesh himself.

Dr. Varyani stated that he read through all the charts and he has a problem with Dr. Gelesh's witness, Gayle M. Galen, M.D., and her knowledge of medication orders because that was in 2005. In 2005 physicians knew that they were committing errors, not because they wanted to, but because they just happened. Now, physicians are more concerned about the safety of the patient. Dr. Varyani stated that he is not disputing that the patient had an accident. He understands that. What he is worried about is that, if Dr. Gelesh injected the medication himself, in 2002 it was his duty to make sure of what he was injecting, whether he was injecting succinylcholine or Ativan.

Dr. Varyani stated that, because of the lapse in time, he is in agreement with this Proposed Order. He stated that the Order is, basically, a slap on the wrist, but it needs to be.

Dr. Mahajan stated that he agrees with Dr. Varyani. He stated that what was done was not right, but he agrees with the Proposed Order.

Dr. Madia stated that he concurs, adding that he came to the same conclusion that once you inject, and as an anesthesiologist he uses Anectine several times every day, he knows how Ativan looks and how Anectine looks, what kind of syringes are used, so it is very hard to mismatch between a benzodiazepine and Anectine. Regardless, you should be responsible for what you're injecting, whether by a nurse or by a physician. Dr. Madia agreed with the Proposed Order.

Dr. Steinbergh stated that the bottom line for her is that she believes that the drug was ordered, and that Dr. Gelesh injected it. She stated that there is a whole lot more about this case that concerned her. She takes a look at Dr. Gelesh and the character that she thinks that he has developed over the years, the amount of teaching he's done over the years, and the awards that he's received over the years. She stated that she doesn't know Dr. Gelesh, but she takes a look at this physician and feels that he's a very appropriate physician. He had a patient in severe pain that night. She was an 88-year-old lady who had acute abdominal pain, she had bilateral pneumonia, and she had multi-system failure. Over the hours that transpired Dr. Gelesh did everything correctly. He worked her up, waited until he got the DNR order to be certain, he talked to the patient, and it was clear that she didn't want to have anything else done except to have pain relief. Dr. Gelesh did go into the palliative care mode.

Dr. Steinbergh stated that the fact that Dr. Gelesh stayed over his shift was important to her, and not in the negative sense. She never saw this as a sinister act, but the fact that he stayed over would have been

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consistent with his training of compassion for the patient, compassion for the family, and that he wouldn't leave the patient alone at this time or turn this patient over to another physician who then would have to rethink the case and revise what was going to be done or not revise.

Dr. Steinbergh stated that she believes that the record reflects that the patient was in agony. Every person who was in that room and every person who gave testimony said that. She was in enormous pain, and it is the doctor's role to relieve that pain. That's what he was there for. Dr. Steinbergh stated that those who have been in the room with a dying patient and understand the pain levels and the responsibility of caring for that patient know that it is up to the physician. It is a very uncomfortable position. Dr. Steinbergh stated that she takes a look at Dr. Gelesh and she asks whether he was fatigued and his judgment was clouded. She stated that she doesn't know.

Dr. Steinbergh stated that she read through this many times, and she believes that the nurse heard the order. There's such a big difference between 60 mg of Anectine and ordering Ativan or Versed, that she has to believe that piece. She continued that the nurse didn't know what Anectine was, so she went out and looked it up and found out that it was succinylcholine. It immediately stimulates her to think that this isn't good. We're in palliative care here, the patient's dying, she's not going to be intubated, so what are we going to do? When succinylcholine is used, the patient needs to be either intubated or supported somehow in a respiratory fashion because if you inject it without appropriate support, the patient will go into respiratory failure and die. So the nurse talked to two other nurses and said, "Look, this is what Dr. Gelesh ordered." Dr. Steinbergh stated that the hearing record says that no one, all the nurses that gave testimony, ever said anything bad about Dr. Gelesh. He's not a disruptive physician. He's a physician whom others have respected. Earlier in the evening, one of the nurses had disagreed with him about the placement of a nasogastric tube, which he wanted to place in order to relieve the pressure on the abdomen and presumably relieve some pain. The nurse told him that she thought it was going to be more painful if he put that tube in, and he agreed. This shows he was thoughtful about it. They seemed to have a team approach to this. Everybody knew what was going on.

Dr. Steinbergh continued that the nurse went out and talked to two other nurses and said that she's not believing that Dr. Gelesh is giving the order for this. The other nurses said that they wouldn't give it, but no one ever walks in and says to Dr. Gelesh, "We need to talk to you about this." No one said that. The record says that Nurse Orndorf goes in and says something to the doctor. He said that he didn't hear it. Dr. Steinbergh stated that there was no clear communication. At a time like this, there has to be clear communication. She stated that physicians know that from patient-safety systems today. In 2002 people communicated. When you're talking about a patient and patient care, you communicate about it. Dr. Steinbergh stated that there was a tremendous lack of communication where the nurse did not address the doctor. She should have said, "Dr. Gelesh, I need your attention." The minute she realized what he said, she should have wondered, "Is it true that he ordered this? Did I hear this wrong?" Two other nurses were also told about this and no one did anything.

Dr. Steinbergh stated that it made no difference to her whether the medication was in a vial or the syringe. The nurse came in with that medication, knowing what she knows, and she's complicit in the case. Dr. Steinbergh stated that she doesn't mean that in a sinister way, but she's complicit. She knows what the doctor is going to do, or she presumes that the doctor is going to do that, and sure enough, he did; but she

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brings it in to be given to the patient. Dr. Steinbergh stated that she finds great fault with that. She added that Dr. Gelesh injected the Anectine, and she's certain that it was Anectine.

Dr. Steinbergh stated that the interesting piece about doing the remand for her was that, even though she voted against the remand, it provided her with a lot of information from the palliative-care expert, and from the other emergency room doctors who testified on behalf of Dr. Gelesh. She stated that she felt that the record pretty much supported Dr. Gelesh. The palliative-care person gave her a great deal of thought about the use of morphine. The Board did not charge Dr. Gelesh with any inappropriate use of morphine. The palliative-care-medicine doctor said that you use morphine for pain relief, and you use it, and use it, and use it until the pain is gone. Dr. Steinbergh stated that she thinks that Dr. Gelesh's desire was to see this patient without pain.

Dr. Steinbergh stated that she supports Dr. Gelesh, although she doesn't think that he made the right decision at the end. It's an illegal thing that he did. At some point he crossed the line. She stated that she doesn't know why, and she doesn't know if it was a result of fatigue. She does sincerely believe that it was not in bad faith. Dr. Steinbergh stated that she often thinks about the decisions that she makes and how they will affect the patient. She stated that there was no tragic death here. The woman was dying and Dr. Gelesh was relieving her pain.

Dr. Varyani stated that he's not disagreeing with Dr. Steinbergh on the morphine issue, and Dr. Gelesh's treatment of the patient. Where Dr. Gelesh has gone off is, even in 2002 you may give a verbal order, but most of the time, if an emergency room doctor ordered something, it was given by the nurse. The physician would not go about injecting people usually. Once you inject by yourself, the verbal order is canceled because you are injecting the medication to the patient yourself. That's where his problem is regarding standard of care. The standard of care in 2002 was, and still is, if you give a verbal order, you're telling the nurse to do X, Y, Z for you. But, if, in the meantime, the nurse comes and hands you, or you snatch the syringe and give it yourself, the verbal order is canceled. When you inject, you need to make sure that you're injecting what you want. It is upon you. That's where the standard of care was breached in this case.

Dr. Varyani stated that, after seven years, he's sure that Dr. Gelesh has suffered a lot, and has thought about it a lot. He's pretty sure that Dr. Gelesh will always wonder why he injected the medication. Dr. Varyani stated that he's not saying that Dr. Gelesh is a bad physician or a good physician. He stated that his decision, as a Board member, is whether or not Dr. Gelesh followed standards of care. Once he took the medication and injected it, it was below standard of care.

Dr. Steinbergh stated that she agrees with Dr. Varyani. She stated that the question for her, then, is what should the Board do about this. There are a lot of things in the objections filed by Mr. Plinke that went through her mind. She noted that Mr. Plinke asks why Dr. Gelesh would put his license at risk in this particular incident by doing something that is inappropriate. She stated that Dr. Gelesh had been an ER physician for over 21 years at that time and had a good reputation, so why would he put his license at risk? Dr. Steinbergh stated that she doesn't think that he was thinking about his medical license at this time. She added that she doesn't know that there is anything else that needs to be done in this case. She stated that the Board certainly wouldn't dismiss a case like this. Dr. Steinbergh questioned whether or not Dr. Gelesh

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needs any further education. She noted that patient-safety systems are in place today and it doesn't take much to avail oneself of that. Dr. Steinbergh stated that, in terms of medical errors, the real question is whether or not it was a true medical error. She stated that she felt it was a combination of things. She doesn't feel that the Board needs to take any further action against Dr. Gelesh. She stated that he's been through it, and he's learned through this. Dr. Steinbergh stated that in some cases the Board sees, there's no question about what went on and what the Board should do about it; but, in terms of minimal standards of care for this particular practitioner, the Board has no evidence that anything ever occurred like this before, and she's convinced that nothing like this is ever going to happen again in his life.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER TO SUBSTITUTE AN ORDER THAT NO FURTHER ACTION BE TAKEN.

Dr. Varyani stated that he was very concerned about Dr. Galan's knowledge of medication, and he was wondering what the Board can do about it. He stated that, in defense of Dr. Gelesh, Dr. Galan made a lot of statements. He noted that her testimony occurred between 2005 and 2007, and he wonders whether her knowledge of medication errors and medication delivery has progressed.

DR. AMATO SECONDED DR. STEINBERGH'S MOTION.

Mr. Jacobson joined the meeting during the previous discussion.

Dr. Varyani asked Mr. Jacobson whether he had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of Gary Charles Gelesh, D.O.; David Miles Barrere, M.D.; Jack David Bennett, M.D.; Shannon Lin Boyer; Heather Victoria Downey; Abby R. Uridel, M.T.; and David Wei Wang, M.D.; the Motion for Reconsideration in the Matter of Jeffrey E. White, M.D.; and the Proposed Findings & Proposed Order in the matter of Andrew Beistel, D.O., and whether he 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. Mr. Jacobson responded "yes" to both questions.

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

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

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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 GARY CHARLES GELESH, D.O. DR. AMATO SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DAVID MILES BARRERE, M.D.

Dr. Madia directed the Board's attention to the matter of David Miles Barrere, M.D. He advised that objections were filed to Hearing Examiner Ronda Shamansky'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. Barrere. Five minutes would be allowed for that address.

Dr. Barrere was accompanied by his attorney, James M. McGovern, Esq. Mr. McGovern stated that Dr. Barrere's objections to the Report and Recommendation were submitted to clarify a few matters. In the end, Dr. Barrere believes that the Hearing Examiner did a fine job summarizing the evidence. He stated that they are here today, not to rehash things, but he does want to remind the Board of a few things. First, Dr. Barrere stipulated to all of the factual and legal allegations. Those stipulations, in conjunction with the hearing testimony, were appropriately utilized by the Hearing Examiner in analyzing the bootstrap violations. However, in analyzing the (B)(5) violation, it's important for the Board to understand that as a result of those stipulations, there was no need for the State to prove intent by Dr. Barrere. The corollary to that is that Dr. Barrere had absolutely no incentive to concoct or fabricate an explanation for why he incorrectly answered two questions on his Ohio renewal application. Mr. McGovern stated that as the Board has read and will hear from Dr. Barrere today, he regrettably failed to give the application the time and attention he now fully recognizes it deserved. That credible testimony should be accepted by the Board, not to excuse, but to, instead, explain Dr. Barrere's admitted violation of (B)(5).

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Mr. McGovern continued that the second thing for the Board to consider is that, in evaluating the Hearing Examiner's concerns regarding the credibility of Dr. Barrere's hearing testimony that was based upon two other applications that Dr. Barrere presented as exhibits at the hearing, the Board should keep in mind that Dr. Barrere elected to present those applications without any compulsion or direction from the Board. Mr. McGovern stated that, as explained in the objections, Dr. Barrere certainly would not have elected to present those documents at hearing if they somehow harmed his credibility or did not support his position that he has disclosed the Kentucky Agreed Order to other entities, but failed to do so here in Ohio, based upon the distracted and hasty approach he took in completing the application.

Mr. McGovern stated that the third thing is that numerous well-qualified healthcare professionals testified that they have found Dr. Barrere to be a competent, honest and compassionate physician. Mr. McGovern stated that this Board should do the same and at least consider sparing Dr. Barrere the suspension contemplated by the Report and Recommendation. He stated that Dr. Barrere has acknowledged and learned from his mistakes, and would very much appreciate the opportunity to continue serving, without interruption, the medically underserved patient population of the tri-state area that he currently serves.

Dr. Barrere thanked the Board for hearing him today. He stated that he's deeply disappointed in himself for the conduct that has led this Board to have to issue him the Notice of Opportunity for Hearing. Through the hearing process he hopes that he has made clear to each Board member how sorry he is for all that has occurred. He also hopes that he has been able to convey to the Board that, although he disputed what was alleged by the complainants in Kentucky, he grew and benefitted both personally and professionally as a result of the Kentucky Agreed Order. In particular, he realizes that he was beginning to treat his office staff as friends rather than employees. It became very clear to him that he could continue to treat them and give them the respect that they deserve but still have clear-cut boundaries in his office.

Dr. Barrere stated that he's most sorry for his faulty assumptions regarding who knew what and when with respect to the matters at issue in the Kentucky Agreed Order, and also for his stupidity in failing to give his Ohio renewal application the time and attention it deserved.

Dr. Madia advised Dr. Barrere that he has one more minute to conclude his statement.

Dr. Barrere stated that at the time he completed his renewal application in January 2007, his wife was pregnant with their second child. Their first baby was born very prematurely and he spent 48 days in the neonatal intensive care unit (NICU) at University Hospital. They knew that a second pregnancy was going to be nothing short of an emotional roller coaster, and it was just that. The same month that he was filling out his application, his wife was in the operating room, having a cerclage placed to keep her cervix closed. They later thought that she had suffered a complication of that cerclage and her water had broken, but thank God that it had not. They later found out that his daughter had a single umbilical artery, which can be associated with malformations, chromosome problems, and even stillbirth. Dr. Barrere stated that he was very distracted, and he just breezed through his application. He stated that he's very sorry that he did that.

Dr. Barrere stated that he realizes that this does not excuse his conduct, but he promised the Board that none of the mistakes that have brought him here today will ever be repeated.

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

Ms. Unver stated that Dr. Barrere has been licensed to practice medicine in the State of Ohio since 1995. He was also licensed to practice medicine in the State of Kentucky. In March 2005, the Kentucky Board of Medicine filed a complaint against Dr. Barrere based upon allegations of sexual harassment made against him by several former employees. Approximately 4 months later, in July 2005, Dr. Barrere entered into an Agreed Order with the Kentucky Board which required him to take a boundaries course and pay a \$250 fine.

Ms. Unver advised that Dr. Barrere completed his boundaries course and paid his fine. Unfortunately, when Dr. Barrere renewed his 2007 Ohio license, he answered "no" to questions 2 and 4 of the renewal application, which ask whether, since the signing of his last renewal application, he had ever been disciplined as a licensee in another state other than Ohio, and whether any other board had ever filed any complaints or allegations against him. This Board issued a Notice of Opportunity for Hearing to Dr. Barrere on two bases:

1. for a bootstrap action based upon the discipline imposed by the Kentucky Board of Medical Licensure, and
2. for making false, fraudulent, deceptive or misleading statements in his 2007 Ohio renewal application.

Ms. Unver advised that at the hearing, Dr. Barrere entered into stipulations admitting to both of these allegations brought against him. Ms. Unver pointed out that stipulations to all allegations do not happen often. So when a licensee stipulates to the full allegations, any evidence that is presented at the hearing by the licensee would tend to be mitigation evidence. There was certainly mitigation evidence presented by Dr. Barrere, in the form of character witnesses and his own testimony on his remorseful actions. But Dr. Barrere also presented additional evidence and explanations about the chain of events that took place when the Kentucky Board took disciplinary action against him and when he filled out his 2007 Ohio renewal application. Ms. Unver advised that presenting additional evidence can be a double-edged sword – potentially providing a mitigating explanation but also shedding light on additional facts that make previous explanations seem implausible. Because the Report and Recommendation finds Dr. Barrere's explanations were lacking in credibility, Dr. Barrere filed Objections to the Report and Recommendation. While Dr. Barrere did present himself at the hearing with great remorse for his actions in making the false statements about the Kentucky Agreed Order, his actions seem to show a consistent downplaying of the events at issue in this case. Dr. Barrere presented a fair amount of testimony discussing why he disagreed with the facts in the Kentucky Board action even though he had entered into the Agreed Order with that State Board. He also downplayed the Agreed Order in a renewal application for hospital privileges and an application for liability insurance, which is noted in the Hearing Examiner's report. Ms. Unver stated that the Board must take Dr. Barrere's decision to downplay these key events into consideration in reaching its order.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. SHAMANSKY'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF DAVID

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MILES BARRERE, M.D. DR. SUPPAN SECONDED THE MOTION.

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

Dr. Steinbergh reviewed the terms of the Proposed Order. She stated that she felt that the Report and Recommendation was appropriate and she supports the Proposed Order. Dr. Steinbergh stated that she hopes by now that Dr. Barrere knows that the Kentucky Board limited his license and he understands how to answer that question. Dr. Steinbergh stated that her concern was the multiple lies on his Ohio application, to his insurance company, and to the medical staff who granted privileges to him. She noted that he blatantly lied on his insurance application, and had the audacity to say that the Ohio State Medical Board was aware of the Kentucky investigation and chose not to do its own investigation. Dr. Steinbergh stated that he's here today because of that. Dr. Steinbergh stated that physicians and those who apply for certificates and licenses in the State of Ohio need to understand the direct responsibility to accurately complete applications.

Dr. Varyani indicated that he didn't feel that the proposed sanction in this case is sufficient. He noted Dr. Steinbergh's statement that Dr. Barrere had the audacity to lie on his insurance application about the Ohio State Medical Board. He indicated that the proposal is a slap on the wrist. Lying is one thing, but exaggerating that lie and perpetuating it is another matter. He stated that he doesn't know whether he wants to increase the penalty or not. He noted that Dr. Barrere was very apologetic, and that set well with him.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER BY CHANGING THE PERIOD OF SUSPENSION TO 90 DAYS. DR. VARYANI SECONDED THE MOTION.

Dr. Mahajan stated that it's been two years and Dr. Barrere didn't do anything wrong after that. He stated that many patients in this underserved area will suffer from a longer suspension. Dr. Mahajan stated that a three month suspension is too much.

Dr. Varyani noted that Dr. Barrere works in the tri-state area, which includes Cincinnati. He questioned whether that is an underserved area.

Dr. Stephens stated that she thinks that 90 days' suspension is out of proportion to what he did. In addition, she stated that a one-year probation seems excessive, but if that's what the Board wants, fine. She stated that she would stay the suspension.

Dr. Amato stated that he leans more towards Dr. Stephens' statements. He stated that he doesn't like what Dr. Barrere did on his application. Intellectual honesty and honesty go hand in hand; however, when you look at the potential of the unintended consequences, if the Board gives this man a one-year probation, he'll have a pretty hefty penalty from the managed care industry. Dr. Amato stated that he has a problem with extending the suspension.

Dr. Madia asked whether Dr. Amato would support the original Proposed Order.

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Dr. Amato stated that he would more so than the longer suspension.

Dr. Suppan also supported Dr. Mahajan and Dr. Amato's opinions. She added that the service to the underserved area should be taken into consideration.

Dr. Steinbergh stated that she has to address that issue. She stated that a doctor is a doctor is a doctor. She doesn't look at where they serve, or whom they serve. She stated that she's pleased when people serve in underserved populations, but Ohio doesn't have a tiered system of medical care: you get a good doctor in Columbus, but you don't get a good doctor in an underserved population because the Medical Board felt you needed a doctor. She disagrees with that concept. Dr. Steinbergh stated that the probationary piece allows the physician to do what the Board has asked him to do, in terms of a personal ethics course, and to meet the other stipulations. It gives the person a time out to be truly considerate of what has occurred, he comes before the Board again, addresses the Board again, and the Board members have the opportunity to discuss and see what he's learned from this. Dr. Steinbergh stated that it makes a difference in a young physician's life. She added that it doesn't seem so today, but when you look at probationers over the years, they do learn something from this. To say that this is not important is inappropriate. She stated that she's not looking just at the time element; rather, she looks at as an opportunity for this physician to deal with his life, and to rethink the situation.

Dr. Stephens stated that, although she doesn't think what Dr. Barrere did was good or that he should get off Scott-free, she does think that coming before the Board is almost enough of a punishment for this where there's no patient consequence. Dr. Stephens stated that she doesn't understand how the Board can give someone who caused a patient's death the same sentence as someone who caused no patient consequence at all.

Dr. Amato stated that he didn't hear any Board member say that the acts were of no consequence. He believes what he hears going on in the Board, and actually the members are very close as to what should be done. He noted that he hasn't heard anyone say that the Board should eliminate the probation. The Board members have discussed whether or not the suspension should be longer. He personally thinks that the Order, as written, is an awfully severe penalty for the action that was taken. Dr. Amato added that nobody has said that they want two tiers of medicine. He stated that those in the hinterland probably feel that they probably need the best doctors in the state because you don't get any support. However, the Board's charge is safety for the citizens of the State of Ohio, so when it looks in the hinterland, if the Board takes one doctor out, the Board has just caused irreparable harm to that community because there's nobody to take his place. He stated that that's not true, necessarily, in this case, but that is something that those who practice or live in the hinterland keep in mind. The suspension of a doctor in the hinterland has far more consequences to the medical community than if you do that in one of the big urban counties.

DR. STEINBERGH WITHDREW HER MOTION TO AMEND.

Dr. Varyani stated that he knows that this causes consequences to the hinterland, but his concern is that if the Board is sentencing based on community needs and the sentencing for someone in Cleveland more than it would someone in the hinterland, it is creating a two-tiered system. He stated that he will go along with the vote, but there has to be a distinction of a lie and the propagation of exaggeration of such statement.

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Dr. Suppan stated that the thing is that in any tier, the Board wants to try to keep a physician in practice when it is safe. That's the bottom line. The issue here is whether or not it's safe enough to do that. She stated that she believes that it is.

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

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

JACK DAVID BENNETT, M.D.

Dr. Madia directed the Board's attention to the matter of Jack David Bennett, M.D. He advised that objections were filed by the State to Hearing Examiner Petrucci'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. Bennett. Five minutes would be allowed for that address.

Dr. Bennett was accompanied by his attorney, Eric J. Plinke, Esq. Mr. Plinke advised that objections weren't filed because they agreed with the Hearing Examiner's Findings of Facts, Conclusions of Law and Summary of Evidence. In particular, he thinks that her analysis and explanation of the Proposed Order is an excellent legal summary supporting the Proposed Order. He notes that it really details witness testimony that was not sufficient, probative or reliable under the legal standard before the Board. Additionally, the testimony was very similar to testimony that was previously found to be unreliable by the Franklin County Court of Common Pleas in the *Matter of Mark Allen*, involving the very same witness engaging in similar conduct.

Mr. Plinke addressed the objections filed by the State's Attorney, stating that if the Board compares this rationale and analysis for the Order and Summary of the Evidence, the objections can be disregarded.

Dr. Bennett thanked the Board for letting him address it. He stated that he would like to say that he's not an impaired physician. He added that he's feeling a little bit nervous because he's not used to speaking in

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public. He again stated that he would like to assure the Board that he's not an impaired physician and he's not a danger to the public.

Dr. Bennett stated that this is the first time in his life that he's ever been questioned about any of these matters. Since Christmas of 2007, he has not had the slightest problem with any person and he has been much more careful about those with whom he associates. Dr. Bennett stated that he can assure the Board that he will never have any problem like this again in the future.

Dr. Bennett asked that the Board approve the Hearing Examiner's Report and Recommendation. He stated that he feels that the Glenbeigh evaluation was unfair on many levels. For example, the counselor, Roy Nichols, put things into his chart that he never said. Dr. Bennett stated that he doesn't know if Mr. Nichols was confusing him with other patients with whom he talked, but Mr. Nichols put completely false things into his medical record. Dr. Bennett stated that he even sent a letter to Glenbeigh asking them to address this, and they completely ignored him. Dr. Bennett stated that he also feels that the diagnosis at Glenbeigh was based almost entirely on hearsay.

Dr. Madia advised Dr. Bennett that he has one more minute to conclude his address.

Dr. Bennett stated that Dr. Adelman spent less than two minutes with him and only asked him one question, which was where he went to medical school.

Dr. Bennett stated that he believes that the Hearing Examiner brought common sense to this whole situation.

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

Ms. Pfeiffer addressed the Board, stating that she was not the Assistant Attorney General who tried this case; however, she's entered an appearance as co-counsel in order to address the Board today.

Ms. Pfeiffer stated that she, respectfully but strongly, disagrees with the Proposed Order of dismissal in this case. While this particular case may not be the most obvious case of impairment that has come before the Board, it is clear from the record that there was sufficient evidence for the Board to find by a preponderance of evidence that Dr. Bennett is, in fact, an impaired practitioner. The record in this case reveals a repetitive series of episodes of markedly aberrant behavior on the part of Dr. Bennett over an extensive period of time, with each episode involving the use of alcohol or drugs. From his multiple run-ins with law enforcement, including two arrests for suspected DUI, to his rather bizarre story leading up to his arrest on Christmas day of 2007, there is sufficient evidence for the Board to conclude that Dr. Bennett is, in fact, impaired in his ability to practice.

Ms. Pfeiffer stated that that was the conclusion that was reached by Dr. Adelman of the Board-approved treatment provider, Glenbeigh Hospital. Dr. Adelman's opinion is the opinion of the only addiction medicine expert who testified in this case, and his testimony should be given great weight. Instead of focusing on the Respondent's attacks on Dr. Adelman and the counselor, Roy Nichols, she would urge the Board to focus on Dr. Bennett, his actions, and the expert opinion provided at hearing, under oath, by an

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addiction medicine physician.

Ms. Pfeiffer stated that, with all due respect to the Hearing Examiner, it is her position that the Hearing Examiner's conclusions are erroneous and should be modified, as outlined in the objections that were filed. Her reasons are as follows:

1. An unsworn written statement, purportedly issued by Dr. Edna Jones, was allowed into the record, over the State's objections, without any chance by the Assistant Attorney General to question Dr. Jones on the basis of her opinion. The Hearing Examiner's reliance upon the written statement of Dr. Jones, in her conclusion that Dr. Bennett is not impaired, is not proper. Ms. Pfeiffer stated that the witness statement of Dr. Jones should be given little or no weight by the Board for the reasons that it was not authenticated, it was not sworn to, it was not under oath, and it was not subject to cross-examination. Ms. Pfeiffer stated that the heart and soul of the issue for this case was one of impairment. To allow that unsworn statement to come in and to be relied upon as heavily as she did was erroneous.
2. The Hearing Examiner placed such heavy emphasis on the DSM-IV criteria that she essentially ignored, discounted and disregarded the expert opinion of Dr. Adelman. Ms. Pfeiffer stated that the DSM-IV is a useful tool and it's used to assist in the diagnosis of psychiatric conditions; however, meeting exact specific criteria of a DSM-IV is not the sole, dispositive mechanism used by a physician to make a diagnosis. A clinical evaluation is crucial. In this case, Dr. Adelman used his professional judgment and training to find and conclude that Dr. Bennett meets the clinical criteria for his diagnosis.

Ms. Pfeiffer urged the Board to adopt the diagnosis and recommendation of Dr. Adelman, make a finding that Dr. Bennett is, in fact, impaired in his ability to practice medicine and surgery, and order that he undergo the 28 days of impairment treatment as required by the Board's rules.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JACK DAVID BENNETT, M.D. DR. STEINBERGH SECONDED THE MOTION.

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

Dr. Stephens stated that, although nothing has been reported since 2007, when she looks at this case and she looks at physicians with whom she deals on a regular basis, the police have not been to their houses. They have not been caught in altercations with alcohol on their breath or anything like that. She stated that, to her, this looks like impairment.

Dr. Steinbergh stated that she also thinks that this looks like impairment. She stated that, over the years, when the Board takes a look at the behavior of physicians who are ultimately diagnosed as impaired, they demonstrate the same type of behavior as Dr. Bennett; i.e., very risky behavior. This is risky behavior on the part of any person, but especially in terms of a professional. Drinking and driving is absolutely inappropriate. If physicians don't know the difference, the impairment that it causes in your mind, the lack

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of neurologic control and so forth, if you don't understand that as a physician, she doesn't know who else should.

Dr. Steinbergh stated that she appreciates Dr. Bennett's coming before the Board today, because she thinks that he makes an appropriate presentation. However, from reading the record, she thinks that he abused alcohol. She doesn't know if he continues to use alcohol.

Dr. Steinbergh also noted that Dr. Bennett hasn't worked for over two years now, and it's a huge concern for her. She advised that it would not be appropriate to dismiss this case. Dr. Bennett is someone who could go out tomorrow, get a job and care for patients. He could get in his car, he could drink, he could kill someone. Dr. Steinbergh stated that she sees him as being a risky individual and someone she could not dismiss today.

Dr. Steinbergh added that she agrees with the State's objections. She thinks that Mr. Wilcox outlined it very appropriately. Common sense tells her, after all of these years of service on the Board, that Dr. Bennett is impaired. There's some degree of impairment. She doesn't know the answer to the questions as to whether he's as bad as somebody else, or as at much risk as somebody else. She does know that dismissal is inappropriate.

DR. STEINBERGH MOVED TO AMEND THE CONCLUSION OF LAW TO STATE: THE ACTS, CONDUCT, AND/OR OMISSIONS OF JACK DAVID BENNETT, M.D., AS SET FORTH IN FINDINGS OF FACT 1 THROUGH 4, CONSTITUTE RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO ESTABLISH THAT DR. BENNETT IS IMPAIRED IN HIS "ABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BECAUSE OF HABITUAL OR EXCESSIVE USE OR ABUSE OF DRUGS, ALCOHOL, OR OTHER SUBSTANCES THAT IMPAIR ABILITY TO PRACTICE" AS SET FORTH IN SECTION 4731.22(B)(26), OHIO REVISED CODE.

AND TO AMEND THE PROPOSED ORDER TO THE FOLLOWING:

It is hereby ORDERED that:

- A. **SUSPENSION:** The certificate of Jack David Bennett, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Bennett's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Bennett shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

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2. **Completion of Inpatient Treatment:** Dr. Bennett shall complete a minimum of twenty-eight days of inpatient or residential treatment, or a combination thereof, for his substance abuse. Such inpatient or residential treatment shall be completed without interruption. Further, such inpatient or residential treatment shall be provided in accordance with Rule 4731-16-08(A)(13), Ohio Administrative Code, by a treatment provider approved under Section 4731.25, Ohio Revised Code.

In addition, upon discharge from treatment, Dr. Bennett shall enter into, and thereafter maintain compliance with, a post-discharge aftercare contract which complies with Rule 4731-16-10, Ohio Administrative Code, with a treatment provider approved under Section 4731.25, Ohio Revised Code, who has access to Dr. Bennett's treatment records.

3. **Demonstration of Ability to Resume Practice:** Dr. Bennett shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
- a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Bennett has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the 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 of the Administrative Code.
 - c. Two written reports indicating that Dr. Bennett's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be 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. Bennett. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Bennett shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Board Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Bennett, and any conditions, restrictions, or limitations that should be imposed on Dr. Bennett's

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practice. The reports shall also describe the basis for the evaluator'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. 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:** Dr. Bennett shall present documentation satisfactory to the Board of successful completion of the Special Purpose Examination offered by the Federation of State Medical Boards or of the certification or recertification examination of the American Board of Pediatrics as additional evidence of his fitness to resume practice.
- C. **PROBATION:** Upon reinstatement or restoration, Dr. Bennett'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. Bennett shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Personal Appearances:** Dr. Bennett shall appear in person for interviews before the Board or its designated representative. The first such appearance shall take place during the third month following the month in which Dr. Bennett's certificate is restored or reinstated. 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.
 3. **Quarterly Declarations:** Dr. Bennett 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 Dr. Bennett's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 4. **Abstention from Drugs:** Dr. Bennett shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full

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knowledge of Dr. Bennett's history of substance abuse. Further, in the event that Dr. Bennett is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Bennett shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Bennett received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Bennett 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.

5. **Abstention from Alcohol:** Dr. Bennett shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site:** Dr. Bennett shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Bennett 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. Bennett's drug(s) of choice.

Dr. Bennett shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Bennett acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand-cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, except as provided in Paragraph 7 below, and the screening process shall require a daily call-in procedure.

Dr. Bennett shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Bennett 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 Board 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 Board Order.

Further, within thirty days of the effective date of this Board Order, Dr. Bennett

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shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Board Order.

Further, Dr. Bennett shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Bennett and the Board-approved drug testing facility and/or collection site. Dr. Bennett'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 Board Order.

Dr. Bennett shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site 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. Bennett and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Bennett shall ensure that the Board-approved drug testing facility and/or collection site 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 Board Order, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Board Order, Dr. Bennett must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 7 below, as soon as practicable. Dr. Bennett shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Bennett acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

7. In the event that utilizing the Board-approved drug testing facility and/or collection site as set forth in Paragraph 6 above creates an extraordinary hardship upon Dr. Bennett, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Bennett:

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- a. Within thirty days of the date upon which Dr. Bennett is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Bennett, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Bennett 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. Bennett's residence or employment location, or to a physician who practices in the same locale as Dr. Bennett. Dr. Bennett shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the 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. Bennett acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.
- b. Dr. Bennett shall ensure that the alternate drug testing facility and/or collection site, or the 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 Board Order, and whether all urine screens have been negative.
- c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Bennett must immediately notify the Board in writing. Dr. Bennett shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Bennett shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Bennett.
- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Bennett's designated alternate drug testing

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facility and/or collection site, 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.

8. All screening reports required under this Board Order from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Bennett's quarterly declaration. It is Dr. Bennett's responsibility to ensure that reports are timely submitted.
9. **Submission of Blood or Urine Specimens upon Request:** The Board retains the right to require, and Dr. Bennett agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Bennett, or for any other purpose, at Dr. Bennett's expense upon the Board's request and without prior notice. Dr. Bennett's refusal to submit a specimen upon 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.
10. **Rehabilitation Program:** Dr. Bennett shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Dr. Bennett shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Bennett's quarterly declarations.
11. **Aftercare:** Dr. Bennett shall maintain continued compliance with the terms of the aftercare contract entered into with a Board-approved treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Board Order, the terms of this Board Order shall control.
12. **Absence from Ohio:** Dr. Bennett shall obtain permission from the Board for departures or absences from Ohio. 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

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performed. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the probationary terms set forth in this Board Order for occasional periods of absence of fourteen days or less. In the event that Dr. Bennett resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Bennett may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Bennett is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Board Order.

13. **Violation of Terms of Probation:** If Dr. Bennett violates probation 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.
14. **Required Reporting of Change of Address:** Dr. Bennett shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Bennett's certificate will be fully restored.
- E. **RELEASES:** Dr. Bennett shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Bennett's substance abuse and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. 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. Bennett shall also provide the Board written consent permitting any treatment provider from whom Dr. Bennett obtains treatment to notify the Board in the event he fails to agree to or comply with any recommended treatment or with any treatment or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

- F. **REQUIRED REPORTING AND DOCUMENTATION OF REPORTING:**
1. **Required Reporting to Employers and Hospitals:** Within 30 days of the effective date of this Board Order, Dr. Bennett shall provide a copy of this Board Order to all employers or entities with which he is under contract to

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provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Bennett shall promptly provide a copy of this Board Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. In the event that Dr. Bennett provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Board Order, Dr. Bennett shall provide a copy of this Board Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

This requirement shall continue until Dr. Bennett receives from the Board written notification of his successful completion of probation as set forth in Paragraph D, above.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Board Order, Dr. Bennett shall provide a copy of this Board 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. Bennett further agrees to provide a copy of this Board Order at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license.

This requirement shall continue until Dr. Bennett receives from the Board written notification of his successful completion of probation as set forth in Paragraph D, above.

3. **Documentation that the Required Reporting Has Been Performed:** Dr. Bennett shall provide the Board with **one** of the following documents as proof of each required notification within 30 days of the date of each notification required above: (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 Board Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Board Order to the person or entity to whom a copy of the Board Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Board Order to the person or entity to whom a copy of the Board Order was emailed.

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This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

Dr. Steinbergh stated that she hopes that Dr. Bennett has the time to wait to hear some of the stories of those probationers who will be making personal appearances today. He will see some people who are just beginning this process, and some who are finishing the process. Overwhelmingly, the doctors who finish this process, the doctors who have been impaired and have demonstrated the problems that Dr. Bennett has demonstrated, are pleased. They're never pleased at the beginning, but at the end they are. They've changed their behavior and recognized the difference in themselves. They go on to be, the Board hopes, very appropriate physicians.

DR. AMATO SECONDED THE MOTION.

Dr. Amato commented that if it walks like a duck, quacks like a duck, swims like a duck, it's probably a duck.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- 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. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JACK DAVID BENNETT, M.D. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

SHANNON LIN BOYER

Dr. Madia directed the Board's attention to the matter of Shannon Lin Boyer. He advised that objections were filed by the State to Hearing Examiner Paul Stehura's Report and Recommendation and were previously distributed to Board members.

Dr. Madia continued that a request to address the Board has been filed on behalf of Ms. Boyer but was not filed in a timely manner. Dr. Madia asked whether the Board wished to grant Ms. Boyer's untimely request to address the Board.

DR. STEINBERGH MOVED TO ALLOW MS. BOYER TO ADDRESS THE BOARD. DR. SUPPAN SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Madia advised Ms. Boyer that five minutes would be allowed for that address.

Ms. Boyer stated that she is addressing the Board today concerning her license for massage therapy. She stated that she is aware of the mistakes that she has made in the past and that she is fully committed to her future. She has worked very hard to obtain her associate degree. Ms. Boyer stated that she did not deliberately withhold information on the Board application and has answered all the questions to the best of her knowledge. She wishes only to be a productive citizen and to become the best role model for her son.

Ms. Boyer advised that the errors that she has made in the past were committed during a period of desperation. She has learned to ask for help from the right sources and to make positive decisions and choices. She's a single parent who owes \$22,000 in student loans. She's struggling to impress upon her teenage son the importance of post-secondary education. It is increasingly difficult when he only sees her defeats and not her successes. Ms. Boyer stated that, without her massage therapy license, her hands are tied. She stated that she stands before the Board and humbly requests this chance to make reparation and to improve her life and that of her son. She stated that she is sure that all her hard work and effort she has completed will not have been done in vain.

Ms. Boyer asked that the Board allow her the chance to prove herself by allowing her to practice as a licensed massage therapist.

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

Ms. Pfeiffer stated that Mr. Wilcox was the Assistant Attorney General who handled this case, and that he supports the Report and Recommendation. She added that she would like to note that the information

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provided to Dr. Madia was in error, and that no objections were filed by the State to the Report and Recommendation.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. STEHURA'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF SHANNON LIN BOYER. DR. VARYANI SECONDED THE MOTION.

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

Dr. Steinbergh spoke in support of the Proposed Order denying Ms. Boyer's application for a license as a massage therapist. She stated that she could not find any mitigating circumstances in this case in regard to the fact that she had consistently lied to the Board. She falsely applied on a 2007 application, and again on her 2008 application for re-examination by not properly listing her employers, as required on the application.

Dr. Steinbergh continued that Ms. Boyer was convicted of forgery, a first degree misdemeanor involving moral turpitude. She was found guilty of OMVI in 2004, and did not disclose this on her 2007 application. She failed to comply with a court order to display a yellow DUI license plate at all times in 2004. This was proven during the investigation of her in 2008 when photographs were taken outside of a physician's office, where she was employed.

Dr. Steinbergh stated that she appreciates Ms. Boyer's comments today; and, personally, she loves to see people go on and get secondary education. There are a variety of means to do that, and she chose massage therapy. Dr. Steinbergh stated that when the Board says that someone is an appropriate massage therapist, it goes to the fact that the Board believes that, not only has one been educated and trained, but that he or she is also an appropriate individual, morally and ethically. Dr. Steinbergh stated that a massage therapist's patients or clients have the right to believe that the person who is giving them massage therapy is a professional, and they look to this Board to make that decision. She stated that the massage therapy profession wants to maintain a very strong profession. Dr. Steinbergh stated that she's sorry to say that she personally does not see Ms. Boyer in that role. Dr. Steinbergh spoke in support of the Report and Recommendation.

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

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

HEATHER VICTORIA DOWNEY

Dr. Madia directed the Board's attention to the matter of Heather Victoria Downey. He advised that no objections were filed to Hearing Examiner Siobhan Clovis' Report and Recommendation.

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

Ms. Downey stated that she is here today to ask forgiveness for the mistakes she made in her younger years. She graduated in April 2007, taking extra classes in order to pass the State Medical Board examinations the first time, which she did. She stated that she is at fault for her mistakes in her younger years, when she was 16, 19 and 21 years old. She is now an adult, 25 years old, and has learned from her past mistakes. She's completed everything asked by the State Medical Board and she still has not received her license. It has been two years. Ms. Downey stated that she hopes that the Board can look past the mistakes she made in her younger years so that she may be able to start her career and further her future.

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

Ms. Unver stated that she did. She advised that Ms. Downey submitted an application for a certificate to practice Massage Therapy with this Board in February, 2007. That application is pending at this time. In November, 2007, the Board ordered Ms. Downey to attend a 72-hour inpatient evaluation to determine whether Ms. Downey was impaired in her ability to practice massage therapy according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances. This order was based upon Ms. Downey's past history including a November 2000 arrest for curfew violation and underage consumption, a June 2004 conviction for drug paraphernalia, and a 2005 conviction for operating a motor vehicle while impaired.

Ms. Unver continued that Ms. Downey attended the assessment at Maryhaven, and Dr. Pelt found her to be impaired based upon alcohol abuse, and he recommended outpatient treatment consistent with the guidelines set forth in amended Ohio Administrative Code rule 4731-16-02. Ms. Unver concluded by stating that the State agrees with the Report and Recommendation, as written.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF HEATHER VICTORIA DOWNEY. DR. VARYANI SECONDED THE MOTION.

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

Dr. Steinbergh stated that she agrees with the Proposed Order in this case. She noted that it will grant Ms. Downey a license, suspend that license for a period of 90 days, which will allow her to get the outpatient

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rehabilitation that she needs, to be monitored and to get two assessments prior to reinstatement. Dr. Steinbergh reviewed the charges against Ms. Downey. She noted that Ms. Downey has attended a 72-hour alcohol program and since that time, January 2005, she has had no further convictions.

Dr. Steinbergh stated that because the Board does allow massage therapists to do outpatient drug therapy, she does agree with the rationale for the Proposed Order. She added that the indefinite suspension for not less than 90 days will allow Ms. Downey to fulfill the stipulations of the Order.

Dr. Steinbergh told Ms. Downey that she needs to really understand her Order. She stated that the Board will help her with that Order. She added that if Ms. Downey means what she says about changing her life around, Dr. Steinbergh will look forward to seeing her as a good massage therapist.

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

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

ABBY R. URIDEL, M.T.

Dr. Madia directed the Board's attention to the matter of Abby R. Uridel, M.T. He advised that no objections were filed to Hearing Examiner Clovis' Report and Recommendation.

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

Ms. Uridel stated that she would like to address the Board on the review of her application to renew her license for massage therapy. During this review, it was brought to the attention of the State Board that there was a discrepancy on her renewal application. There was a question regarding a conviction of a felony and misdemeanor. She stated that she had had help from an individual in preparing her paperwork, and the question was not answered correctly. When she answered the question, she was basing her answer upon the record of the incident that took place in 2007. She had been advised by her attorney at the time to get this incident expunged from her record and that this was a misdemeanor that was equivalent to a traffic ticket, and she did not tell anyone about this incident. Ms. Uridel stated that she took the attorney's advice,

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and she filled out her renewal application based upon this.

Ms. Uridel stated that when she was notified by the State Board that there was a discrepancy in her forms, she was surprised to hear about it. She explained that she had her mother fill out the forms for renewal on line as she did not have a computer at the time of filing because her daughter was sick. While discussing the questions on the form, her mother either didn't read the question correctly, or she didn't hear the question correctly.

Ms. Uridel stated that, although the Hearing Examiner has determined that there is evidence that she withheld information purposely in order to hide it, it was never her intention to do so. She understands that this is a serious matter and that her license could be suspended for a period of 30 days, which will create undue hardship for her daughter and her, especially in these hard times. Other than her practice, she has no other source of income. She's an independent contractor and cannot claim any income to support herself. This includes no spousal support, and no child support. She will not be able to provide for her daughter and herself during this time.

Ms. Uridel asked that the Board reconsider the recommendation before them and consider imposing the least possible sanctions in this matter. She thanked the Board for understanding. She stated that she does regret what happened that day, every single day. She stated that her ex-husband did anything he could to hurt her. He threatened to take her daughter away, and to leave the state. She went over there and never set one foot in the house. Her lawyer did nothing. He told her it was just, basically, like a traffic ticket and wouldn't harm her massage therapy license in any way. So, from then, she just put it in the back of her mind. Ms. Uridel stated that she deals with that injury every single day.

Ms. Uridel stated that massage is her way of life. She enjoys what she does. She has many clients that need her help. She never did anything wrong before this. She doesn't abuse alcohol, and doesn't use drugs. She's a normal, caring, loving mother, with no help from the father.

Ms. Uridel stated that she would really appreciate it if her massage therapy license isn't suspended. She stated that she will do anything in order to not have that happen.

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

Ms. Pfeifer stated that she has a sense of empathy and some sympathy for Ms. Uridel with respect to the situation she found herself in that led to her being indicted and criminally charged. It was a very emotional, trying issue, involving her child and the child's father. That's part of the record and understandable. She added that she does want to remind the Board of the following in its determination of whether or not there was a violation, which she thinks is fairly clear, and in determining what to do with this licensee. She referred to State's Exhibit 4, which is the written memorialization of Ms. Uridel's guilty plea in Common Pleas Court in Cuyahoga County in November 2006. She was offered a plea bargain and pled guilty to a lesser charge – not the felony offense of burglary that she was indicted for – but for a first degree misdemeanor. She was sentenced to a term of three months, which was suspended, provided she pay the court costs in that case.

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Ms. Pfeiffer stated that when you go into a Common Pleas Court, based upon a criminal indictment that has been issued against you, and you're represented by counsel, and you go before the judge, and you plead guilty to a lesser charge, and you're sentenced, you remember that. You particularly remember it seven months later. Ms. Pfeiffer noted it was seven months later when she renewed her license on line and that specific question asks you, "Have you ever been found guilty of or pled guilty to or no contest to a misdemeanor or felony?" Ms. Pfeiffer stated that that is absolutely crystal clear, and she's still troubled by Ms. Uridel's testimony that her lawyer said it's "like a traffic ticket." Ms. Pfeiffer stated that probably everybody present knows what a traffic ticket is like. It's not being criminally indicted by a Grand Jury. It's not going to Common Pleas Court, and it's not pleading "guilty" in front of a judge and being sentenced. Ms. Pfeiffer stated that that part troubles her. The attorney never came in to testify that that's how he so advised her.

Ms. Pfeiffer asked that the Board keep these facts in mind when determining the appropriate sanction in this case.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ABBY R. URIDEL, M.T. DR. VARYANI SECONDED THE MOTION.

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

Dr. Stephens stated that she really found the record compelling, and she found Ms. Uridel's testimony even more compelling. In regard to what Ms. Pfeiffer said, she wouldn't expect an attorney to come in and say that he told her it was just like a traffic ticket. She stated that she doesn't hold that fact against Ms. Uridel.

Dr. Stephens stated that she finds in her life that she signs things all the time, and she may not read them, particularly if they're legal documents. She leaves it up to her lawyer to say that it's okay. Dr. Stephens stated that she knows that Ms. Uridel went through a trial and a hearing and all these other things in her domestic dispute, but she doesn't think that people sometimes realize the consequences or the gravity of any kind of court action. She thinks that this was the case with Ms. Uridel. Dr. Stephens stated that she doesn't want to judge Ms. Uridel based upon the domestic dispute that brought her to the attention of the Court.

Dr. Stephens stated that she thinks that the Proposed Order is harsh, and she thinks that the suspension should be stayed and that her probation can be limited.

Mr. Jacobson stated that this is something that he knows a little bit about because he is a lawyer. He commented that when you get charged with burglary, and what ends up happening to you when you're done is that you have to pay the court costs and that's it, you're not talking about any criminal sanction at all. It's really hard to look at this and say it's a real burglary charge. It might have met the elements, because you can't charge somebody without a prima facie showing of the elements. You charge the person so you can have a conversation with two people in the middle of a domestic dispute and advise them that they are no longer able to walk into each other's houses uninvited, that they're not a couple anymore, and that it's against the law and the Courts don't like it. That's not the same as somebody getting criminal tools

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out and trying to break in and doing this as a way or life or in order to get something out of it. Mr. Jacobson stated that he thinks that the Board is elevating this by its treatment of this dispute into something more than it was. He stated that it's unfortunate that Ms. Uridel answered the question the way that she did, but, frankly, if you're not a lawyer, he's not sure that you would walk away from this incident with anything other than, "okay, we all embarrassed ourselves in a domestic dispute and we promise to be grownups after this." Mr. Jacobson stated that he would not support the Proposed Order, as it is.

Dr. Steinbergh agreed with Dr. Stephens and Mr. Jacobson. She stated that she has a concern about young people whose attorneys say whatever they say to them and then it can be expunged. What does expungement mean? What is the expectation of the person when they hear that word, "expungement?" It's going away, but it's not really. That's the piece that bothers her. Dr. Steinbergh stated that Ms. Uridel didn't have a timeframe for expungement. She heard the word, "expungement," and thought it's going to go away.

Also, Dr. Steinbergh stated that she thinks she believes Ms. Uridel when she says that her mother may have misread the question. Dr. Steinbergh stated that Ms. Uridel did answer the question inappropriately, and there will be a sanction. She stated that she would stay the suspension and reduce the probationary term. Dr. Steinbergh stated that the reason for that is that she will be asked to take a personal ethics course that will teach her some things about answering questions, being honest, and thinking about how she should respond to questions on applications and that kind of thing. Dr. Steinbergh stated that she thinks that will be a worthwhile course for Ms. Uridel. Also, during that time she'll come before the Board initially and then to the Secretary and Supervising Member, Ms. Uridel will gain more respect and understanding of how she should handle this type of situation.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER BY STAYING THE SUSPENSION IN PARAGRAPH A, AND BY REDUCING THE PROBATIONARY TERM TO ONE YEAR. DR. STEPHENS SECONDED THE MOTION. A vote was taken:

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

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OF ABBY R. URIDEL, M.T. DR. AMATO SECONDED THE MOTION. A vote was taken:

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

DAVID WEI WANG, M.D.

Dr. Madia directed the Board's attention to the matter of David Wei Wang, 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 DAVID WEI WANG, M.D. DR. VARYANI SECONDED THE MOTION.

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

Dr. Steinbergh stated that she agrees with the Proposed Order of permanent revocation in this case. She stated that Dr. Wang has been licensed in Ohio since 1984. He practiced here for a number of years. In approximately 2000 he went to Florida to practice as a family physician in a number of clinics in Brevard County, Florida. In approximately June 2004 the Melbourne, Florida Police Department received a complaint about inappropriate prescribing of controlled substances, which stimulated an investigation by them, as well as by the DEA and the Florida Dept. of Law Enforcement. They sent in undercover agents who complained of pain and received controlled substances without appropriate examinations, without an appropriate physician/patient relationship or assessment of their clinical problems. On August 16, 2005, the Florida Medical Board issued an emergency suspension of his license. The Circuit Court of Brevard County later charged Dr. Wang with trafficking in hydrocodone over 28 grams and with unlawful distribution of controlled substances. Dr. Wang was arrested on August 17, 2005.

Dr. Steinbergh continued that following his February 8, 2006 citation by the Ohio Medical Board, Dr. Wang entered into an interim agreement with this Board, agreeing that he would not practice medicine in Ohio until the Florida administrative action was resolved. In 2008, Dr. Wang entered into a plea agreement in Florida to settle the criminal matters and then voluntarily relinquished his Florida license, in order to terminate the Florida Medical Board's administrative case. Dr. Steinbergh stated that Dr. Wang requested

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an Ohio Medical Board hearing, which was held in February 2009. Dr. Wang did not appear in person. He wrote a letter of explanation. Dr. Steinbergh stated that she finds no mitigating circumstances in this case, and she agrees with the Conclusions of Law.

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

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

MOTION FOR RECONSIDERATION IN THE MATTER OF JEFFREY E. WHITE, M.D.

Dr. Madia announced that the Board would now consider the matter of Jeffrey E. White, M.D. At its meeting on May 13, 2009, the Board considered the matter of Dr. White. The Board adopted an Order of revocation, stayed subject to suspension for 30 days and subsequent probationary terms, conditions, and limitations for at least one year. Subsequent documents filed were: Dr. White's Motion for Reconsideration of the Board's Order; the Assistant Attorney General's Memorandum Contra the Motion for Reconsideration; a Reply in Support of Respondent's Motion for Reconsideration; and the Amended Memorandum Contra on behalf of the State.

Dr. Madia advised that the Board will consider the request in two steps. The first vote will be on the question of whether to grant the request so that the Board may reconsider the Order issued in May. If the vote is to deny reconsideration, the matter is finished and the Board will move on to the next agenda item. If the vote is to grant reconsideration, the Board will discuss the May order and decide whether to amend it or re-issue the same Order.

Dr. Madia asked whether there is a motion to either grant or deny Dr. White's request for reconsideration and modification.

DR. STEINBERGH MOVED TO DENY DR. WHITE'S REQUEST FOR RECONSIDERATION AND MODIFICATION. DR. AMATO SECONDED THE MOTION.

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

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Dr. Steinbergh stated that she moved to deny the motion for reconsideration because this case is not the same as the other case. The case of Dr. White is one about a physician, licensed in the State of Ohio, and the State of Ohio took action on his license for sexual impropriety. The previous case mentioned in May, the case of Dr. Langschwager, was a case of a bootstrap action out of Michigan, where the Michigan Medical Board had already disciplined this physician. Dr. Langschwager had, during the disciplinary period, considered coming to Ohio. He applied for a license in Ohio, but at some point asked to withdraw his application. The application was at such a place where withdrawal was not allowed. The Ohio Medical Board considered the case and granted a license, with Dr. Langschwager going into a probationary status. Dr. Steinbergh again stated that Dr. Langschwager had been disciplined already, and the Board considered that discipline. She added that, had he been licensed in the State of Ohio at the time and did this in Ohio, it may have been different. She stated that the Board did what it did because it was a bootstrap action.

Dr. Steinbergh stated that in this case, Dr. White is licensed in the state of Ohio. She stated that, although she wasn't present at the Board meeting last month, she did read the case and she absolutely agrees with the Order the Board voted on, adding that there's no reason to reconsider. Dr. Steinbergh stated that she absolutely agrees with Mr. Wilcox's objections, and that's why she voted "no" on reconsideration.

Dr. Stephens disagreed, stating that she feels that the sanction doesn't really fit the "crime." It was a consensual relationship. She added that the real reason she had a problem with this case was that she believes that there are things in the information that the Board received that attempted to bias the Board against the doctor. Dr. Stephens stated that she believes that the Board needs to send a message that when the Board gets the Report and Recommendation and hearing record, it doesn't want anything in there that can be perceived as manipulating the Board or causing the Board to be biased.

Dr. Steinbergh asked what that would be.

Dr. Stephens stated that throughout the Report and Recommendation the Hearing Examiner refers to "Patient 1" over and over, and then all of a sudden she talks about "Patient 1" being a "he." She stated that the bias comes in from showing that this was not a heterosexual relationship.

Dr. Steinbergh stated that it doesn't matter to her.

Dr. Stephens asked why they would refer to him as "Patient 1."

Dr. Steinbergh stated that she understands what Dr. Stephens is saying, but asked whether she thinks it was an error.

Dr. Stephens stated that she doesn't know what it is, but she does want to make sure that it doesn't happen again. She doesn't want to be manipulated by sex, gender, race, creed, color, or sexual orientation. She stated that she doesn't think that that needs to be in there. Dr. Stephens stated that the Board needs to send a message that if you're calling someone "Patient 1," you need to keep referring to him or her as "Patient 1."

Dr. Amato stated that he agreed with Dr. Stephens that it should have continued as "Patient 1;" however, in

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other sexual boundary cases, he has seen similar situations where “Patient 1” got somehow referred to as “she.” Dr. Amato stated that he did not interpret that as an attempt to bias or prejudice his ruling. Beyond all of that, the Board is charged with protection of the citizens of the State of Ohio. This is a clearly admitted sexual boundary issue that occurred in Ohio by a licensee. He went along with the one-month suspension last month, thinking that it was a bit lighter than normal or average cases; but he thought that after what this practitioner had gone through, being cognizant of the unintended consequences of a one-year suspension and one-year probation, this physician was going to pay a very heavy financial fine for his indiscretion.

Dr. Amato stated that the Board discussed this case at length in May, he was not affected or disaffected by the previous rulings. Dr. Amato stated that he thinks that the Board is somewhat bound by Board rules, but those are guidelines. If you read the Board minutes, those are the Board’s guidelines. The Board can go outside of those guidelines if it finds compelling evidence. Dr. Amato stated that the Board has gone outside those guidelines, being more severe and less severe than those guidelines. He stated that he thinks that the Board looked at all that last month.

Dr. Varyani stated that he is in total agreement with Dr. Steinbergh. He stated that he can say for sure that he was not affected by the prejudice mentioned. He also suggested that, as a procedural matter, if you’re going to refer to “Patient 1,” that should remain as “Patient 1.” He stated that he totally agrees with Dr. Stephens that it might add to some people being affected by it.

A vote was taken on Dr. Steinbergh’s motion:

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

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

ANDREW BEISTEL, D.O.

Dr. Madia advised that in the matter of Dr. Beistel, the Board issued a notice of opportunity for hearing, and documentation of service was received. There was no request for hearing filed, and more than 30 days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Shamansky,

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who prepared proposed findings and a proposed order, and is now before the Board for final disposition.

Dr. Madia at this time asked for a motion in this matter.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE SEPTEMBER 10, 2008 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF ANDREW BEISTEL, D.O., HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. VARYANI SECONDED THE MOTION.

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

Dr. Steinbergh stated that Dr. Beistel is an impaired physician who initially fell under the “one-bite rule.” Dr. Beistel relapsed and didn’t tell the Board about that relapse. He then completed treatment at the Cleveland Clinic. She noted that the Proposed Order is for revocation, but not a permanent revocation. This gives Dr. Beistel the opportunity to come back to the Board and reapply for his license.

A vote was taken on Dr. Steinbergh’s motion:

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

FINDINGS, ORDERS AND 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. Gopal, Dr. Keshavamurthy and Dr. Rivitiz, as these as cases are not disciplinary in nature and concern only the individuals’ qualifications for licensure.

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NAMITA GOPAL, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 31, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. GOPAL'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO. DR. VARYANI SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- 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.

SURESH KESHAVAMURTHY, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE APRIL 15, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. KESHAVAMURTHY'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- 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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JOVENCIO L. RANESES, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE APRIL 8, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, REVOKING DR. RANESES' CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO.

Dr. Steinbergh stated that in 1995 the Board took action against Dr. Raneses' license, due to prescribing issues. In April 2009, the Board issued a citation to Dr. Raneses based on action by the California Board against his California license; i.e., revocation of Dr. Raneses' California license. That action was based on Dr. Raneses failure to undergo psychiatric evaluation pursuant to the California Board's Order.

Dr. Steinbergh noted that the Proposed Order is one of revocation, but not permanent revocation. She stated that at some time in the future, Dr. Raneses can return to the Board, seeking restoration of his license, at which time he will need to prove his ability to practice.

DR. VARYANI SECONDED DR. STEINBERGH'S MOTION. A vote was taken:

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

THAIS RUBINSTEIN RIVITIZ, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE APRIL 15, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. RIVITIZ' APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO HIS PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF APRIL 15, 2009. DR. VARYANI SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye

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Dr. Suppan	- aye
Dr. Varyani	- 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.

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

JAMES EDWARD, BRIEDENSTEIN, 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. BRIEDENSTEIN. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

MILTON LEE BRINDLEY, 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. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. BRINDLEY. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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ROLL CALL:

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

WILLIAM MICHAEL COX, 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.

MR. HAIRSTON MOVED TO SEND THE CITATION LETTER TO DR. COX. DR. VARYANI SECONDED THE MOTION. A vote was taken:

ROLL CALL:

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

DANIEL M. MOSHOS, D.O. - NOTICE OF AUTOMATIC SUSPENSION AND OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Notice of Automatic Suspension and Opportunity for Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

DR. VARYANI MOVED TO SEND THE NOTICE OF AUTOMATIC SUSPENSION AND

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OPPORTUNITY FOR HEARING TO DR. MOSHOS. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

ROLL CALL:

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

SONIA IRIS OTERO – – 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. OTERO. DR. VARYANI SECONDED THE MOTION. A vote was taken:

ROLL CALL:

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

FRANK MURRAY STRASEK, D.P.M. – 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.

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DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. STRASEK. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

TY JAMES TYJEWSKI – 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. STEPHENS MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MR. TYJEWSKI. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

MICHAEL CRAIG WARREN, 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.

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DR. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. WARREN. MR. JACOBSON SECONDED THE MOTION. A vote was taken:

ROLL CALL:

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

WILLIAM JAMES WASHINGTON, 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. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. WASHINGTON. DR. STEPHENS SECONDED THE MOTION. A vote was taken:

ROLL CALL:

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

JUSTIN FREDRIC WEISS, M.D. – 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.

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DR. STEINBERGH MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. WEISS. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

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 the documents.

PAUL EDWARD ANDORFER, M.D. – SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF ANDORFER'S LICENSE TO PRACTICE MEDICINE AND SURGERY. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

BRANDI L. CAMPS, M.T. – CONSENT AGREEMENT

DR. VARYANI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MS. CAMPS. MR. HAIRSTON SECONDED THE MOTION.

Ms. Pokorney advised that, as the proposed consent agreement fell below the minimum disciplinary guideline, Dr. Madia was required to, and did, approve the settlement.

A vote was taken:

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

The motion carried.

CAROL ANN FORNIA, C.T. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE COSMETIC THERAPY

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF MS. FORNIA'S LICENSE TO PRACTICE COSMETIC THERAPY. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

JON BERKELEY SILK, JR., M.D. – STEP II CONSENT AGREEMENT

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

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

MATTHEW CHRISTOPHER RIESEN, M.D. – STEP I CONSENT AGREEMENT

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. RIESEN. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

JOSEPH RICHARD FREEMAN, D.O. – STEP I CONSENT AGREEMENT

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT

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WITH DR. FREEMAN. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

MICHAEL ALAN STOCKTON, D.O. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY

DR. VARYANI MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. STOCKTON’S LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

PROBATIONARY APPEARANCES

CRAIG L. BIERER, D.O.

Dr. Bierer is appearing before the Board pursuant to his request for release from the terms of his June 9, 2004 Step II Consent Agreement.

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

In response to Board members' questions, Dr. Bierer stated that he has finished his residency. He started his practice of general orthopedics two years ago, just north of Cincinnati. He stated that for just starting out, he really can't complain. He's busier than he wants to be, which is a good place to be.

At Dr. Madia's request, Dr. Bierer addressed the osteopathic medical students present to relate his history of substance abuse, which began in high school and accelerated to the point that it was a huge detriment to himself, his family and his career.

In response to further Board members' questions, Dr. Bierer stated that he's integrated himself fairly well into an A.A. community. Moving to that area has made up the majority of his friends right now. As far as medications, he still takes Lexipro. He stated that he doesn't currently see a psychiatrist. He does have a new family practice physician who is well versed on his history, and who prescribes the Lexipro for him.

Dr. Bierer advised that he has good family support. He has a beautiful wife and two children. They have a farm with lots of animals, which keeps him busy and keeps his head clear.

Dr. Stephens noted that Dr. Bierer is working 60 hours a week, and she cautioned him that that might be a little bit too much, and that he should slow down. She stated that with children, and with what he's been through, he doesn't want to put himself in a stressful situation where he has to work 60 hours a week.

Dr. Bierer stated that he appreciates Dr. Stephens' comments.

DR. STEINBERGH MOVED TO RELEASE DR. BIERER FROM THE TERMS OF HIS JUNE 9, 2004 STEP II CONSENT AGREEMENT. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

ROBERT R. BRIGHTWELL, D.O.

Dr. Brightwell is appearing before the Board pursuant to his request for release from the terms of his June 10, 2004 Step II Consent Agreement.

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

In response to Board members' questions, Dr. Brightwell stated that early on in this process it was terrifying. There are a lot of unknowns, and some of the advice he got was that everything will take care of itself. He stated that it has done that. He had some very good advice from a gentleman who was actually his counselor when he went through rehab. That gentleman is no longer at Parkside, but now has a consultation practice in Columbus, and Dr. Brightwell stays in touch with him. The gentleman is also an ordained, interfaith minister. Dr. Brightwell stated that he'd always had some issues with organized religion, and religion had always kind of prevented him from experiencing spirituality. This minister for the first time has made spirituality accessible to him. Dr. Brightwell stated that he stays in touch with the minister and continues to take advantage of that.

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Dr. Brightwell continued that early on it was very terrifying. He stated that there was no choice about whether or not to give up control. Then it becomes much easier once you just are kind of along for the ride. You just have to see where recovery and your life take you. Dr. Brightwell stated that it's been a very interesting five years.

In response to further questions, Dr. Brightwell stated that when he is released from probation, he will continue to be very active in twelve-step programs. He stated that he cycles with his current sponsor, and there's a group from his home group who go riding. He also just signed up to do the Columbus mini-marathon in the fall. He advised that he got married a year ago in April, and his wife's father, who is now deceased, was in the program, so she's very familiar with the twelve-step programs and the disease in general. His children have responded really well to this. He has one son who just turned 17 in August, as well as three stepchildren. They have a very close family, and they all take vacations together. His son and his wife's children get along very well, so it's been really nice to have a family through all of this. Dr. Brightwell advised that he actually met his wife the month he went into recovery. She's stuck through all of it with him, and she's been very supportive.

DR. STEINBERGH MOVED TO RELEASE DR. BRIGHTWELL FROM THE TERMS OF HIS JUNE 10, 2004 STEP II CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

NORMAN I. HIRSCH, D.O.

Dr. Hirsch is appearing before the Board pursuant to his request for release from the terms of his May 8, 2002 Consent Agreement.

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

In response to Board members' questions Dr. Hirsch stated that he is currently working half-time in private practice. He works in a mental health center in Kentucky the other half of the time. It's going pretty well. He is now documenting his findings appropriately. He stated that he has an accountant who's audited all of his progress notes and charges and appointment book. He plans to continue on his own initiative, to audit it himself. He now sees Medicaid patients at the clinic, and he probably could in his office. He stated that his office is mostly an out-of-pocket practice without much insurance. Medicare had him under an exclusion for five years, which was up in 2007, but they have another provision where the program can not take you on as a provider for up to ten years. He stated that he's working on trying to get that changed.

In response to further questions, Dr. Hirsch stated that he's learned a tremendous amount through this experience. He stated that from the moment that he turned himself in, it was a relief. It was very painful, but he thinks that this whole process has really helped him straighten out his life and his practice. He feels much better about being a physician now than he ever did.

Mr. Albert stated that Dr. Hirsch has been a very good probationer. He never complained about the consequences, and he has really worked to get himself back in practice.

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Dr. Hirsch stated that he very much appreciates the help that Mr. Albert has given him.

Dr. Varyani stated that the record indicates that Dr. Hirsch voluntarily disclosed false claims he made to the Department of Justice. He stated that he founds that very strange that someone would go to the Department of Justice and say, "hey, I'm doing this wrong."

Dr. Hirsch stated that he was aware of a voluntary disclosure program. He stated that he thinks he wanted to be caught because he felt pretty bad about what he was doing. He didn't actually receive an audit notice.

DR. STEINBERGH MOVED TO RELEASE DR. HIRSCH FROM THE TERMS OF HIS MAY 8, 2002 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

DAVID J. LEVY, M.D.

Dr. Levy is appearing before the Board pursuant to his request for release from the terms of his June 9, 2004 Step II Consent Agreement.

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

In response to Board members' questions, Dr. Levy stated that he wanted to express his gratitude to the State Medical Board, Mr. Albert, Ms. Bickers and Ms. Gillman, who helped him comply with his consent agreement, and gave him the opportunity to stay in recovery. He advised that he is a gastroenterologist, and performs colonoscopies and other procedures. He does use sedatives in these procedures. Dr. Levy stated that his using sedatives in his practice was obviously a concern for people when he first returned to practice, after he was arrested and had lost his DEA certificate for a year. During that time he got very involved with the recovery community, and he's still very involved. He has eight years of sobriety as of May 15. Dr. Levy stated that he never used IV drugs, but it doesn't matter. There really wasn't much of a temptation there. Dr. Levy commented that sometimes you need consequences to get you heading in the right direction, and he had some major consequences. When he went through rehab for three months, he thought that was the worst part; but when he came back, the wreckage of the past really caught up to him. It was very difficult. Dr. Levy stated that sometimes the fear helps to keep you motivated to stay clean and sober. Dr. Levy stated that the consequences would have been so great had he gone back out there. He would have lost his license, his opportunity to practice, his home, everything. Dr. Levy stated that that was what he needed. He added that he's grateful for the opportunities. Using IV sedation drugs is not an issue for him. There's no desire for him to drink and drug. That's been taken away by the miracle of this program. The real miracle is learning to live life on life's terms and being a different person than he was before. That takes a little more time. Dr. Levy stated that that's what he focuses on today.

Mr. Albert stated that Dr. Levy has been a very good probationer.

Dr. Varyani asked whether Dr. Levy is using the IV sedation in his own facility or in a hospital or surgery center.

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Dr. Levy stated that they have a surgery center where they do the majority of their outpatient procedures. The DEA license is in his name.

Dr. Steinbergh asked whether Dr. Levy is going to continue with the Pennsylvania PHP. Dr. Levy stated that he is. He stated that he's completed with Pennsylvania and New York, but he voluntarily signed up again with PHP because it's important for him to have advocacy because of what has happened. He wants it to show people that he's serious about this recovery.

DR. STEINBERGH MOVED TO RELEASE DR. LEVY FROM THE TERMS OF HIS JUNE 9, 2004 STEP II CONSENT AGREEMENT. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

JUAN C. MEJIA, M.D.

Dr. Mejia is appearing before the Board pursuant to his request for release from the terms of his June 8, 2005 Consent Agreement.

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

In response to Board members' questions, Dr. Mejia stated that he feels that there is a big deficiency in medical education about chronic pain management. He stated that physicians get trained and think they know how to manage chronic pain, they commit mistakes, and sometimes they get into trouble. He stated that that's what happened to him. He thought he was doing everything he needed to be doing, and that was not the case. He was overprescribing, prescribing inappropriately for the circumstances, and he didn't have enough documentation. He advised that he still does treat patients for pain, but for a very short term. He is a hospitalist, so he really doesn't treat patients with chronic pain. He has taken some CME courses in pain management. Dr. Mejia stated that he has been a hospitalist for around seven years or so.

Dr. Steinbergh advised the students that during this process, Dr. Mejia also had an action on his Kentucky license. In Ohio, he went into a practice plan and the Board monitored him. She stated that there are different things that the Board members feel are important in cases like this. For Dr. Mejia, the important thing was controlling his prescribing and monitoring him, as a physician, once he got out of his suspension.

Dr. Mejia stated that he loves what he does now. He's learned to love medicine again, and to treat patients. He stated that he thinks the key factor is not to isolate oneself, to communicate with colleagues and to stay in touch. He stated that that's what physicians have to do in order to avoid his circumstances.

Dr. Talmage asked Dr. Mejia whether he would have been successful if he knew then what he knows now about pain treatment. He asked whether education is the key to good pain treatment. Was it a lack in medical school education, his residency education, or his own failure to recognize that education was there? Dr. Talmage stated that the Board is interested in people treating pain properly. Patients need that. He asked where Dr. Mejia's education went wrong to cause him to fail in pain treatment.

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Dr. Mejia stated that he doesn't think it was just education. He stated that he thinks he needed to do a more comprehensive program, involve more consultants, specialists, and get second opinions more often.

DR. STEINBERGH MOVED TO RELEASE DR. MEJIA FROM THE TERMS OF HIS JUNE 8, 2005 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

PHILIP L. CREPS, D.O.

Dr. Creps is making his initial appearance before the Board, pursuant to the terms of the Board's Order of March 14, 2007.

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

In response to Board member questions, Dr. Creps stated that he currently works for Synergy Medical Education Alliance. He provides care to children and adolescents, and he subspecializes with special qualifications in child and adolescent psychiatry. He also provides geriatric psychiatric services in a few nursing homes. He teaches both medical students and some family practice and internal medicine residents. Dr. Creps stated that this is going very well for him. He advised that he's not been privileged by any hospitals as a result of the Board's decision, so most of his practice is outpatient. He stated that he's had no difficulty with insurance plans.

Dr. Madia asked whether the hospital can deny privileges based on the Board's action if the license is restored. He asked what reason the hospital is giving him.

Dr. Creps stated that they're not necessarily giving him a reason. He stated that much of this was precipitated by denial of privileges initially at Toledo Hospital. After he had answered a question incorrectly, he attempted to correct it at the medical executive meeting back on March 7, 2004, and from there it just snowballed. That's the problem he sees. The catharsis comes in knowing that now it's all out in the open and he lives a life of transparency, which is a more comfortable existence.

Dr. Steinbergh stated that even if you answer the questions correctly, but you've had action on your license, there are some medical staffs who not allow that. Without proper education for these medical staffs, they simply don't want to have to deal with a doctor who's ever had his license suspended. They don't know how to deal with that. Dr. Steinbergh stated that she tries to change that at her hospital, because physicians do need to have a second chance. As long as they've been honest about what's occurred, there comes a time when they should be able to be privileged, but it's a difficult issue.

Dr. Creps stated that he has not had privileges actually denied, it's just that Covenant Hospital in Saginaw raised an issue with it and so he withdrew the application for privileges without any actual denial. He noted that it has also been very difficult to advance his credentials or consider other positions, for instance, interviewing for a position and then just having the consideration cut off and not getting a word about it.

Dr. Creps added that he's very pleased with what he does now, although it's colder in Saginaw.

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Dr. Varyani commented that this is a very important lesson for the medical students. Inappropriate responses on an application can lead to a lot of problems.

Dr. Creps stated that, observing the David Barrere case earlier this afternoon re-emphasized the need to make accurate answers on applications and to proof them. Never put your signature to anything that you have not proofed, which was the instance with the Toledo Hospital privilege application, because there are potential consequences for that. When they start happening, they snowball. Dr. Creps stated that he thinks, for him, the difficulty he had in medical school was the initial clinical years. He was initially admitted to the Medical College of Ohio as the youngest student in the class, and he was not mature enough to take that on. He ended up being dismissed from the Medical College of Ohio. He later went to Michigan State University and started all over again. He eventually completed Michigan State. Since being in clinicals, he has not had any academic difficulty whatsoever.

DR. VARYANI MOVED TO CONTINUE DR. CREPS UNDER THE TERMS OF THE BOARD'S ORDER OF MARCH 14, 2007 WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

KYLE E. HOOGENDOORN, D.P.M.

Dr. Hoogendoorn is making his initial appearance before the Board, pursuant to the terms of his March 11, 2009 Consent Agreement.

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

In response to Board members' questions, Dr. Hoogendoorn stated that he does not work in a hospital. He works for a large multi-specialty group in the Dallas/Fort Worth area of Texas. He performs surgery in outpatient surgery centers. He advised that he does have a Texas license, and that the Texas Board has not taken any actions against that license. The patients involved in his case were all in Ohio.

Dr. Steinbergh stated that Dr. Hoogendoorn has a bad history in Ohio, and he's lucky to be in this consent agreement. She stated that she will give him one piece of advice, and that is to find the best podiatrist in his community in Texas, and he ought to ask that podiatrist to mentor him, and he should follow that doctor's advice. She stated that Dr. Hoogendoorn has been before this Board twice, and the first time she didn't like the action the Board took. She stated that if he does not clean up his act, he will not have a license in Ohio. Dr. Steinbergh stated that Dr. Hoogendoorn has been appropriately trained, but he needs someone to show him how to do best practice. She noted that he's a young man and will have a long practice ahead of him if he practices appropriately.

Dr. Hoogendoorn indicated that he understands.

Dr. Madia stated that he knows Dr. Hoogendoorn, and he agrees 100 percent with Dr. Steinbergh. He stated that Dr. Hoogendoorn has enough expertise to do a good job, but he has to make sure that he does

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the right thing for the right patient.

Dr. Hoogendoorn stated that the company he's working with has over 500 physicians. They have their internal audits on charting and billing compliance. He stated that he has been independently reviewed and found to be adequate. His charting and everything seems to be up to standard, according to them. He also has a mentor in the Plano area, who serves on the Texas Medical Board, as well, with whom he's in contact, and with whom he discusses how to handle certain situations and what he should do. As far as his probationary terms go, he's looking to late summer or early fall to get signed up for the required documentation course, his medical records course, so that he has that completed in accordance with his probationary terms, as well.

Dr. Hoogendoorn stated that he has taken all of the Board's advice absolutely seriously. He has a practice that runs exactly by the book, exactly the way it should. He stated that he thinks that one of the problems may have been that he was doing it all alone in his initial stages, and it gets harder to do that. Now he's with a large group that shows him the way it needs to be done.

Dr. Suppan stated that she thinks that that's Dr. Steinbergh's point.

In response to questions asked by Dr. Suppan, Dr. Hoogendoorn stated that his mentor is a podiatrist. He has not yet made any effort to join his state association, more for financial reasons than anything else. Now that he's employed with this large group, he looks forward to joining his state association by the end of the year, as well.

Dr. Suppan suggested that he also pursue Board certification and fellowship in the American College of Foot Surgeons, because he should want to be surrounded by people who have raised the bar on his practice and who go the extra mile. He'll also, vicariously learn and keep up on the appropriate standard of care and appropriate ethics. She stated that she would encourage him to do all three of those things.

Mr. Albert commented that this Board gave Dr. Hoogendoorn a real break.

DR. STEINBERGH MOVED TO CONTINUE DR. HOOGENDOORN UNDER THE TERMS OF HIS MARCH 11, 2009 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

GREGORY GENE JOHNSON, M.D.

Although scheduled, Dr. Johnson did not make his initial appearance before the Board.

NANCY J. LISCH, M.D.

Dr. Lisch is making her initial appearance before the Board, pursuant to the terms of her February 12, 2009 Superseding Step I Consent Agreement.

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

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In response to Board members' questions, Dr. Lisch stated that, unfortunately, she was in a car accident on July 14, 2008. After that accident she suffered MRSA, and it got into her fibula. She's been fighting it since. She's had four surgeries, the last the previous Friday. She's had a PICC line in for up to nine months.

In response to further questions, Dr. Lisch stated that she is doing well in her recovery. She sees a psychologist every two weeks for depression, and she sees Dr. Collins, her psychiatrist at the Cleveland Clinic once a month. She acknowledged that the medications she currently takes are Topamax, Paxil, Neurontin, Lisinoprol, Xanax PRN, Wellbutrin and Trazadone. These are all prescribed by her psychiatrist. She stated that she does have a new primary care physician who is helping her refill her prescriptions.

Dr. Lisch stated that she drove herself here. She stated that the injury is in her left leg, and she doesn't have a stick shift, so she can drive. She stated that she has chosen not to go on any narcotics after surgery. It was her fourth surgery, and she has no more pain anymore. She said that her surgeon did write a letter to the Board on her behalf, written at Ms. Bickers' recommendation, but it has not been found in the Board office yet.

Dr. Lisch asked the Board why she wasn't eligible for the one-bite rule. Board members advised her to speak with Ms. Bickers about that after the meeting.

DR. STEINBERGH MOVED TO CONTINUE DR. LISCH UNDER THE TERMS OF HER FEBRUARY 12, 2009 SUPERSEDING STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE, AND HER NEXT APPEARANCE IN TWO MONTHS. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

MARK S. MCALLISTER, M.D.

Dr. McAllister is making his initial appearance before the Board, pursuant to the terms of the Board's Order of February 11, 2009.

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

Dr. Steinbergh stated that Dr. McAllister has been with this Board for ten years. She asked whether there's any hope here.

Dr. McAllister stated that he's never had hope until now, given everything that's happened in the past two years. What makes this different is that he's not carrying around secrets that he didn't even know he had anymore. He stated that he's not really at liberty to talk about those things, but a major contributing factor to his recalcitrant addiction has been exposed and is being dealt with extensively and fully at this point. It's completely different today.

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Dr. McAllister stated that he's doing quite well in his recovery now. He goes to meetings every day and he doesn't fear men anymore, or at least he's working toward that. Dr. McAllister stated that that was a huge roadblock to his recovery. He stated that he's really working on a relationship with a higher power, which, as the Board might understand, was not possible for him prior to now. Dr. McAllister explained that the entire twelve-step program is based on a spiritual basis of recovery.

Dr. Steinbergh asked Dr. McAllister how things are going in terms of psychiatric care and dealing with the unfortunate issues with which he's had to deal.

In response to further questions, Dr. McAllister stated that two years ago, when all this started, that issue kind of controlled him unpredictably and uncontrollably. Today, he sort of has control of it. He can "take that box off the shelf" and deal with it when he wants to, on his terms, as opposed to it dealing with him, like it did.

Dr. Steinbergh noted that Dr. McAllister will be out of medicine for three years. She asked what that means to him and what his long-range plans are.

Dr. McAllister stated that he has had three years to deal with the more important issues in his life. He's used every available avenue there is, from as small as medication to as extravagant as EMDR, and everything in between. He's treated this as if his life depended on it, because he believes that it does.

Dr. Steinbergh stated that she's not just concerned about his personal life, but also about where he sees himself as a physician in the future. Does he have any hope for himself that way?

Dr. McAllister stated that there's nothing he would rather do than practice surgery, if that's what she's asking. He added that he doesn't think that he needs to concern himself with that issue today. There's plenty of time to address that in the future. Right now his health and his family's health are the most important things.

In response to further Board member questions, Dr. McAllister stated that he spends his day teaching and volunteering at two different treatment centers, once a week each. Right now, what he finds to be most emotionally rewarding to him is his son. He stated that in the ten years he's been doing this, volunteering is something he never did before. He stated that he could kick himself for not doing it and he wouldn't miss it for the world today. Volunteering is one of the most rewarding things he does.

DR. VARYANI MOVED TO CONTINUE DR. MCALLISTER UNDER THE TERMS OF THE BOARD'S ORDER OF FEBRUARY 11, 2009, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

AIYAPPAN MENON, M.D.

Dr. Menon is making his initial appearance before the Board, pursuant to the terms of his March 11, 2009 Step I Consent Agreement. Dr. Menon is also seeking approval of a treating psychiatrist.

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

In response to Board members' questions, Dr. Menon stated that he is doing well. Dr. Menon advised that his nominee for approval as treating psychiatrist, Farid Sabet-Sharghi, M.D., is the one who made the diagnosis of bipolar disorder. He stated that he believes that he's suffered with bipolar disorder for a very long time, but the diagnosis was made only last year. Since Dr. Sabet-Sharghi was the treating physician at the time and prescribed his medications, he wanted to keep Dr. Sabet-Sharghi as his personal psychiatrist. Current medications he takes are Abilify, Lexipro and Lamictal. He has been on them now for about a year. He stated that he now feels considerably more stable and less volatile, and not subject to the episodes of mania to which he's been subjected in the past.

In response to questions about his drug addiction, Dr. Menon stated that he went to a formal treatment for that, and he spent some extra time in a halfway house. He spent a total of four months at Glenbeigh, to treat that. He's since been involved in a twelve-step program. He attends about six meetings a week. He's abstained completely, and today is his six-month anniversary.

DR. VARYANI MOVED TO APPROVE FARID SABET-SHARGHI, M.D., TO SERVE AS DR. MENON'S TREATING PSYCHIATRIST, AND TO CONTINUE DR. MENON UNDER THE TERMS OF HIS MARCH 11, 2009 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.

JEFFREY E. SHOOK, D.P.M.

Dr. Shook is making his initial appearance before the Board, pursuant to the terms of his March 12, 2009 Step I Consent Agreement. Dr. Shook is also seeking approval of a treating psychiatrist.

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

In response to Board members' questions, Dr. Shook stated that everything's going very well right now. He's practicing in Gallipolis, Ohio at the Holzer Clinic, which is a 120 multi-specialty physician group. He's relocated his family there and has been practicing there for about 15 months. He does have a primary care doctor he's seen a couple of times, but not for anything related to his impairment issues. He stated that he has a psychiatrist whom he's seen throughout the course of this problem. He advised that he believes that his primary care doctor knows about his impairment. He stated that when he joined the group, the entire group was told of his problem.

Dr. Steinbergh advised that Dr. Shook should have this discussion with his primary physician, since that is the physician who will be treating him. She stated that physicians need to know everything about their patients. His impairment shouldn't be a secret because it's a very important part of his health care. That physician needs the information when he is prescribing for him so that he or she knows what is appropriate and what's not appropriate. For him to withhold that information from his primary care physician signals her to say that he hasn't accepted it yet. He's not being honest as part of his twelve-step program.

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Dr. Shook stated that he will talk to his physician. He again stated that all of the physicians in the group were notified of this problem and voted on this before his entry into the group.

Dr. Steinbergh stated that that's not the same. She's not talking about notification to the group that he belongs to or any hospitals in which he serves. She's talking about his personal healthcare. She added that she's surprised that if he has a primary care physician, and he went through an appropriate history taking, that he has not had that discussion with his doctor. That tells her a little bit about Dr. Shook.

In response to further Board member questions, Dr. Shook stated that he is married and his wife is expecting a baby in a month. They have two other children who were adopted. They've moved to Gallipolis, and he takes care of his family on a daily basis. As far as his practice goes, he usually works in the office Mondays, half a day on Tuesdays, half a day on Thursdays. He operates on Wednesdays and Fridays. He does his recovery issues usually at the end of the day. That's when most of the meetings take place. The Clinic has set up sponsorship meetings, Caduceus meetings, and those types of things six months in advance. That's something that's built into his schedule ahead of time. It usually takes place on Thursday mornings at the end of the month.

Dr. Varyani stated that he feels that Dr. Shook is not comfortable with what he's going through and the reality, and that's why he's not comfortable talking about it. He agreed with Dr. Steinbergh's concerns. Dr. Varyani stated that another thing that bothers him is Dr. Shook talking about "recovery issues." He feels that both of these tell him that Dr. Shook really isn't in the program right now. Recovery isn't an "issue," it's a treatment. If he doesn't tell his personal physician what his problems are, that means he's not talking much. Dr. Varyani stated that that makes him believe that Dr. Shook isn't yet in line with the program.

Dr. Shook stated that he believes that he is in line with the program.

Dr. Suppan stated that she thinks that a lot of time physicians can become their work and their work becomes them. She stated that what she sees him doing is putting his work and family first and she's not seeing a lot of time for him. He needs to put his own personal health and wellbeing first. She asked whether he's developed any friendships since he's moved to Gallipolis.

Dr. Shook stated that there were two or three people with whom he worked in Huntington who have moved to Gallipolis. He does have a couple of families that his family does things with and that he's known for eight to ten years.

Dr. Suppan asked what he does for fun. She asked, when he walks away from work, what things does Dr. Shook do that he enjoys.

Dr. Shook stated that, in general, he spends time with the kids. He tries not to work on weekends anymore. He reads non-medical things. In general, he spends time with his family.

Dr. Suppan asked whether he has any podiatrists who are friends, and who can give him professional

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support.

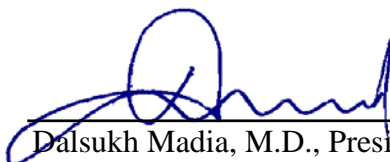
Dr. Shook stated that there's one other podiatrist in town, and he practices by himself. Dr. Shook stated that he knows who he is, but he doesn't know him that well. There are three orthopedists in the clinic with whom he speaks if he has questions about cases or how things work in the clinic. He's also friends with a couple general surgeons, and he often asks them how to do things in the clinic and how to handle certain situations. Dr. Shook stated that he has those relationships, just not with podiatrists.

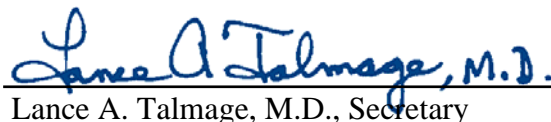
In response to further questions, Dr. Shook stated that he is in the third year of his consent agreement with the West Virginia Board. That agreement runs until March 2010. He's compliant with that agreement. His current plans are to keep that license. The Clinic has offices in both West Virginia and Ohio, so he is planning on keeping that license.

DR. STEINBERGH MOVED TO APPROVE DEBRA STULTZ, M.D., TO SERVE AS DR. SHOOK'S TREATING PSYCHIATRIST, AND TO CONTINUE DR. SHOOK UNDER THE TERMS OF HIS MARCH 12, 2009 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. AMATO SECONDED THE MOTION. All members voted aye. The motion carried.

Thereupon at 4:55 p.m. the June 10, 2009 session of the State Medical Board of Ohio was duly adjourned by the President.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on June 10, 2009, as approved on July 8, 2009.


Dalsukh Madia, M.D., President


Lance A. Talmage, M.D., Secretary

(SEAL)



June 11, 2009

MINUTES

THE STATE MEDICAL BOARD OF OHIO

June 11, 2009

Dalsukh Madia, M.D., President, called the meeting to order at 8:10 a.m., in the Administrative Hearing Room, 3rd 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; Nandlal Varyani, M.D.; W. Frank Hairston; Susan E. Stephens, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Marchelle L. Suppan, D.P.M.; Jeffrey M. Jacobson, Esq., and Darshan Mahajan, M.D.

Also present were: Sallie J. Debolt, General Counsel; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; Rebecca J. Marshall, Chief Enforcement Attorney; Barbara J. Pfeiffer and Karen A. Unver, 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; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; and Kay L. Rieve, Administrative Officer.

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.

No Board member indicated a wish to consider an item separately.

Dr. Suppan joined the meeting at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON MAY 11, 12 AND 14, 2009, WITH: ASHRAF S. BADOUR, M.D.; PAUL LEWIS BLANCHARD, M.D.; CELESTE D. BREWER-EDWARDS, P.A.; PAUL CLAASSEN, D.O.; ROBERT S. COLEMAN, JR., M.D.; L. JEAN COOPER, M.D.; WILLIAM B. CULLEN, M.D.; WENDY KAY DEAN, M.D.; MILES E. DRAKE, JR., M.D.; LYNNE A. EATON, M.D.; MARY JO FOOTE, P.A.; BRIAN E. LEVE, M.D.; DAVID W. MASSIE, M.D.; ZEV R. MAYCON, M.D.; IMRAN RAZA NAQVI, M.D.; PAUL D. REIKOWSKI, JR., L.M.T.; JULIA RUFFIN, D.P.M.; MADELYN SARTAIN, D.O.; JODY LEE NELSON SHORT, D.O.; JON BERKLEY SILK, JR., M.D.; JOSEPH P. SITARIK, D.O.; TOBY JAMES TIPPIE, P.A.; MICHAEL CRAIG WARREN-MAZOLA, D.O.; RICHARD MARK WEIL, M.D.; AND HEATHER LOUISE WHITTY, M.T.

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

- **TO GRANT ROBERT L. BRANDT, JR., M.D.'S REQUEST FOR A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS;**
- **TO GRANT LARSON F. LANGSCHWAGER, M.D.'S REQUEST FOR APPROVAL OF THE ETHICS COURSE, *MAINTAINING PROPER BOUNDARIES*, OFFERED BY THE CENTER FOR PROFESSIONAL HEALTH, VANDERBILT MEDICAL CENTER;**
- **TO GRANT MELANIE LYNNE LEU, M.D.'S REQUEST FOR A REDUCTION IN APPEARANCES TO ANNUALLY;**
- **TO GRANT JAY W. MARTIN, M.D.'S REQUESTS FOR: APPROVAL OF THE ETHICS COURSE, *PROFESSIONAL/PROBLEM BASED ETHICS*, OFFERED BY THE PROBE PROGRAM, CENTER FOR PERSONALIZED EDUCATION FOR PHYSICIANS [CPEP], AND APPROVAL OF THE PRESCRIBING COURSE, *INTENSIVE COURSE IN CONTROLLED SUBSTANCE MANAGEMENT*, OFFERED BY CASE WESTERN RESERVE UNIVERSITY;**
- **TO GRANT BRETON LEE MORGAN, M.D.'S REQUESTS FOR APPROVAL OF ISMAEL O. JAMORA, M.D., TO SERVE AS HIS MONITORING PHYSICIAN WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO GRANT PHILLIP THIELE NORTH, M.D.'S REQUEST FOR ELIMINATION OF THE CHART REVIEW REQUIREMENT;**
- **TO GRANT WILLIAM J. PLATT, D.O.'S REQUESTS FOR: APPROVAL TO ADMINISTER, PERSONALLY FURNISH, OR POSSESS CONTROLLED SUBSTANCES; ELIMINATION OF THE CHART REVIEW REQUIREMENT; AND REDUCTION IN APPEARANCES FROM EVERY THREE MONTHS TO EVERY SIX MONTHS;**
- **TO GRANT DALE PRATT-HARRINGTON, D.O.'S REQUEST FOR APPROVAL OF JAMES B. MUNTEAN, D.O., TO SERVE AS MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO GRANT KIMBERLY M. (TELMANIK) SCHERRY, P.A.'S REQUEST FOR APPROVAL OF AARON BILLOWITZ, M.D., TO CONTINUE TO SERVE AS THE TREATING PSYCHIATRIST;**

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- **TO GRANT ALADDIN ZAFAR SYED, M.D.’S REQUEST FOR APPROVAL OF CATHERINE J. BRENNAN, M.D., TO SERVE AS THE MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO GRANT ROSS PUTMAN TURNER, D.O.’S REQUESTS FOR: A REDUCTION OR DISCONTINUANCE OF PSYCHIATRIC SESSIONS TO EVERY THREE MONTHS; A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS; AND A REDUCTION IN DRUG AND REHABILITATION MEETINGS TO 2 PER WEEK WITH A TOTAL OF 10 PER MONTH; AND**
- **TO RELEASE JOHN KEVIN WHALEN, M.D., FROM THE TERMS OF HIS MARCH 14, 2007 CONSENT AGREEMENT.**

DR. STEINBERGH 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 ANESTHESIOLOGIST ASSISTANTS LISTED IN EXHIBIT “C,” AND TO GRANT CERTIFICATES OF GOOD STANDING TO THE SCHOOLS OF MASSAGE THERAPY, LISTED IN EXHIBIT “D.”

DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

REINSTATEMENT REQUESTS

ALLA MIKHLI, D.P.M.

At this time the Board considered the reinstatement request of Dr. Mikhli, whose license to practice podiatric medicine and surgery was suspended under the terms of the Board’s Order of April 11, 2007.

DR. STEINBERGH MOVED TO REINSTATE DR. MIKHLI’S LICENSE TO PRACTICE PODIATRIC MEDICINE AND SURGERY, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED THE APRIL 11, 2007 BOARD ORDER. DR. STEINBERGH

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years of clinical experience route, and therefore needs her previous employer(s) to complete Form B of her application. Ms. Wilhere submitted a Form B that shows she has worked with Dan Ray at Our Lady of Bellefonte Hospital Emergency Room from March 1999 to the present. However, Ms. Wilhere did not graduate from her Physician Assistant program at the University of Kentucky until December 2001. Ms. Rieve sent a letter to Dr. Ray regarding this issue, and Dr. Ray confirmed that Ms. Wilhere did two five-week clinical rotations and a six-week elective course during the period March 1999 through December 2001. Ms. Wilhere is asking the Board to accept her clinical experience during her PA education as part of the 10 years of clinical experience in order for her to obtain the Provisional Certificate to Prescribe.

DR. TALMAGE MOVED TO DENY MS. WILHERE'S CLINICAL EXPERIENCE DURING HER PA EDUCATION AS PART OF THE 10 YEARS OF CLINICAL EXPERIENCE IN ORDER FOR HER TO OBTAIN THE PROVISIONAL CERTIFICATE TO PRESCRIBE. DR. VARYANI SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- 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.

REVISION OF DISCIPLINARY GUIDELINES

At this time Dr. Madia recognized Mr. Jacobson.

Mr. Jacobson stated that he would like to propose a revision to the Board's Disciplinary Guidelines that would be a new, lower level action that might order some kind of remediation without using the term "probation." Mr. Jacobson expressed concern that the use of that term can result in unintended consequences, such as being dropped from insurance panels, or affecting a physician's ability to make a living. He felt that there should be some language the Board could use that would not result in those unintended consequences.

After discussion wherein several Board members agreed with Mr. Jacobson, Dr. Madia asked that the Board's Disciplinary Policy and Guidelines Committee address this issue.

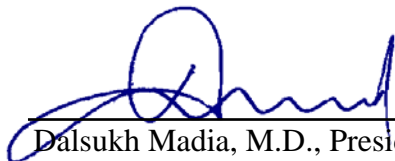
MR. ALBERT MOVED TO ADJOURN. MR. HAIRSTON SECONDED THE MOTION. All members

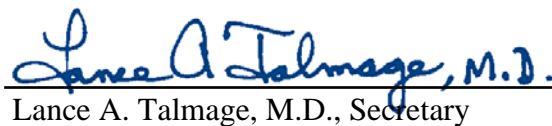
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voted aye. The motion carried.

Thereupon at 9:45 a.m. on June 11, 2009, the June 10-11, 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 June 10-11, 2009, as approved on July 8, 2009.


Dalsukh Madia, M.D., President


Lance A. Talmage, M.D., Secretary

(SEAL)

