

January 8, 2003

**MINUTES****THE STATE MEDICAL BOARD OF OHIO****January 8, 2003**

R. Gregory Browning, Ph.D., President, called the meeting to order at 1:05 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Lance A. Talmage, Sr., M.D., Vice-President; Anand G. Garg, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Anant R. Bhati, M.D.; Pitambar Somani, M.D.; Anquetette Sloan; Patricia J. Davidson, M.D.; Ronald C. Agresta, M.D.; and Anita M. Steinbergh, D.O. The following did not attend the meeting: David S. Buchan, D.P.M.;

Also present were: Thomas A. Dilling, Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Lauren Lubow, Communications Administrator; Diann K. Thompson, Assistant Director, Public Services & Enforcement; Lori S. Gilbert, Chief Enforcement Coordinator; Marcie P. Burrow, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, and Kathleen S. Peterson, Enforcement Coordinators; Rebecca J. Albers, Mark A. Michael, and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Danielle Bickers, Compliance Officer; Mark Wayda, Chief of Executive Staff; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore and Annette Jones, Disciplinary Information Assistants.

**EXECUTIVE SESSION**

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

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

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The following joined the meeting after the executive session: R. Gregory Porter, Chief Hearing Examiner; Sharon W. Murphy and Daniel J. Roberts, Hearing Examiners.

MINUTES REVIEW

**MR. ALBERT MOVED TO APPROVE THE MINUTES OF DECEMBER 11, 2003.**  
**DR. STEINBERGH SECONDED THE MOTION.** A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

REPORTS AND RECOMMENDATIONS

Mr. Browning announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Mr. Browning asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Mohammad A. Adas, M.D.; Rodrigo P. Arzadon, P.A.; James Charles Helphenstine, D.O.; and Effie M. Lee, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

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Mr. Browning - aye

Mr. Browning asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

Mr. Browning 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.

Mr. Browning stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

MOHAMMAD A. ADAS, M.D.

Mr. Browning directed the Board's attention to the matter of Mohammad A. Adas, M.D. He advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Talmage at this time recused himself from this case, due to a long-term acquaintance with Dr. Adas.

Dr. Adas was accompanied by his attorney, Elizabeth Y. Collis.

Ms. Collis stated that the Board has received their objections to the Report and Recommendation. Overall,

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they are supportive of the Report and Recommendation in this case. They believe that it clearly outlines the facts and the situation that took place in this case. Ms. Collis stated that they are asking that the Board vote for a one-year suspension, as opposed to the recommended two-year suspension in this case. Dr. Adas has completed three months of inpatient treatment at Shepherd Hill. His license has been suspended for one year. He's done all of the requirements the Board has required, and he's continued to stay sober since December 2001.

Dr. Adas thanked the Board for allowing him to explain what happened in his case, and hopefully to redeem himself. Dr. Adas stated that he has been in this country since 1980. He did a residency in pathology in Akron, Ohio. He then went to Toledo for another three years of internal medicine, and went into private practice, also teaching at the medical college. Everything was going well for him until 1998, when he began drinking. On and off, his practice suffered. In 2000 he began drinking excessively, due to tragedies in his life, especially in his family life. At that time he blamed everything on his wife, but, looking back, he thinks he can blame no one but himself, due to his disease of alcoholism. He never knew he had an alcohol problem until the Medical Board investigated him and told him he had a problem. Dr. Adas stated that he's grateful to the Medical Board for recognizing that he had a disease. He went to Shepherd Hill, spent three months there, and he learned a lot. He learned a lot about the disease and the behavior. It was a good experience for him. After the Shepherd Hill experience, he had to pay the price for his legal problems.

Dr. Adas stated that he was never intoxicated on the job. He never drank on the job. Alcohol for him in the past was against his faith. Most of the time when he woke up in the morning with a hangover, he would not go to work. Unfortunately, some of his employees, because they wanted to keep their position, and also later on told him that they wanted to help him, reported him and said that he was giving them orders to treat patients when he was not physically in the office. Dr. Adas stated that he doesn't remember ever giving orders to his employees, other than the standard verbal orders a doctor gives to his employees in the office or in the hospital. Nevertheless, he avoided trial by jury and on the advice of his legal counsel he pled no contest for charges of felonies, allowing personnel in the office to treat patients while he was not in the office. Dr. Adas stated that he accepted the decision, but he doesn't think the legal system understood his situation.

Mr. Browning advised Dr. Adas that he has a minute to wrap up his comments.

Dr. Adas stated that he ended up in jail, he came back, and he humbled himself. He's very grateful. He has shut the door on the past. What he is doing today is helping others to avoid alcohol and drugs. He's been sober, healthy both physically and emotionally, doing things with his family, going to an aftercare program. He has a sponsor and he's working the twelve-step program. Dr. Adas stated that he's hopeful for the future. He has his patients waiting for him, and he still has a lease on his office. Other physicians are taking care of his patients. Dr. Adas stated that he hopes the Board will grant him the opportunity to go back and help people.

Ms. Collis stated that Dr. Adas is licensed in Michigan, and he did disclose all of this to the Michigan Board. He has entered into a consent agreement with Michigan on the facts outlined on this case. The

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Michigan Board has agreed to a six-month and one-day suspension in his case. Ms. Collis stated that she wanted the Board to know that Dr. Adas has disclosed his problem to other states.

Mr. Browning asked whether the Assistant Attorney General wished to respond.

Mr. Wilcox stated that the recommendation in this case for at least a two-year suspension is the bare minimum that he would suggest is appropriate for this matter. Mr. Wilcox stated that this is not the standard type of impairment case. Dr. Adas was convicted of seven felony counts of complicity in the commission of practicing medicine without a certificate. While he was neglecting his practice, he allowed untrained and unqualified office personnel to perform tasks which included taking blood pressures, checking blood sugar, and refilling prescriptions. There was even a charge that an office employee administered an insulin dose that was much larger than was appropriate.

Mr. Wilcox stated that these patient protection issues, combined with the lawless behavior that led to the additional misdemeanor convictions in this case, make this one case where a lengthy suspension or permanent revocation is appropriate.

**DR. SOMANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MOHAMMAD A. ADAS, M.D. DR. STEINBERGH SECONDED THE MOTION.**

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Egner stated that this is not just an impairment issue. This really becomes a minimal standards issue also. Dr. Egner indicated that she appreciates such personal appearances before the Board because Dr. Adas' appearance reiterates the fact that Dr. Adas does not understand these minimal standard issues. He indicates that giving standard verbal orders to his office employees is the same giving them to hospital employees. Dr. Egner stated that they are not the same. Dr. Adas did not employ one licensed individual in his office. You cannot give the same types of orders to unlicensed individuals as you can give to a licensed individual.

Dr. Egner continued that it is hard for her to understand or believe that Dr. Adas didn't know that patients were being seen in his absence. He has seven felony convictions and numerous misdemeanor convictions. Dr. Adas demonstrated violent behavior towards his wife. Dr. Egner stated that she believes permanent revocation is due in this case. This is not just an impairment issue. If the Board doesn't go with a permanent revocation, she believes that he needs more time out of practice rather than less time out. This issue of who can do what in his office is not clear to him, and she doesn't think that Dr. Adas is going to abide by the Board's rules.

Dr. Somani stated that when he was reading this case and reviewing the evidence and details, he felt differently than Dr. Egner felt. It was very obvious that many of Dr. Adas' problems were truly due to his alcoholism. From the record, the Board can see that when Dr. Adas had the urge to drink, or when he felt incapable of taking care of his patients, rather than continuing to take care of patients, as the Board has

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seen many physicians do, Dr. Adas decided to take off, go home, and not take direct care of the patients. Much of what the Board sees in this case is more a matter of omission than commission. Dr. Somani stated that Dr. Adas recognized his problem and chose to go home and ask his employees to refer the patients to other doctors who were able to substitute for him. Dr. Somani stated that this is a different situation than the Board usually sees of physicians who are impaired and continue to work when impaired.

Dr. Somani stated that he feels that all of Dr. Adas' problems were related to his drinking. Once he recognized that, he entered into a Step I agreement, went through rehabilitation, and he is complying with his recovery. Dr. Somani added that all of the letters the Board has received from patients and colleagues point out that he's a good doctor. Now that he's recognized his problem, he's doing everything he possibly can to address the issue of impairment. That's what the Board wants physicians to do. Dr. Somani noted that Dr. Adas has been out of practice for one year under a consent agreement, he's following all of those details. At most, the Board may want to suspend him for two years from the time he was removed from practice. That will give Dr. Adas a lot more opportunity to address the issue while the Board is monitoring him for his impairment.

Dr. Steinbergh stated that she agrees with Dr. Egner's comments, in the sense that this is not the basic impairment case. She does believe that Dr. Adas is impaired, and his judgment at times was inappropriate. The question in her mind concerns Dr. Adas' statement here today that the orders that he gave his office staff were standard orders. They were not. Dr. Adas may make the decision not to come to the office impaired, at which point he should refer patients to other physicians for appropriate care. He should not allow his unlicensed staff to do what they did. The Board charged Dr. Adas because of his convictions. Although he is dealing with his impairment, Dr. Adas clearly has these felony counts of complicity in the commission of practicing medicine or surgery without a certificate. Dr. Adas has been found guilty of domestic violence and DUI. There are a number of cases for which he clearly needs to be punished. She does not see this as strictly an impairment case.

Dr. Steinbergh continued that she felt that the Report and Recommendation was probably appropriate for this particular case. If the Board feels that permanent revocation is in order, she would probably vote for that, but at the very least she would go with this particular order. She believes that the case was thoroughly outlined and substantiated, and the Proposed Order is appropriate.

Dr. Bhati stated that the detail of this case has been deliberated by all three members who spoke prior to him. The issue is not only one of impairment, but also standards of care. There were DUI charges and seven felony convictions. That's too much to label a plain and simple impairment case. He would be more inclined to go with a longer suspension or a revocation.

Dr. Somani stated that Dr. Adas has already been out of practice for one year. He will be out two more years under this order. Dr. Somani suggested that three years out of practice is more than enough.

Dr. Steinbergh stated that the Order is a result of Dr. Adas' conviction of felonies in the course of practice. She believes the Proposed Order is appropriate.

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Dr. Bhati stated that seven felony convictions is a lot. That's bothersome to him.

Dr. Davidson asked for clarification of the Proposed Order. Would Dr. Adas get credit for the one year he's already been suspended?

Dr. Steinbergh stated that the Proposed Order requires two additional years of suspension.

Dr. Agresta stated that he thinks that the Order is appropriate for the reasons stated by other Board members. He noted that this is the second time the Board has had to deal with Dr. Adas. Dr. Agresta also noted that the Board is hard on doctors who come back a third time. Dr. Agresta stated that the Attorney Hearing Examiner did a great job and took into account all mitigating circumstances. He doesn't think anyone should feel bad about approving this Proposed Order.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

RODRIGO P. ARZADON, P.A.

Mr. Browning directed the Board's attention to the matter of Rodrigo P. Arzadon, P.A. He advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation in this matter. **DR. SOMANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF RODRIGO P. ARZADON, P.A. DR. AGRESTA SECONDED THE MOTION.**

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Somani stated that this is a straightforward case. The Hearing Examiner has done a great job in outlining the issues and making a recommendation. Dr. Somani stated that he supports the Proposed Order.

Dr. Steinbergh stated that this is a case of Medicaid fraud, and she is always concerned when the Board

allows individuals to continue to practice after such a conviction. She added that she assumes that Medicaid has taken action and that Mr. Arzadon won't be able to see Medicaid patients any longer.

Dr. Agresta commented that Medicaid usually prohibits them from taking Medicaid patients for a certain period of time.

Dr. Bhati added that it's usually a five to ten year prohibition.

Dr. Somani pointed out that the Michigan Board placed Mr. Arzadon on probation for this offense.

Dr. Steinbergh noted that the Ms. Murphy's Proposed Order calls for a minimum six-month suspension. She felt that a longer suspension would be appropriate.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER TO REQUIRE A MINIMUM ONE-YEAR SUSPENSION. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

**DR. SOMANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF RODRIGO P. ARZADON, P.A. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain

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Dr. Steinbergh - aye

The motion carried.

JAMES CHARLES HELPHENSTINE, D.O.

Mr. Browning directed the Board's attention to the matter of James Charles Helphenstine, D.O. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Helphenstine was accompanied to the meeting by Eric J. Plinke, his attorney.

Mr. Plinke stated that they do not have any substantial objections to Mr. Porter's Report and Recommendation. They thought the Findings of Fact and Conclusions of Law were accurate, and that the recommended discipline was an appropriate measure based on the conduct underlying Dr. Helphenstine's relapse. Mr. Plinke at this time deferred to Dr. Helphenstine.

Dr. Helphenstine stated that he's here today because he's a drug addict and he relapsed. His relapse came about as a result of his self-centeredness, laziness, and lack of doing the things that he needs to do on a daily basis in his twelve-step program. Dr. Helphenstine stated that he feels fortunate that he's able to address the Board and to tell the Board that, as of today, he's a lot happier than he was several months ago. He's working with a new sponsor. He's committed to doing 90 meetings in 90 days, starting January 1. He added that he's very content with his program, although he's not in a position to be confident or cocky about it, as before.

Dr. Helphenstine stated that he understands the Findings of Fact and Recommendation of an 18-month suspension. He feels fortunate that that's the recommendation, given the actions that occurred and what he did, and the laws that he broke. The most important thing to him at this point in time is maintaining his sobriety, whether he is ever allowed to practice medicine again or not. He wants to be sober. He wants to live his life, he wants to have his family and friends. That's at the heart of why he's working his program as hard as he is right now. His ultimate goal is not getting his license back. He wants sobriety on a daily basis.

Dr. Helphenstine thanked the Board for the opportunity to speak today.

Mr. Browning asked whether the Assistant Attorney General wished to respond.

Dr. Steinbergh asked whether she could first ask a question of Dr. Helphenstine. She asked when he last practiced.

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Dr. Helphenstine stated that the last time he practiced was in late August.

Mr. Wilcox stated that he supports the Report and Recommendation in this matter. He added that he thinks Mr. Porter did a thorough job of summarizing the facts in this case, and he does believe that the Proposed Order of 18 months' suspension is appropriate under the circumstances.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JAMES CHARLES HELPHENSTINE, D.O. DR. SOMANI SECONDED THE MOTION.**

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that she basically supports this Report and Recommendation. She feels very badly for Dr. Helphenstine and his situation. Dr. Steinbergh stated that probably one of the most important things in this case, besides taking Dr. Helphenstine out of practice and allowing him to heal, is that when Dr. Helphenstine ultimately gets back into practice, he needs to make a better choice of where to practice. She believes that the requirement of a practice plan is an appropriate one. Dr. Helphenstine is going to need to make some choices about the people with whom he deals on a daily basis. He needs to put himself in a place where other people don't threaten him, or that he doesn't allow himself to be re-threatened; and he needs to see this as an ongoing disease and an ongoing problem and that he must take charge of where he puts himself in life.

Dr. Steinbergh stated that the only other concern she has is the language of the suspension itself. If she were just looking at this case, she would suspend him for a total of two years, retroactive to the time he last practiced, in being consistent with these types of relapse. She commented that it is only a difference of one month.

Dr. Somani stated that he was very much concerned about this case, too, because it is not a simple matter of relapse, but the way he was relapsing, plus the way he was working with his patients to be able to get those kinds of medications. This was not simply an alcohol problem. It was more serious than the usual types of impairment the Board sees.

Dr. Somani stated that the second thing he thought was very disturbing was the way Dr. Helphenstine figured out how to game the system while being monitored. As soon as he was asked to give a random sample, he realized that he wouldn't be checked for a few days and that would be the time to starting using medication. Dr. Somani stated that he figured out how to beat the system and continued to abuse drugs. For that reason, he agrees with Dr. Steinbergh that Dr. Helphenstine needs a longer time out to be able to reach a point where he understands the problem, the gravity of the situation. He stated that he would support the two-year suspension.

Dr. Steinbergh noted that her suggestion is for a two-year suspension, retroactive to the day he last practiced.

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Dr. Somani agreed.

Dr. Steinbergh stated that it does give one thought about the kinds of decisions that an impaired physician will make in regard to urine screens and so forth. This was a little bit enlightening to her. She advised that her huge concern was the practice that he was in, and whether a patient comes to him and just sort of hands him pills. The whole thing was very unsettling.

Dr. Egner stated that she supports the Report and Recommendation, but added that this case does call into question the Board's monitoring systems, how much the Board trusts it, and how much will the Board trust this doctor when he comes back in and has to abide by the same monitoring system that he had had before. Dr. Helphenstine can skirt through that system. Part of it will take some improvements on the Board's part, and some of it will also mean that, perhaps, the Board shouldn't be so trusting of its own monitoring systems. Dr. Egner stated that Dr. Helphenstine has a stayed revocation. She hopes that he understands that he will be permanently revoked if he does relapse. The Board's system is not working for him. Whether that's Dr. Helphenstine's fault or the Board's, it's not working.

Dr. Bhati stated that the fact is that Dr. Helphenstine relapsed, and he wants Dr. Helphenstine to know that this is the last stop. If he relapses again, he will not have a license.

**DR. STEINBERGH MOVED TO AMEND THE LANGUAGE THAT THE SUSPENSION WOULD BE FOR AN INDEFINITE PERIOD OF TIME, BUT NOT LESS THAN TWO YEARS, RETROACTIVE TO THE LAST DATE OF PRACTICE.**

Mr. Dilling suggested clarifying what the last date of practice was so that all Board members have a good understanding of when that will be.

Dr. Talmage commented that, as Dr. Steinbergh earlier said, that only makes a difference of one month.

Dr. Steinbergh stated that she wants to be consistent with the language for a relapse like this.

Dr. Egner stated that the Board would be taking Dr. Helphenstine's word for when he last practiced, and the record shows that Dr. Helphenstine's word is not reliable. The Board either needs to find out what the exact date he last practiced is and ensure that it's accurate or stick with what the record says.

Dr. Bhati stated that he would prefer to stay with the Report and Recommendation, as is.

Dr. Somani stated that the problem in this case is that, not only did he relapse, but he engaged in deceptive behavior to game the system. He also used his patients to get medications. Dr. Somani stated that both of those points are very important in this case. Two years should be the minimum suspension period.

Dr. Bhati agreed that two years would be appropriate.

Dr. Steinbergh stated that the Board's summary suspension of Dr. Helphenstine's license was dated

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September 11, 2002. She agreed that a two-year suspension would be appropriate, and restated her motion, as follows:

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER TO CHANGE THE MINIMUM SUSPENSION PERIOD TO TWO YEARS. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF JAMES CHARLES HELPHENSTINE, D.O. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

EFFIE M. LEE, M.D.

Mr. Browning directed the Board's attention to the matter of Effie M. Lee, M.D. He advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

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**DR. BHATI MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF EFFIE M. LEE, M.D. DR. SOMANI SECONDED THE MOTION.**

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that she has some concern about this particular Proposed Order. If the Board considers that Dr. Lee had a significant illness, it could, in fact, extend her ability to take USMLE Step 3. Of concern to her is that Dr. Lee graduated in 1993, did a residency from 1993 to 1997. It's nearly ten years from the time of her graduation. She had two attempts at USMLE Step 1, five attempts at USMLE Step 2, and five attempts, thus far, at USMLE Step 3, which she has not yet passed. Dr. Steinbergh expressed concern that Dr. Lee is a marginal physician. She added that she has concerns that, even if she were to pass USMLE Step 3, without further training, she may pose a risk to the pediatric patients in Ohio. Her proposal would be to deny Dr. Lee's request. She added that she doesn't take this case lightly, and she does appreciate Dr. Lee's desire to extend the time. She doesn't see this as just a case of a physician who became ill and couldn't get to take the examination on time. This is a marginal physician.

Dr. Egner stated that she has the same concerns. She added that she doesn't want to appear callous and not empathetic, but noted that OAC 4731-6-14(C)(3) states, "(a) limited exception to this rule may also be granted to an applicant who suffered from a significant health condition which by its severity would necessarily cause a delay to the applicant's medical study." Dr. Egner stated that she looks at this case and wonders whether Dr. Lee didn't meet the seven-year requirement because she had breast cancer and the subsequent treatment or because she couldn't pass the examinations and along the way she became ill, which could become a factor in this very limited capacity. Dr. Egner stated that she believes it's the former. Dr. Egner noted, however, that Dr. Lee must pass part 3 by July of this year, even with the ten-year extension.

Dr. Egner stated that the Board has been very "letter-of-the-law" as far as previous cases. She doesn't recall anyone who has been granted an extension recently.

Dr. Steinbergh stated that Dr. Lee's illness did not "cause a delay to the applicant's medical study." Dr. Lee went completely through her programs before she became ill. There was nothing delayed, she simply couldn't pass the examinations. Now she's looking to that language about illness which really does not apply in this particular case. There was never a delay in her study.

Dr. Somani stated that he appreciates both Dr. Steinbergh's and Dr. Egner's comments, but he asked to iterate the flip side of that. There are some good doctors who may be appropriate in learning and everything else, but are not able to pass examinations. Just because Dr. Lee could not pass the examination, this does not mean that she may not be a good physician. There are a lot of exceptions. He noted that the Board didn't get information from Dr. Lee's training programs indicating that she needs more training. The Board is judging doctors only on the basis of their passing a qualifying examination. Dr. Lee had terrible problems. She had significant disease, chemotherapy, and anybody who gets this type of disease must take time out, which she did. He added that, even if the Board does grant her the extended

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time, the chances are she will not pass and will go back to what's required in the statutes. Dr. Somani stated that he doesn't see any major downside to letting Dr. Lee take the examination.

Dr. Talmage agreed with Dr. Somani. An objective test is not always the full measure of a physician's ability. The fact that Dr. Lee did finish a residency makes him wonder how she could do that and still not be a good physician. Given the severity of Dr. Lee's disease, and the tremendous emotional impact that breast cancer has on women, extending the time would be a fair thing to do. If Dr. Lee does not pass the examination, she would need remedial educational. It might be helpful for her to do another year of training. He again stated that giving her a chance would be the appropriate thing to do.

Dr. Somani commented that not every physician who completes training gets through the Boards. There are still a fairly large number of physicians who do not pass their Boards after repeated exams. That's a fact of life.

Ms. Sloan stated that the Board has looked at other cases where it stuck to the letter of the law and denied approval of extensions of time for applicants. She stated that she doesn't see that the Board should make an exception. Ms. Sloan stated that she is sympathetic that Dr. Lee has been ill, but examinations are the only thing the Board can go by. She doesn't see an exception for Dr. Lee, who has been unable to pass the examinations. Her time has run out, and Ms. Sloan stated that she doesn't see that the Board should grant an extension.

Dr. Bhati disagreed, stating that the Board doesn't have any rules, as other Boards do, allowing it to require a doctor to get additional training after failing examinations so many times. The question is whether the Board will grant an extension for this physician. Dr. Bhati indicated that, considering her health problems with the breast cancer and all that it entails, granting Dr. Lee one more opportunity to pass USMLE Step 3 will not hurt.

Dr. Bhati continued that some physicians do not pass Board exams. He added that there was a study of malpractice cases, and physicians who were not board certified had fewer malpractice cases than those who had their board certifications.

Dr. Bhati spoke in support of the Report and Recommendation.

Dr. Steinbergh asked how many times a physician can take Step 3 between now and June.

Ms. Thompson stated that the exam is offered continuously, but it takes three to four months to process the application, schedule the examination, and get results. Ms. Thompson added that Dr. Lee would have at least one more chance, and possibly two chances prior to July 1.

Dr. Somani stated that his sense is that Dr. Lee probably has only one more possibility. He doesn't see any down side in letting her try to take the test.

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

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Vote:	Mr. Albert	- abstain
	Dr. Egner	- nay
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- nay
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

#### FINDINGS, ORDERS AND JOURNAL ENTRIES

##### JOHN R. AUBRECHT, M.T.

By letter of November 13, 2002, the Board notified Mr. Aubrecht that it proposed to deny his application for restoration of his license to practice massage therapy based on his failure to provide complete and accurate information on his restoration application pertaining to a 1990 Board action for practicing massage therapy without a license, and his alleged practice from August 31, 1999, to September 1, 2002, without a valid license. Said notice was mailed via certified mail, return receipt requested, to Mr. Aubrecht's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice; however, no hearing request has been received from Mr. Aubrecht and more than (30) days have elapsed since the mailing of that notice. The matter was presented to the Board at this time for final disposition.

##### **DR. STEINBERGH MOVED TO ENTER THE FOLLOWING ORDER IN THE MATTER OF JOHN R. AUBRECHT, M.T.:**

WHEREFORE, for the reasons outlined in the November 13, 2002, Notice of Opportunity for Hearing, which is attached hereto and incorporated herein, it is hereby ORDERED that:

The application of John R. Aubrecht, M.T., submitted on January 4, 2002, for restoration of his certificate to practice massage therapy in the State of Ohio be and is hereby PERMANENTLY DENIED.

Further, for the reasons outlined in the November 13, 2002, Notice of Opportunity for Hearing, which is attached hereto and incorporated herein, it is hereby ORDERED that:

The certificate of John R. Aubrecht, M.T., to practice massage therapy in the State of

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Ohio be and is hereby PERMANENTLY REVOKED.

This Order shall become effective IMMEDIATELY upon mailing of notification of approval by the State Medical Board of Ohio.

**DR. SOMANI SECONDED THE MOTION.**

Dr. Talmage noted that in May 2002 the Board gave Mr. Aubrecht until July 2003 to pass the practical portion of the Board's massage therapy in order to get his license restored. He asked why the motion now is to permanently deny his application for restoration and to permanently revoke his license.

Dr. Steinbergh explained that the Board is taking this action based on a subsequent citation letter, charging Mr. Aubrecht with unlicensed practice.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

**WILLIAM S. BAMBRICK, III, M.D.**

By letter of November 14, 2002, the Board mailed a Notice of Opportunity for Hearing to William S. Bambrick, III, M.D., based on a prior action against Dr. Bambrick's North Dakota medical license following his admission to that board that he had engaged in a continuing pattern of inappropriate care and lacked appropriate documentation in his medical records for diagnosis, testing and treatment of patients. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice; however, no hearing request has been received from Dr. Bambrick and more than (30) days have elapsed since the mailing of that notice. The matter was presented to the Board at this time for final disposition.

**DR. STEINBERGH MOVED TO ENTER AN ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY, IN THE MATTER OF WILLIAM S. BAMBRICK, III, M.D. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

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Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

ATTILA ARTHUR KATONA, M.D.

By letter of November 13, 2002, the Board proposed to deny the application for medical licensure of Attila Arthur Katona, M.D., based on Dr. Katona's alleged failure to advise the Ohio Board on or as a supplement to licensure application that (1) he had been removed from patient related activities during a pathology residency and his contract was not renewed; (2) the Illinois Board had issued an Order of Refusal to renew his medical license in that state; and (3) he had entered into a consent agreement with the Illinois Medical Board. Said notice was mailed via certified mail, return receipt requested, to Dr. Katona's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice; however, no hearing request has been received from Dr. Katona and more than (30) days have elapsed since the mailing of that notice. The matter was presented to the Board at this time for final disposition.

**DR. SOMANI MOVED TO ENTER AN ORDER OF PERMANENT DENIAL, EFFECTIVE IMMEDIATELY, IN THE MATTER OF ATTILA ARTHUR KATONA, M.D. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

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MICHAEL J. PARKS, M.D.

By letter of November 14, 2002, the Board mailed a Notice of Opportunity for Hearing to Michael J. Parks, M.D., based on a prior action against Dr. Parks' Michigan license by that state's medical board following findings that, during surgery, Dr. Parks left a patient's distal fibula in an unacceptable position in violation of his general duty and thereby demonstrated incompetence; and on Dr. Parks' alleged failure to advise the Ohio Board on his license renewal application that an administrative complaint had been filed against him by the Michigan Board. A signed certified mail receipt was returned to the Board documenting proper service of the notice; however, no hearing request has been received from Dr. Parks and more than thirty (30) days have now elapsed since the mailing of that notice. The matter was presented to the Board at this time for final disposition.

**DR. STEINBERGH MOVED TO ENTER AN ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY, IN THE MATTER OF MICHAEL J. PARKS, M.D. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSIONCHARLES B. BERTANI, 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. BHATI MOVED TO SEND THE CITATION LETTER TO DR. BERTANI. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye

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Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

MICHAEL HOWARD BRIDGES, 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. BHATI MOVED TO SEND THE CITATION LETTER TO DR. BRIDGES. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

SANDRA KAY HAREWOOD, M.D. - CITATION LETTER

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

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye

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Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

JAMES MICHAEL KENNEN, 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. KENNEN. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

RICHARD W. LISS, M.D. - CITATION LETTER

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

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye

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Dr. Davidson	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

CHARLES SNYDER, 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. BHATI MOVED TO SEND THE CITATION LETTER TO DR. SNYDER. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

JACK E. STEELE, 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. SOMANI MOVED TO SEND THE CITATION LETTER TO DR. STEELE. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

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Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

STEVEN W. CRAWFORD, M.D. - NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

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

**DR. BHATI MOVED TO SEND THE NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING TO DR. CRAWFORD. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

JAMES C. HELPHENSTINE, 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. HELPHENSTINE. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye

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Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

#### RATIFICATION OF CONSENT AGREEMENTS

STEPHEN RANDALL PORTER, M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. PORTER. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

THOMAS ANTHONY RANIERI, M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. RANIERI. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

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The motion carried.

CYNTHIA JOAN JOHNSON, P.A.

**DR. BHATI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MS. JOHNSON. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

WILLIAM LAWRENCE CRAWFORD, M.D.

**DR. SOMANI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. CRAWFORD. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

ANN VERLENE GOVIER, M.D.

**DR. BHATI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. GOVIER. DR. TALMAGE SECONDED THE MOTION.** A vote was taken:

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Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

#### PERSONAL APPEARANCES

##### KATHERINE A. HUMES, M.D.

Dr. Humes appeared before the Board pursuant to her request for release from the terms of the Board's Order of December 3, 1997.

In response to Dr. Bhati's questions, Dr. Humes stated that she plans to work for herself in the future. She will be working full-time.

In response to Dr. Somani's questions, Dr. Humes stated that she never hesitated to go for treatment or follow up. She stated that the experience hurt. She will be practicing in Lancaster, Ohio, in a solo, family practice. She will be continuing to see her psychiatrist. She has recently made extra appointments to make sure that everything was okay. Her medication hasn't needed changing in years.

#### **DR. BHATI MOVED TO RELEASE DR. HUMES FROM THE TERMS OF THE BOARD'S ORDER OF DECEMBER 3, 1997. DR. SOMANI SECONDED THE MOTION.**

Dr. Steinbergh stated that having a solo family practice is extremely stressful. She wished Dr. Humes well, but cautioned that Dr. Humes needs to stay well. That's probably more important than anything.

Mr. Albert stated that the last time he spoke with Dr. Humes she was in practice with Fairfield Medical Center.

Dr. Humes stated that that contract terminated on December 31, 2002. She will be going out on her own now.

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

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Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

JOSEPH MARTIN PASTOR, M.D.

Dr. Pastor appeared before the Board pursuant to his request for release from the terms of his January 14, 1998 Consent Agreement. If approved, release from probation would become effective January 14, 2003.

In response to Dr. Bhati's questions, Dr. Pastor stated that his life is very good. He's very busy, working as a medical director for a clinic in Denver, Colorado. He's on the faculty at the medical school. He's volunteered for the Colorado Physicians Health Program, encouraging younger physicians in recovery. He does plan to continue doing that for now. He will also continue with his support system.

**DR. BHATI MOVED TO RELEASE DR. PASTOR FROM THE TERMS OF HIS JANUARY 14, 1998 CONSENT AGREEMENT, EFFECTIVE JANUARY 14, 2003. DR. SOMANI SECONDED THE MOTION.**

Mr. Albert advised that Dr. Pastor has been a good probationer and has worked hard on his recovery program.

In response to Dr. Somani's questions, Dr. Pastor stated that he believes the Colorado program is very similar to OPEP. He's been working with both, and will continue to volunteer with the Colorado program. Physicians new to recovery are referred to him, and he's very active in that.

Dr. Davidson asked Dr. Pastor to comment on the initial 28-day inpatient requirement.

Dr. Pastor stated that, for him, the 28-day inpatient treatment was very helpful and important. He added that the longer that one could have structured documented sobriety, the better the response is to treatment.

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

Vote:	Mr. Albert	- aye
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Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Agresta	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

GEOFFREY P. REDMOND, M.D.

Dr. Redmond appeared before the Board pursuant to his request for release from the terms of the Board's Order of September 8, 1999. If approved, release from probation would become effective January 21, 2003.

In response to Dr. Somani's questions, Dr. Redmond stated that he no longer employs advanced practice nurses (APNs). He added that he's avoided any sort of ambiguous situations since his difficulties. He's in a solo practice in New York City, which is where he grew up and had all of his medical training.

In response to Dr. Talmage's questions, Dr. Redmond stated that he has not been reinstated in Medicare or Medicaid. He added that he believes he's got five to six years before he can be eligible to receive Medicare or Medicaid payments.

**DR. BHATI MOVED TO RELEASE DR. REDMOND FROM THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 8, 1999, EFFECTIVE JANUARY 21, 2003. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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SCOTT R. SWOPE, D.O.

Dr. Swope appeared before the Board pursuant to his request for release from the terms of his July 1, 1999 Consent Agreement. If approved, release from probation would become effective January 12, 2003.

In response to Dr. Steinbergh's questions, Dr. Swope stated that he no longer treats for weight loss, and hasn't since the beginning of this situation. He tried retirement for a year and didn't like that, so now he's back working for the Warren County Health Department on a part-time basis. He's enjoyed that. He also works with another young physician who recently opened an office in Springboro. He works with her two days a week.

Dr. Talmage asked Dr. Swope what he does about overweight patients he sees.

Dr. Swope stated that that is a good question because right now in the state of Ohio it's very difficult to find a physician that would like to do bariatric medicine for all kinds of reasons. One of his biggest concerns is that there are now a lot of obese children coming into the systems. Everyone tends to shy away from them except all of the people out there who are lining their pockets with things that guarantee the individual will lose weight while he or she sleeps. One thing he would be very interested in is being part of any kind of a study group on the problem of obesity and how it should be handled in the present day society. When he first went into the field 20 years ago, it was not what it should be. That's what he was trying to change at the time that he met the State Medical Board. He stated that there are a lot of ways out there to handle it. Most of it has to be on a one-on-one basis. There is no pill or anything else out there that will guarantee weight loss. The physician has to be willing to sit down and discuss every bit of the patient's lifestyle, including eating, exercising, environment, and the whole works.

Dr. Garg stated that that is what physicians are supposed to do. There is no state requirement.

Dr. Swope stated that if residents could attend the two courses he attended in Cleveland, it could help change a whole lot of their long-term ideas about patient care in a number of fields.

**DR. BHATI MOVED TO RELEASE DR. SWOPE FROM THE TERMS OF HIS JULY 1, 1999 CONSENT AGREEMENT, EFFECTIVE JANUARY 12, 2003. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye

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Dr. Garg                   - aye  
Dr. Steinbergh         - aye

The motion carried.

CYNTHIA J. JOHNSON, P.A.

Ms. Johnson made her initial appearance before the Board, pursuant to the terms of her October 10, 2002 Consent Agreement.

In response to Dr. Somani's questions, Ms. Johnson is saying that she's doing well and has learned to control her anger. She's had therapy that has been very helpful. She's attended quite a few A.A. meetings, and has enjoyed them. She has a sponsor who has been very helpful. She also has a good support system.

Dr. Talmage asked whether Ms. Johnson is comfortable that she has anger management and that sort of thing under control.

Ms. Johnson stated that she has been working on depression. Anger has been one of the issues, but she's been working on depression for a while. She thinks that she finally found a medication that helps and a therapist who is really addressing the issues. Over the past year she feels a lot better about the situation. She realizes that it's not just a matter of drinking, but it has something to do with personality. She keeps learning more and more about that.

Dr. Talmage stated that he thinks the issue of anger keeps coming up because there were charges of menacing and stalking in the original citation, and he interprets that as anger.

Ms. Johnson stated that it really wasn't an anger issue. She added that the "stalking" charge was changed, and it was more of being a nuisance, but there was no anger involved.

In response to Dr. Egner's questions, Ms. Johnson stated that she did a program at Glenbeigh. She had to pay the same a physician would have to pay, and she does find that a hardship. She hasn't paid the bill yet, and she's been terminated from her job. Insurance wouldn't cover her treatment.

Dr. Egner commented that there are some programs with a sliding scale.

Mr. Albert stated that the Board has approved six or seven programs that have a sliding scale. He suggested that Ms. Johnson discuss her financial situation with Glenbeigh and they may have the ability to charge on a sliding scale.

Dr. Egner stated that she knows it is a hardship and a huge investment, but hopefully Ms. Johnson will find that it is money well spent. It's an investment in her life and her career.

In response to Ms. Sloan's questions, Ms. Johnson stated that she thought that the treatment at Glenbeigh

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was good. There were some very good counselors, and she learned a lot. She added that it was a shock to her that she was there. She was surprised to be assessed as an alcoholic, so it took her a while to adapt to the situation. Her life changed drastically. Ms. Johnson stated that she decided that she would make the best of things, and her treatment was very informative.

**DR. BHATI MOVED TO CONTINUE MS. JOHNSON UNDER THE TERMS OF HER JANUARY 8, 2003 CONSENT AGREEMENT AND THE BOARD'S POLICY OF DECEMBER 9, 1998, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE.  
DR. AGRESTA SECONDED THE MOTION.**

Dr. Steinbergh stated that she has some concern about the professional responsibility Ms. Johnson assumes as a P.A., and the misdemeanors. To the Board this is very serious. The Board tries to understand and appreciate the disease, but malfeasance by a professional is something for which the Board has a low tolerance. Dr. Steinbergh urged Ms. Johnson to continue with treatment. She added that this Board takes it very seriously when licensees act out in assuming patient care.

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

MICHAEL J. O'BRIEN, D.O.

Dr. O'Brien made his initial appearance before the Board, pursuant to the terms of the Board's Order of September 11, 2002.

In response to Dr. Somani's questions, Dr. O'Brien stated that things have been going very well, and he's been staying busy. He stated that on Thursday he will celebrate 13 months of sobriety, and he's very excited about that. He's looking for a job, and that keeps him pretty busy. Additionally, he attends about seven meetings a week and Wednesday is his day to go to Shepherd Hill for aftercare and Caduceus. Dr. O'Brien stated that, while that might not sound like much, it takes up a lot of time. He's trying to repair relationships he messed up during his active use. Dr. O'Brien advised that he does have hobbies: he likes to read a lot, he plays guitar, takes lessons and he also helps take care of one of the meetings at home.

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That takes some additional time. He also sees his psychiatrist.

Dr. Bhati stated that it looks like Dr. O'Brien is on a roll, and he told Dr. O'Brien that things will get better. He wished Dr. O'Brien luck.

Dr. Egner stated that a lot of times when probationers come before the Board she has a hard time remembering the details of their cases. She advised Dr. O'Brien that he is not one of those. She stated that she wants Dr. O'Brien to know that she remembers what he did and the circumstances behind it. She will always remember what he did. Dr. Egner stated that she thought Dr. O'Brien's license should have been revoked; and if he relapses, she stated that she will speak strongly against his ever having a license to practice medicine in Ohio. Dr. O'Brien put himself and so many others in a terrible situation. Dr. Egner stated that she wishes Dr. O'Brien success, but she doesn't have very much tolerance, and she believes that she must be very honest with Dr. O'Brien today. Dr. Egner added that Dr. O'Brien's recovery is the most important thing. If practicing medicine and getting his license back is a goal, he should know that if he relapses, he'll never reach that goal.

Dr. Steinbergh concurred with Dr. Egner. She asked whether Dr. O'Brien has considered changing specialties so that he's not faced with any situation, considering his illness.

Dr. O'Brien stated that he doesn't think that anesthesia is a safe field for him. If he returns to practice, he will retrain in a different specialty, given the opportunity.

Dr. Steinbergh indicated that that would be a good idea. She added that she concurs with Dr. Egner. This is Dr. O'Brien's last chance.

Dr. Talmage asked Dr. O'Brien what type of jobs he's been looking for.

Dr. O'Brien stated that he's been applying for positions in research and sales of medical devices, and such. So far he's had some phone interviews. He's tried to be open and honest with them, and they haven't chosen to pursue it yet. He feels that, if it's meant to be it will happen, so he just keeps trying.

Mr. Albert asked whether Dr. O'Brien is married. Dr. O'Brien stated that he is not.

Mr. Albert remarked that if Dr. O'Brien doesn't get a sales job, he may have to go out and get a job where he'll get his fingernails dirty, doing construction work or something else. The Board has seen probationers who have had to go into jobs such as construction and landscaping during their license suspensions. He suggested that Dr. O'Brien get involved in something like that, and added that it would be good experience for him.

Dr. Bhati stated that one good thing about Dr. O'Brien is that he's soon to celebrate his thirteenth month of sobriety. Dr. O'Brien is an addict and will be one for the rest of his life, but he has made some steps in a positive direction. Hopefully, he will continue to do that. Dr. Bhati stated that the Board wishes him the best, but this is the last stop.

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**DR. BHATI MOVED TO CONTINUE DR. O'BRIEN UNDER THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 11, 2002 AND THE BOARD'S POLICY OF DECEMBER 9, 1998, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. TALMAGE SECONDED THE MOTION.**

Dr. Davidson stated that she had been going to say the same thing Dr. Egner said, so she concurs with Dr. Egner's comments. She asked what Dr. O'Brien felt the odds were for his reinstating his license, retraining and working as a physician again.

Dr. O'Brien stated that he thinks that as long as he keeps doing what he's doing, he thinks the odds are quite good. Anesthesia is out. Another option he has is that he's working with the Ohio Bureau of Vocational Rehabilitation, and they might help him go back to school for something. He may take the LSAT, or look at a masters program or something like that. There he could use the combination of that with his medical degree and not need a license but still do something meaningful without putting himself at risk.

Dr. Davidson asked how he had found the thirteen months of sobriety.

Dr. O'Brien stated that he needed it, so it wasn't hard for him. It's been great and has saved his life. He takes care of his sobriety day by day. The main thing is that he stays connected with other folks in recovery. It works for him so far.

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Agresta stated that he wasn't present for the discussion of the Board's Order in this matter, and he would have recused himself from the case since he knew Dr. O'Brien, who practiced at his hospital.

Dr. Agresta stated that he was shocked when he found out about Dr. O'Brien's problems. He added that Dr. O'Brien is basically a good person and a good anesthesiologist, and Dr. Agresta wished him luck. Dr. Agresta added that he felt very bad that Dr. O'Brien had the problem he had.

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JESSICA A. ROSS, M.D.

Dr. Ross made her initial appearance before the Board, pursuant to the terms of the Board's Order of September 11, 2002.

In response to Dr. Somani's questions, Dr. Ross stated that she is doing well. She is now into her second year of practice with the V.A. She is able to do all of the cardiology she thought she'd be able to do, and she has no worries about the business aspects. She stated that she doesn't want any more of that.

In response to Dr. Bhati's questions, Dr. Ross stated that she does non-invasive cardiology. She has reviewed the Board's Order and does not have any questions about it. She again stated that everything is going well.

In response to Dr. Steinbergh's questions, Dr. Ross stated that she's practicing at the Veterans' Administration outpatient clinic in Columbus.

**DR. SOMANI MOVED TO CONTINUE DR. ROSS UNDER THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 11, 2002 AND THE BOARD'S POLICY OF DECEMBER 9, 1998, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

JEFFREY W. WINHOLT, M.D.

Dr. Winholt made his initial appearance before the Board, pursuant to the terms of the Board's Order of September 11, 2002.

In response to Mr. Browning's questions, Dr. Winholt stated that he feels fine. He's been sober and drug-free for over a year, and he's going to frequent A.A. meetings, attending four to six meetings per week. His wife attends Alanon, so he has sober support at home. He's keeping busy, doing volunteer work with

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Habitat for Humanity. He's started a hobby, learning how to do stained glass work.

In response to Dr. Somani's questions, Dr. Winholt stated that he has looked through all of the terms of the Board's Order and is familiar with his responsibilities. Dr. Winholt stated he's learned and believes that alcoholism is a symptom of some personality disorder, which the A.A. twelve steps are geared to try to change. He believes that if he continues to work with A.A. and continues doing what he's doing, he'll see some significant changes. Whether or not he will ever be able to achieve something close to being normal, he doesn't know. He's trying, and he's making changes in his life to improve his condition. Returning to medical practice is in the back of his mind; it is something he's always liked to do. He would be grateful if he were able to return to practice.

Dr. Steinbergh asked whether Dr. Winholt has thought about going into a different area of medicine.

Dr. Winholt stated that he has thought about that, and, in fact, he'd love to enter fellowship training in addictionology. But he will need a license to do that. He's also thinking about other career options. It is possible that he may not want to return to medicine. He hasn't made any decisions about that.

Dr. Egner stated that she didn't vote on this case because she knows Dr. Winholt. She stated that she was very surprised when his case came to the Board. Dr. Egner stated that, from a personal standpoint, she thought back on patients she had who maybe didn't have great pain relief post-op, and she wondered whether they had all of the medicine that they were supposed to have. Dr. Egner stated that she took very personally the issue of how Dr. Winholt's actions affected her patients, and others' patients. Dr. Egner stated that what Dr. Winholt did affected a lot of people, including patients and co-workers.

In response to Dr. Davidson's questions, Dr. Winholt stated that he's read a lot of ASA (American Society of Anesthesiologists) material on addiction and risks to anesthesiologists. It's hard to say whether there was any preventability about his situation. It's such a sneaky process, plus the denial and defense mechanisms he used to explain away his problem is something that became second nature. He was lying, and cheating and hiding it. Dr. Winholt stated that you get really good at hiding it.

Dr. Davidson asked whether, in retrospect, Dr. Winholt thinks that he chose anesthesiology because he was an addict. She noted that Dr. Winholt used heroin in high school and had a longstanding history that he did manage to hide.

Dr. Winholt stated that he's asked himself that same question. He doesn't really believe that that is what entered into his decision to go into anesthesia.

Dr. Davidson stated that most physicians don't really know what is ahead of them when they choose their specialties. She stated that she would strongly counsel Dr. Winholt to never be an anesthesiologist again. Addiction is a life-long, life-threatening disease, and he'd be putting his head in the noose to continue in anesthesia.

Dr. Bhati advised Dr. Winholt to look at the positive side, he's been sober for over a year. If he continues

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to remain sober, he can do what he wants to do, whether that is being an attorney, an accountant or a doctor. He just needs to continue his sobriety.

**DR. BHATI MOVED TO CONTINUE DR. WINHOLT UNDER THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 11, 2002 AND THE BOARD'S POLICY OF DECEMBER 9, 1998, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. SOMANI SECONDED THE MOTION.**

Dr. Garg reminded Dr. Winholt that the Board's Order was a stayed permanent revocation with a four-year suspension imposed. Dr. Winholt is lucky. This is the end of the line for him, and with his history, perhaps he should think about something other than anesthesiology. He added that it is surprising that Dr. Winholt's license was not permanently revoked, because Dr. Winholt's violations were pretty outrageous. Dr. Garg commented that he believes the Board didn't permanently revoke Dr. Winholt's license because of his age. Maybe now he'll learn a lesson.

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

ERICA A. SEWELL, D.O.

Dr. Sewell made her initial appearance before the Board, pursuant to the terms of her October 9, 2002 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Sewell stated that she practices in Florida, but did her residency in Ohio at the University of Cincinnati Family Practice Program; and, post-residency, she covered for a physician for about two months when she went on maternity leave. She does understand her consent agreement and is currently in family practice in Florida.

In response to Dr. Garg's questions, Dr. Sewell stated that she does understand the reason for the consent agreements with Florida and Ohio. She stated that a patient had abnormal liver function studies. They did attempt to reach the patient. When he came into the office three months later he did not get those results.

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Dr. Somani asked what the patient outcome was.

Dr. Sewell stated that the patient was in the hospital with biliary pancreatitis, chronic parenchymal liver disease, ascites and portal hypertension.

Dr. Somani asked whether that was a result of her not following up with the patient about his test results.

Dr. Sewell stated that there was no conclusion as to whether or not there was underlying disease or the Niacin medication that he was taking, or what actually made him go into the hospital.

Dr. Garg stated that Dr. Sewell did know the results at the time she saw him three months later.

Dr. Sewell stated that when the patient came back to the office three months after they had the results, he came in on a Workers Compensation case. That was handled differently because it's a separate contract. This occurred in 1997, so she doesn't know whether she had his original chart or just the incident at the time he presented.

Dr. Garg asked whether Dr. Sewell has made any changes in her practice regarding lab results.

Dr. Sewell stated that she does work for a company and has minimal control over how things are processed and handled. She personally has a log in which she keeps track of all abnormal tests that come in. They check the results every week against the schedule so that they don't have patients being missed.

Dr. Garg stated that, even though she does work for a company, abnormal reports still come to her.

Dr. Sewell stated that they do, but she's in a nine-office practice. She's been with the company for eight years, and they've changed their medical records system three times. Sometimes they have access on sight and sometimes they don't. So she may have seen the results but may not have had access to the chart when she saw the patient.

Dr. Garg cautioned that, for her own protection, she'd better change the system because it's serving neither the patient's interests nor hers.

Dr. Sewell stated that she's in an office where they have charts on-site, and they are looking into doing electronic charting. They are trying to correct the system, but it's a slow process. She does work for a not-for-profit corporation so the wheels do not move very fast.

Dr. Garg commented that he's really amazed that she didn't have problems with more than one patient with that kind of charting system. That just doesn't look right.

Dr. Sewell stated that for the most part they do make every effort to keep on top of everything and get in touch with patients and labs. In the eight years they have made changes to the medical records system,

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some of which she has had control over and some of which she has not. But she's put in place her own personal system to make sure it doesn't happen again. This involved one patient in 1997, and she hasn't had any problems with any other patients since.

Dr. Bhati stated that if a physician gets any kind of abnormal test back he or she should sign off on the report. If the physician cannot get hold of the patient concerning the results, he or she should send a certified letter to the patient. Then if the patient doesn't respond, the physician has done his or her job. Unless the physician signs off on every report and follows through, the physician is exposing himself or herself to problems.

Dr. Sewell stated that they did make all efforts to get to the patient at the time. There was a three-month lapse until he came in.

Dr. Bhati stated that it's not the company that will be before the Medical Board. It's the physician who will get into trouble, so the physician needs to make every effort to make sure that test results are being followed up on. No one will accept the excuse that she works for an organization and that's how they do it.

Dr. Sewell stated that at this point she is relocating to a better office environment.

Mr. Albert asked whether Dr. Sewell ever intends to return to Ohio to practice.

Dr. Sewell stated that she has a strong tie in Ohio. She did do a subspecialty in international medicine, and they do go overseas. She goes overseas once a year with the University of Cincinnati. She has friends in Ohio. Returning here to practice is a possibility, but 100% of her family is in Florida, so she's strongly rooted there.

#### PROBATIONARY REPORTS

Mr. Browning referred the Board to the Compliance Staff's reports of conferences with probationers on November 12 and November 15, 2002. He noted that all probationers are in compliance.

**DR. TALMAGE MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH RUSSELL B. ALLISON, M.D.; EDWARD M. BIRDSONG, D.O.; VICTOR BYKOV, M.D.; ROBERT R. DAIBER, M.D.; RICHARD DE LA FLOR, M.D.; MARK S. FLEMING, M.D.; GARY F. GLADIEUX, M.D.; DAVID C. HANES, D.O.; JEROME DAVID HOMISH, D.O.; MICHAEL W. KESSLER, M.D.; BAK CHUL KIM, M.D.; LAURENCE I. KLEINER, M.D.; ERIC W. LOTHES, M.D.; BRADFORD J. MURPHY, D.O.; ELLIOT L. NEUFELD, D.O.; HARRY P. NGUYEN, M.D.; JOANNE POJE, M.D.; GEOFFREY P. REDMOND, M.D.; JOSEPH S. SCHEIDLER, D.O.; MARK E. SENIOR, D.O.; LEONARD K. SMITH, M.D.; ROBERT R. SUMMERS, D.O.; JOHN R. TRUMBO, M.D.; MARK E. TURNER, D.O.; PHILIP G. WAGMAN, M.D.; AND LESLIE R. WOLF, M.D. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

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Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### PROBATIONARY REQUESTS

##### NICHOLAS G. ESPINOZA, D.O.

Dr. Espinoza's request for modification of his probationary terms was presented to the Board for consideration at this time.

**DR. SOMANI MOVED TO GRANT DR. ESPINOZA'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO EVERY SIX MONTHS. DR. SOMANI FURTHER MOVED TO REDUCE THE FREQUENCY AND NUMBER OF CHARTS TO BE REVIEWED TO 10 CHARTS PER MONTH. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

##### WALTER L. GEORGE, M.D.

Dr. George's request for a determination of his chart review requirement was presented to the Board for consideration at this time. Shardul D. Vibhakar, M.D., was approved as monitoring physician by the

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Secretary and Supervising Member.

**DR. STEINBERGH MOVED TO REQUIRE THAT A CROSS SECTION OF 20 FILMS BE REVIEWED ON A WEEKLY BASIS. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

JAMES H. GRAY, D.O.

Dr. Gray's request for approval of an ethics course was presented to the Board for consideration at this time.

**DR. SOMANI MOVED TO APPROVE THE COURSE, *The ProBE Program*, FOR PURPOSES OF FULFILLING PARAGRAPH B.8. OF THE BOARD'S ORDER OF MARCH 13, 2002 IN THE MATTER OF DR. GRAY. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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DARRELL A. HALL, M.D.

Dr. Hall's request for approval of a new monitoring physician was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE KRISTOPHER R. BRICKMAN, M.D., TO SERVE AS DR. HALL'S MONITORING PHYSICIAN, WITH 20 CHARTS REVIEWED PER MONTH. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

JORDAN B. STERNS, M.D.

Dr. Sterns' request for modifications to his probationary terms was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE DR. STERNS' REQUESTS FOR A REDUCTION IN HIS DRUG SCREENS FROM ONCE A WEEK TO TWICE PER MONTH AND ELIMINATION OF PSYCHOTHERAPY TREATMENT. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

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The motion carried.

JOSEPH A. TORE, M.D.

Dr. Tore's request to eliminate a requirement of the Board's August 8, 2001 Order and December 12, 2001 Entry Nunc Pro Tunc was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE DR. TORE'S REQUEST TO ELIMINATE THE ALCOHOL AND DRUG REHABILITATION MEETING REQUIREMENT. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

ANESTHESIOLOGIST ASSISTANT RULES

Mr. Browning asked Mr. Wayda to lead the discussion.

Mr. Wayda referred to Ms. Murphy's "Report of the December 10, 2002 Administrative Rules Hearing," a copy of which shall be maintained in the exhibits section of this journal. He stated that these rules are being brought to the Board today for discussion, and will be on the February agenda for formal decisions.

Mr. Wayda stated that, in addition to jurisdictional testimony on behalf of the Board, there were ten witnesses. Six Board members also attended the hearing. He referred the Board to his memorandum of January 9, 2003, a copy of which shall be maintained in the exhibits section of this journal, which reviews the three options from which the Board chose in September 2002, and reminded the Board that they chose to proceed to hearing on Option A.

Mr. Wayda stated that he would like the Board members who attended the meeting to begin the discussion by giving their impressions of the hearing, where the evidence is, and what they saw happening, based upon the evidence presented, and to try to do so keeping in mind the two central issues outlined in his memorandum.

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Mr. Wayda stated that there are a number of guests attending this meeting who came from all over the state. These are the same people who have worked hard to help the Board get this far in the process. They are present on the understanding that they are not here to testify, but they may answer questions the Board members may ask.

Dr. Egner stated that she thought this was a great hearing, adding that it was very different from those she first attended when she was first on the Board. This hearing was very organized, but it was a more informal setting with a lot of questions back and forth between Board members and individuals who testified. Dr. Egner stated that there was a lot of honest answers and testimony. Dr. Egner stated that she's not ready to make any recommendation on the options. She added, however, that she went into the hearing very supportive of Option A, and she doesn't think that she came out of that hearing as strongly supportive of Option A. There was a lot of very good testimony about the training of A.A.s and what they are doing, and she was very influenced by that. She noted that Dr. Garg, Dr. Steinbergh and Dr. Somani were present during most of the hearing.

Dr. Garg stated that he was only there for a small part of the hearing and is not ready to make any statements about it.

Dr. Somani stated that this was one of the best hearings he can think of. This was a hearing where the Board members could hear the two different viewpoints of those proposing recommendations to the Board. He believes that the main concern is what the ultimate scope of A.A. practice should be. This is an issue Board members have faced for a long time. Despite many of the issues brought up, the clear question is whether or not A.A.s are trained to perform certain procedures, and the second question is whether they should be allowed to perform them or, as the statute describes, assist in the performance of those. There was a group of people for both sides of the issue. For some reason it became more obvious that those working with A.A.s were more in number to express verbally their feeling about what A.A.s should be allowed to do, i.e., Option C; whereas, those opposed to it were not there in person. The impression was left that the organization may not have support from many of these people who did not attend the hearing. There was a letter signed by almost ten percent of the members of the State organization.

Dr. Somani stated that this is a new field and the Board has to be on the side of caution rather than starting with the wide open field. The Board should look at all the information given to it more carefully before making up its mind on whether it will support Option A or Option C.

Dr. Steinbergh agreed that it was a very thorough hearing, as was the outpatient surgical rules hearing a couple of days before. The Board heard some strong support for defending what A.A.s currently do in Ohio. There were some conflicting reports in regard to the educational piece between those who are educated in Georgia versus those educated in Ohio. The Board heard that there were no differences, and also heard that there were significant differences. When the Board makes rules to allow A.A.s to do certain things, the Board does have to consider the educational process in place.

Dr. Steinbergh stated that she is looking forward to reviewing the hearing report because she expects to see testimony that wasn't given at the time of the hearing. Dr. Steinbergh stated that she has left her thoughts

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open about which option she would choose. She felt very confident with Option C when it was first considered. After listening to the testimony, she's not quite as confident; but on the other hand, she thinks that the hearing itself brought forth almost all of the information needed, and she hopes that the rest of the report includes those pieces that the Board was looking forward to receiving.

Dr. Steinbergh stated that she doesn't have any questions. She does believe that the big issue is how the Board defines "assist." The Board must be careful to properly interpret statute.

Dr. Egner stated that she felt, during the testimony, that the clearest definition of "assist" versus "perform" is Dr. Stewart's definition, as included in paragraph C.4.d. of the Hearing Examiner's report, which states: "Dr. Stewart testified that he would use the word 'assist' in a setting where the anesthesiologist is in the room while the A.A. performs a task. He distinguished 'assist' from 'perform' by stating that when the A.A.s performs (sic) a procedure, the anesthesiologist may or may not be in the room." Dr. Egner stated that she's not sure that this is the Board's opinion of the difference between "assist" and "perform," but she thought it was the clearest description.

Dr. Agresta stated that that doesn't make any sense to him.

Dr. Egner stated that this was a huge issue at the hearing. What is "assist?" What is "perform?" Is it who is doing it, who's supervising it, who's in the room?

Dr. Agresta stated that, to him, "perform," means "do." "Assist" means "help."

Dr. Talmage advised that in residency, when the resident assisted the physician, yet did the surgery, he was called the first assistant.

Dr. Agresta stated that the surgeon was actively involved in the case.

Dr. Talmage stated that the surgeon was there.

Dr. Agresta stated that, not only was the surgeon there, but if the resident did something wrong, the surgeon took over. It's not like he was just in the room, allowing the resident to do whatever he was going to do.

Dr. Somani stated that once you were trained, you were able to perform under the guidance of the surgeon, so there was a transition.

Dr. Garg stated that the purpose of the resident doing surgery was that he was being trained to be a surgeon. In this case, the A.A. is not being trained to be an anesthesiologist. You are giving appropriate training to the A.A. so that he or she can help or assist the anesthesiologist with the procedures. The statute doesn't say that they can work as an anesthesiologist. You cannot equate the training of a medical or surgical resident with the A.A., or even C.R.N.A., training. They are two different things. You may become very proficient, and someone may depend more upon you than he or she might with other people,

but there is not an equivalency.

Dr. Somani stated that, by the same token, you would not turn over the actual performance of surgery to a surgical assistant, no matter how long that person may be in the operating room.

Dr. Talmage stated that the A.A.s have been trained to perform.

Dr Garg stated that the statutes say that they “assist,” not “perform.”

Dr. Talmage stated that the statute does not define “assist;” that’s why the Board is debating it.

Mr. Dilling stated that it’s not clear cut, and he added that he hopes that the Board addresses this in terms of not getting too far out on the line. Reasonable minds can differ as to how you are reading this and how you are interpreting it. If it was very easy to do so, he would utilize the attorneys who could say, “this is the way it is, you can’t go beyond this line.” Mr. Dilling stated that the Committee, the Advisory Committee and the Board are all trying to struggle with what the statutory scope of practice language means. What does it permit a person to do in that practice? The Board is to look, above all, at protection of the public and what is proper. The Board is looking at training and education, and some logical questions. If the Legislature used “assist” or “perform,” then why isn’t this being done, or why isn’t it being done in a certain way. Mr. Dilling stated that the Board will have to grapple with that, but each of these interpretations makes sense to some person or some group of people. The Board has been given a tough job, but it has a lot of testimony before it to help it out. Mr. Dilling continued that the rules hearing itself was just one moment in time in this. There are people here today who want to give their perspective on things.

Mr. Wayda stated that if the Board looks back at the Anesthesiologist Assistants Committee’s final report, which the Board received in September, and which is also an exhibit in the hearing record, the question of “assist” versus “perform” was addressed extensively at the Committee level, as well. There are summaries in that final report on where both sides came down on that very question. What is unhelpful is that there are legal opinions given on both sides of that question, defining “assist” meaning different from “perform,” and at the same time defining “assist” as being a condition where you are part of a team with the supervising anesthesiologist, versus “performing” when you are on your own. That’s the distinction that he believes Dr. Stewart’s testimony addresses. Mr. Wayda encouraged the Board members to go back to the summary pages of the arguments to help inform their own thinking. There are no clear answers, and there will come a point when the Board will have to make a decision on its own based on the evidence before it.

Dr. Egner stated that there are representatives of the two sides present today, and she suggested that they give the Board a brief overview of each side.

Dr. Davidson stated that she has been hesitant to speak out on this for a couple of reasons: she was unable to attend the rules hearing; and she may be too close to this issue. She stated that she was president of the state anesthesia association two or three years ago when the whole issue came up. The primary goal of her term was to secure licensure for A.A.s. She became passionately aware of who they are and what they’ve

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done, and how long they've been doing it, and she became a very ardent supporter of licensure for A.A.s. She has not worked with them, other than her current boss is a former A.A. Of the 700 trained A.A.s, about 200 are anesthesiologists now.

Dr. Davidson stated that, in making up her mind to support Option A, she felt that the Board's 1998 position paper on delegation of medical tasks was on point, although it was written for the supervision of non-licensed individuals. Dr. Davidson commented that the Board licenses cosmetologists, too, but that doesn't mean that they should be doing epidurals. She added that she believes that there is still a lot of wisdom in there, even though this position paper was aimed at delegation of a medical task to a non-licensed person. She read the following six things that became the crux of this position paper about what was delegatable:

1. The task can be performed without requiring the exercise of judgment based on medical knowledge.
2. The results of the task are reasonably predictable.
3. The task can safely be performed according to exact, unchanging directions; this would preclude delegation of performance of such tasks as needle EMG tests.
4. The task can be performed without a need for complex observations or critical decisions; this would preclude delegating the administration of anesthesia. Only the assignment to persons authorized by law to perform the tasks would be acceptable.
5. The task can be performed without repeated medical assessments.
6. The task, if performed improperly, would not present life threatening consequences.

Dr. Davidson stated that in there is the practice of medicine. When she looks at regional anesthesia, not so much centralized arterial lines, that could describe the performance of regional anesthesia. This is why she supports Option A. Dr. Davidson stated that she agrees with Dr. Agresta's interpretation of "perform" and "assist," and she does think that it's in the record to that degree, but it's gotten so linguistically bogged down that one could interpret it however one wants to interpret it.

Dr. Garg agreed with Dr. Davidson. He stated that he doesn't have to read a definition to tell him what is "assist" and what is "perform." He very much appreciates what "assist" and "perform" mean; and he indicated before that when you try to equate it with other kinds of training, medical residence, whatever, there is a lot of difference. He stated that he only attended part of the hearing, and will review the hearing transcript and exhibits page by page and word by word, but from what he did hear, and from what he believes and has seen, he's not prepared to change his vote from Option A.

Dr. Talmage stated that "performance" implies to him that you have made the decision that this is an appropriate procedure to do, you take the responsibility to decide how to do it; and then if someone else performs the actual technical duty, the issue is whether that is an "assist" or a "performance." He believes it is an "assist." The physician has made the critical decision that this is an appropriate patient for that procedure to be done on and the physician will be there in case the A.A. runs into problems. No matter how you define "assist" or "perform," it's who is responsible for the procedure. Who is going to be sued if it goes wrong? Is the hospital, who gives privileges, going to give privileges for somebody to do something that will get the hospital into trouble to the tune of multi millions of dollars. Dr. Talmage stated

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that the Board is taking on the responsibility of telling other people what they can and cannot do for the protection of the patient, but it still has to take into consideration how much risk it thinks these people are putting themselves in if the Board doesn't have a rule. The logic to him is that people will not let someone do something in today's environment of malpractice that will cost them \$10 million.

Dr. Steinbergh stated that she respects Dr. Talmage's perspective on that, but the Board knows that that's not true. How many times has the Board had to take action on a physician who allowed a P.A. to practice medicine? It's a no-brainer to know that it puts you at risk, but, apparently, they don't understand that. She doesn't understand the motivation, but that's the truth. Assuming that physicians will be intelligent enough not to put themselves at risk that way is wrong.

Dr. Davidson stated that the hospital-based physician is more vulnerable than the rest of physicians to problems with that because they are probably more often employed, they're probably more often in a training program where it's dictated to you what you will teach and what you will do. A hospital-based physician often has fewer choices in those matters.

Dr. Talmage stated that he wondered what the Ohio Anesthesia Association feels, subsequent to the hearing. Have they changed in any way? Have they approached this any differently than they did prior to the hearing?

At this time, Ron Harter, M.D., President, Ohio Society of Anesthesiologists (OSA), was asked to address the Board.

Dr. Harter apologized to the Board for being unable to attend the public hearing on these rules. He stated that, after reviewing the testimony at the public hearing, there seemed to be a common theme that somehow the OSA was out of touch with the membership, wasn't aware of these concerns. Dr. Harter stated that he was an officer of the OSA prior to the inception of the introduction of S.B. 278, which, ultimately, granted A.A.s the authority to practice. He also served on the A.A. Advisory Committee. Dr. Harter stated that, over the course of his term on the Advisory Committee, he received 30 or 40 letters and e-mails from anesthesiologists around the state, many of whom submitted letters to the Medical Board, expressing opinions similar, if not identical, to the concerns that were expressed to the Medical Board at the public hearing. To suggest that the OSA wasn't aware of these is not true. Also, to suggest that the leadership of the OSA don't understand what A.A.s are or don't work with them, he has personally supervised A.A.s. He admitted that he doesn't work with them as extensively as some of the anesthesiologists who testified, but he has supervised them while he was at Ohio State. He doesn't currently supervise them, but he is familiar with them and he is aware of their abilities. He's not an A.A. antagonist or opponent. When S.B. 278 first came forward, the OSA officers supported the ability of A.A.s to gain licensure in this state. There were, at that time, about 75 or so practicing in the state. From every indication they had, they felt that they were appropriately trained and were performing appropriately.

Dr. Harter advised, however, that the OSA leadership felt that A.A.s shouldn't have too broad a scope of practice. The initial version of S.B. 278 had a very broad scope of practice for A.A.s. The OSA leadership

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felt that that scope of practice was too broad, based on their training and expertise. Therefore, the language within the legislation was changed to “assist” for invasive lines and for spinals and epidurals. Dr. Harter stated that, at the time, he thought he knew what “assist” meant. At the time it was his understanding, and he believes the understanding of the OSA leadership, that “assist” meant that the A.A. would be helping to position the patient, perhaps prep the patient, perhaps have the needle, tray and everything set up, but would not be the one performing the procedure. As the Committee began its discussions, the definition became murkier and murkier. The position of the OSA was that they should support the A.A.’s ability to practice in the state, but they do not believe that A.A.s should have scopes of practice equivalent to Anesthesiologists.

Dr. Harter stated that he has heard the concerns of anesthesiologists, and he also heard concerns of anesthesiologists when OSA was supporting S.B. 278, who were very upset that the OSA was supporting a non-physician group to assist with the provision of anesthesia care in this state. There are still some very irate anesthesiologists on both ends of the spectrum within the state. What they’ve tried to do throughout the process is to try to do what they felt was appropriate for the anesthesiologists in the state and for the patients in the state. He understands the motivation for A.A.s wanting to do everything they could possibly do, but the question he comes back to again and again is what is to the benefit of the patients. OSA supported licensure for A.A.s because the information that it had was that A.A.s are qualified, competent individuals, well trained, that worked well under the supervision of anesthesiologists.

Dr. Harter stated that, with all of the discussion about the scope of practice, he can understand why individuals want to do these procedures, but he still has a hard time understanding how a broad scope of practice has any effect on access to care or any impact on quality of care. He stated that he read the testimony of the anesthesiologist from Springfield, and while that was somewhat compelling, the reality is that the anesthesiologist will be there when the procedures are performed, either way. It doesn’t extend that anesthesiologist’s ability to care for more patients. The question to him is whether the patient is better served if the anesthesiologist performs the procedure or if the anesthesiologist sits on a stool in the corner while the A.A. performs it. The one exception to that is the placement of arterial lines, and he knows that there is even some discussion and debate about that. Dr. Harter stated that he, and he believes the rest of the OSA leadership, felt that that was a lower level of morbidity and evasiveness than central venous lines, pulmonary artery catheters or spinals or epidurals. Also, that is an area where you can make an argument where for expeditiously providing care for the patient in a trauma, emergency cardiac case, etc., it allows the patient to be cared for more expediently. The anesthesiologist who supervises the A.A. can place the central line, pulmonary line, or perform any number of procedures while the A.A. secures the arterial line. You could make a very strong argument that the patient could be served in that setting. Beyond that, there are no other procedures. You can’t put in an epidural while the anesthesiologist is providing any other service or immediate care to the patient. Dr. Harter stated that it’s a matter of who does and how is the patient best served. Dr. Harter stated that he’s heard the other side of the argument, and he’s not unsympathetic with their concerns, but he is not convinced that it is the right thing for the patients in this state.

Mr. Browning asked whether Dr. Harter is saying that his position, as well as that of the OSA, stands unchanged after the hearing.

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Dr. Harter stated that that is correct. He added that they have had multiple meetings of the leadership. This has been going on for two plus years, and they've discussed this multiple times, and this has been their position extensively.

Dr. Garg stated that he was involved initially when A.A.s were being licensed, and what Dr. Harter describes is exactly his understanding of what A.A.s were supposed to do. They were to assist and set up equipment, etc. A point that was brought up during the hearings was that OSA does not represent all anesthesiologists. Dr. Garg stated that that is true of any organization. There is never 100% agreement with any position an organization might take. He added that he remembers that there are about 1,700 to 1,800 anesthesiologists in the OSA.

Dr. Harter stated that there are a little under 1,000 active members, with about 1,300 to 1,400 total anesthesiologists in the state.

Dr. Garg stated that about 100 have indicated that OSA does not represent them, so that's less than ten percent. Dr. Garg stated that he feels that this is a very good representation of the State's anesthesiologists. He believes that the OSA speaks, as does any organization, for its members.

Dr. Garg noted that Dr. Harter has indicated that he does not currently employ an A.A., and asked Dr. Harter what he would expect an A.A. to do, considering help to him, help with patient care and considering the safety of the patient. He added that Dr. Harter indicated that A.A.s were well trained. If they are well-trained, why can't they do everything? Dr. Garg stated that, regarding arteries, he always had a concern about radial versus brachial and femoral. Dr. Garg stated that he's a neurosurgeon and has done a lot of arterial punctures in 40 years' practice. In his day, a non-physician doing brachial and femoral was considered a no-no.

Dr. Harter stated that he was at Ohio State for eight years. When he first started there, there were no A.A.s, but there were two there for four or five of the years he was there. He did not supervise them on a daily basis, but did supervise them several times a year, and he would allow them to do the intubation. He would be present for induction and emergence, present at all of the anesthesia care team points that you need to be there for. He was there at intervals, and was certainly immediately available if there were any issues. If there were an epidural or spinal or central line, even an arterial line to be placed, he would be the one to place those. That's how he did practice, and that's how he would continue to practice. Dr. Harter added that he feels that, as a physician, he is skilled at doing it, he thinks he is good at doing it. He's observed a lot of people, and you learn to be able to watch someone and be able to step in when there is a problem, but there are still times when it looks like the other party is where they should be, but unless you're the one with the gloves on, right in there, feeling landmarks, that's the most certain way that he could be sure to do things correctly. It's essential that anesthesia residents get the opportunity to do that so that they can do it independently at some later date. He doesn't necessarily feel that when he has an A.A. he has any obligation to allow them to do that. In those cases, he's the anesthesiologist. Dr. Harter stated that he respects the A.A.'s ability to function within the anesthesia care team, but he thinks that there is a limit as to what they can do as far as the patient's concerned.

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Dr. Harter continued that, as a physician, he went through medical school, he did a residency. He hasn't seen any testimony saying that the A.A.s are as good as any anesthesiologist. He saw testimony that they are as good as nurse anesthetists, but not that they are as good as anesthesiologists. Dr. Harter stated that he believes that anesthesiologists have a higher level of training, education, and the combination of knowledge and skills that are necessary to do the best possible job. Dr. Harter stated that if he's going to be in the room anyway, he wants to be the one doing it.

Dr. Garg asked whether there is a change of feeling about the arteries.

Dr. Harter stated that, initially, they felt that A.A.s should just do radial arterial lines. During the process of the Advisory Committee, an article was brought forward from *Anesthesiology*, the leading journal for anesthesia, from the Cleveland Clinic about a fairly large study looking at complications with brachial versus radial arterial lines, with no difference in complications. The buzz word now is evidence-based medicine, and he has a little trouble saying "evidence-based medicine unless it disagrees with my (his) own personal feelings on it." Again, this was something that was discussed amongst OSMA leadership, and the feeling was that, unless there was compelling evidence otherwise, that is something that physicians could capitulate on. He's not sure that he's seen literature comparing femoral to radial and brachial.

Dr. Somani asked whether this study was done on procedures performed by physicians or A.A.s.

Dr. Harter stated that he didn't know; he believes it was anesthesiologists' performance, but he's not sure.

Dr. Talmage stated that the Board has questioned whether it should grant privileges for P.A.s to do radial arterial lines. The Board has not granted such privileges for P.A.s.

Mr. Browning stated that he would like to hear from the other side of the issue at this time.

At this time, Joel Zivot, M.D., Case Western Reserve University, was asked to address the Board.

Dr. Zivot stated that he would encourage Board members who were not at the public rules hearing to review the document, because he believes that it addresses a lot of the concerns. Dr. Zivot stated that he's a bit dismayed to hear the discussion the Board has been having because he thinks a lot of these things were spoken about very carefully and with great consideration at the hearing, and the Board is getting a little bit off topic in the way that these things are being rehashed again.

Dr. Egner explained that the Board just got the document today. The Board does know it needs to review it. It's not that the Board members aren't prepared.

Dr. Zivot stated that he understands and he's not suggesting that the Board members aren't prepared. Dr. Zivot at this time read the following statement by the American Society of Anesthesiologists (ASA): "Anesthesiology is a recognized specialty of medicine and anesthesia care personally performed or medically directed by an anesthesiologist." So, medical direction in no way violates what an

anesthesiologist does. It almost sounds as if physicians can't even medically direct. Of course, they can, and there's no violation of that. That's still the practice of medicine.

Dr. Zivot stated that he wants to state quite plainly that A.A.s do extend the anesthesiologist. He does a fair amount of cardiac and thoracic anesthesia. In the morning he might have two rooms: one with a cardiac case and the other a thoracic case, and he has two A.A.s. They see the patients in the morning, go over the plan, and they agree that they will do certain kinds of things. The patients are brought to the operating rooms at the same time. Dr. Zivot at this time described how he will move from one operating room to the other, directing the A.A.s in their duties for each patient. Dr. Zivot stated that he is absolutely part of what is going on, and the A.A.s absolutely extend him. Dr. Zivot stated that these individuals learn to read his medical mind, and that's what makes it work for him. It feels, for all intents and purposes, like he's doing the procedure because it's being done the way that he wants to have it done.

Dr. Zivot noted that Mr. Browning alluded to "the other side." He stated that he wants to make it clear that "the other side" of this argument are not A.A.s. The other side of this argument, if there is another side, is the physicians. This is a physician issue, not an A.A. issue. He wouldn't want to characterize A.A.s as being this group of people who are agitating in the background to ask for something somehow that's independent of physicians. He sees this as his issue, and not an A.A. issue. Dr. Zivot stated that the most important aspect of the whole discussion is the question of appropriate physician supervision. It's not a question of whose hand is on the needle, it's who's responsible for whose hand is on the needle.

Dr. Zivot stated that he believes that he speaks for physicians who work most closely with A.A.s every day. He knows that others have worked with A.A.s, but he's worked with them a lot, all of the time. He represents a group of people who work with them a lot all of the time. Dr. Zivot stated that he thinks that the anesthesia care team works, and he doesn't think that they're trying to break it apart. Again, the performer is the responsible person, and assist can mean many things.

Dr. Zivot continued that, with respect to the question of the OSA representing what percentage of membership, he doesn't think that that question has been answered. He doesn't think that the OSA has actually canvassed the membership in some statistical way that they can come forward and say that they speak for any percentage of its membership. What the Board has is a letter from a percentage of the membership. He stated that he's sure that many members of the OSA don't even know that this discussion is even going on. That's what happens in situations like this. He doesn't think that the number of 90% support by the OSA membership can really be strongly asserted.

Dr. Zivot remarked on Dr. Davidson's comment about cosmetologists doing epidurals, and he stated that he's not suggesting that cosmetologists could do epidurals, unless, of course, they're trained to do so as part of their training. A.A.s are trained to place epidurals. They are asking only for those who are trained to do certain kinds of tasks to be allowed to do them.

Dr. Zivot stated that he liked the argument about first assistants. He thinks it's a pretty clear distinction. It's not exactly right because there you're talking about two physicians. He's talking about a physician and a mid-level provider. In the case of first assistants, that other physician bears some of the responsibility,

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but the ultimate responsibility is the staff surgeon's. In the case of A.A.s, the ultimate responsibility is the anesthesiologist's.

Dr. Zivot advised that, on the question of brachial lines, the risk of the arterial line is not so much the location as the sickness of the patient. The risk doesn't change depending upon whose skillful hand is on the needle. If there are two people, one an A.A. and the other a physician, and both have equal experience, then arguably their complication rate would be equal as far as the technical aspect of it goes. The risks that people are concerned about are the risks of the location and the illness of the patient.

Dr. Zivot stated that they are not asking for A.A.s to replace physicians. He would not in any way forfeit his personal responsibility with the conduct of the anesthetic. It's his and his alone.

In response to Dr. Garg's questions, Dr. Zivot stated that he trains A.A.s, residents, fellows and C.R.N.A.s. The training could be done in combination with an A.A. in one room and a resident in another. The training of the various groups is similar and different. Clearly, when he's training A.A.s, he's training them to perform the task of anesthesia as a delegatory act, working with him. When he's training a physician, he's training the physician to do those things and to go beyond that and assume responsibility.

Dr. Garg stated that placing arterial lines is a subject he's been pretty firm about. He leaves the site up to the anesthesiologist. Dr. Garg asked Dr. Zivot whether the volume and experience of anesthesiologists, compared to newly trained A.A.s, would be safer to do these procedures which could be difficult and result in complications.

Dr. Zivot stated that there are A.A.s with whom he works whom he believes are more technically skillful than some of his physician partners, because they happen to be people who work with him all of the time with these kinds of patients. The risk is about the same. After you achieve a certain amount of experience, you can be good at it.

Dr. Garg agreed that there will be some A.A.s, C.R.N.A.s or anyone who will be a lot better than many physicians in some procedures. He added that he stills thinks that the experience and volume does make a difference when performing difficult or complicated procedures.

Dr. Zivot stated that he still decides whether the situation is one he can assign, because he's still doing it, whether he physically has to do it himself or not. Sometimes he will have to do it after someone has done it before, and made it even harder. Sometimes it just happens like that. He didn't think it was going to be difficult, it turned out to be difficult, and now it's harder for himself. The responsibility is still his. He accepts the risk and he decides what he delegates, to whom he delegates, what they do and how they do it.

Dr. Garg stated that Dr. Zivot has helped him understand a lot of it. He added that believes that Dr. Zivot provides excellent training, but the Board's rules aren't just for Dr. Zivot's graduates and trainees, but for trainees from all over, with training from different places. Not everyone's training will be as meticulous as Dr. Zivot's. The Board has to decide what is safe, what the role of the A.A. should be and should not be.

Dr. Zivot stated that right now there are only two programs.

Dr. Garg stated that there will be more opening.

Dr. Zivot stated that his program is actually looked at as a model program. They want to be the standard. Programs are licensed and regulated and evaluated, too, so their program, they assert, is the standard. People have come to them to help establish programs.

Dr. Bhati asked what the consent form tells the patient about who will anesthetize the patient.

Dr. Zivot stated that people don't sign a consent form, per se, for performance of anesthesia. They sign a surgical consent form. They indicate on the form who will perform the anesthetic, what the risks and benefits are, and they sign it. He added that that's the standard.

Dr. Bhati asked whether there is a printed consent form for the patient to sign saying who will anesthetize the patient.

Dr. Zivot stated that there is not. But patients are informed as to who will anesthetize, and that is documented.

Dr. Bhati asked whether the patient is told that he or she is being anesthetized by the A.A. or C.R.N.A.

Dr. Zivot stated that he tells the patient that he will be doing the anesthetizing, assisted by different people. He also introduces the A.A. or C.R.N.A. to the patient.

Dr. Bhati asked Dr. Zivot how many cases they have in their institution in a year.

Dr. Zivot stated that they have around 30,000 cases in a year. They're a major teaching center, and they do a good proportion of major cases with a high level of complexity. That's a large part of what they do.

Dr. Bhati asked how many residents and fellows they have.

Dr. Zivot stated that they presently have about 30 residents, about 3 or 4 fellows, 4 C.R.N.A. students and 22 A.A. students. They have medical students of differing amounts who do rotations, and they also train other surgical services for other kinds of tasks. They also train E.M.T.s in intubation and other allied health professionals.

Dr. Bhati asked how many operating rooms there are in the institution.

Dr. Zivot stated that there are 22 operating rooms in the main building for adults, about 10 or 11 for outpatients, and 10 or 11 for pediatrics, 4 to 6 for gynecology, and separate obstetrical suites.

Dr. Bhati stated that that's about 40 operating rooms and they're training about 60 people. He noted that

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Dr. Zivot earlier indicated that he has gone from one room to another, leaving those people by themselves.

Dr. Zivot stated that A.A. students are not left alone. A.A. students are with A.A.s, C.R.N.A. students are with C.R.N.A.s, and residents may be with other residents.

Dr. Bhati asked how many anesthesiologists are in the department.

Dr. Zivot stated that there may be 50 in the department, but they're not all there at the same time.

Mr. Dilling stated that one of the reasons for this discussion today is to try to raise bigger issues, so that the Board can go back and try to address them. This is not the hearing atmosphere, and Dr. Zivot could submit written documentation of how things are done, if he feels it is needed.

Mr. Browning thanked Dr. Zivot for his presentation.

At this time Dr. Egner thanked Ms. Murphy for the way she set up the Report of Hearing. She noted that Ms. Murphy's report looks at each issue separately with everyone's input in it. Dr. Egner asked that Board members contact Mr. Wayda with any pressing questions they may have on this report. She added that her goal is that this will not be a long, general discussion on this issue. She would like Board members to be prepared for the discussion. The Board has worked on this for a long time and it needs to come to a conclusion. She added that she does believe that the Board will come to the best conclusion.

Dr. Garg stated that Dr. Egner, Mr. Wayda and Ms. Murphy have done an excellent job with this, but there has to be discussion.

Dr. Egner agreed, saying that she's not discouraging that.

Dr. Garg stated that Board members need to go through this word by word and decide what is most appropriate.

Dr. Egner stated that the goal is for Board members to be as informed and prepared as possible for the Board meeting. She would like to come back in February, ready to settle this and move it on to JCARR.

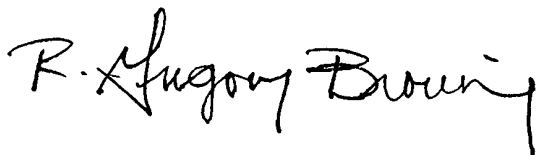
**DR. STEINBERGH MOVED TO ADJOURN. DR. SOMANI SECONDED THE MOTION.** All members voted aye. The motion carried.

Thereupon at 5:20 p.m. the , 2003 session of the State Medical Board of Ohio was duly adjourned.

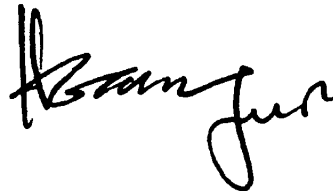
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We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on January 8, 2003, as approved on February 12, 2003.



R. Gregory Browning, President



Anand G. Garg, M.D., Secretary

(SEAL)



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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

January 9, 2003

R. Gregory Browning, Ph.D., President, called the meeting to order at 8:05 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Lance A. Talmage, Sr., M.D., Vice-President; Anand G. Garg, M.D., Secretary; Carol L. Egner, M.D.; Anant R. Bhati, M.D.; Pitambar Somani, M.D.; Anquetette Sloan; Patricia J. Davidson, M.D.; Ronald C. Agresta, M.D.; and Anita M. Steinbergh, D.O. Raymond J. Albert, Supervising Member, joined the meeting at a later time. David S. Buchan, D.P.M., was absent.

Also present were: Thomas A. Dilling, Executive Director; William J. Schmidt, Assistant Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Lori S. Gilbert, Chief Enforcement Coordinator; David P. Katko, Enforcement Coordinator; Rebecca J. Albers, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Danielle Bickers, Compliance Officer; Mark Wayda, Chief of Executive Staff.

#### LICENSURE

##### ZENIA EDWARDS, M.D.

Dr. Edwards' request for endorsement of her National Boards was presented to the Board for consideration at this time due to the fact that Dr. Edwards has not engaged in the clinical practice of medicine since August 1997. She has received notice of passing the recertification examination for the American Board of Gastroenterology.

**DR. SOMANI MOVED TO APPROVE DR. EDWARDS' REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. GARG SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

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The motion carried.

Mr. Albert joined the meeting at this time.

PHYSICIAN LICENSURE APPLICANTS

Mr. Dilling stated that the list before the Board is the same information it received in previous poll votes. In the future, it will be included in the agenda package, rather than in the table file. These licensure applications appear to have everything complete, with the exception of such items as A.M.A. profiles, FCVS filings, etc. A motion to approve, subject to receipt of all documentation, would be appropriate.

**DR. BHATI MOVED TO APPROVE THE APPLICANTS LISTED IN LICENSURE EXHIBIT (A) FOR ENDORSEMENT LICENSURE, SUBJECT TO RECEIPT AND APPROPRIATENESS OF ALL NECESSARY DOCUMENTATION. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

SUKAINA J. JAFFER, M.D.

Dr. Jaffer's request for endorsement of FLEX components 1 and 2 was presented to the Board for consideration at this time, pursuant to Dr. Garg's request to expedite the application.

**DR. STEINBERGH MOVED TO APPROVE DR. JAFFER'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. MS. SLOAN SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye

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Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Agresta	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

#### DECEMBER 2002 PMLEXIS RESULTS

At this time the Board reviewed the results of the December 2004 PMLexis, a copy of which shall be maintained in the exhibits section of this journal.

**DR. STEINBERGH MOVED TO APPROVE THE RESULTS OF THE DECEMBER 2002 PMLEXIS, AND TO CERTIFY AS PASSING AND FIND ELIGIBLE FOR LICENSURE THOSE RECEIVING A SCORE OF 75 OR GREATER ON THE EXAMINATION, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, AND TO CERTIFY AS FAILING AND DENY LICENSURE TO THOSE WHO RECEIVED A SCORE OF LESS THAN 75 ON THE EXAMINATION. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### P.A. APPLICANTS

At this time, the applications for registration as physician assistant for the following individuals were presented to the Board for consideration: Elena Bhatti, P.A.-C; Angela Bronzie, P.A.-C; Mark Cannon, P.A.-C; Kenneth Herbold, P.A.-C; Beth Katynski, P.A.-C; Carrie Kuntz, P.A.-C; and Alan Thomas, P.A.-C.

**DR. GARG MOVED TO APPROVE THE FOLLOWING FOR REGISTRATION AS A**

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**PHYSICIAN ASSISTANT, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. ELENA BHATTI, P.A.-C; ANGELA BRONZIE, P.A.-C; MARK CANNON, P.A.-C; KENNETH HERBOLD, P.A.-C; BETH KATYNSKI, P.A.-C; CARRIE KUNTZ, P.A.-C; AND ALAN THOMAS, P.A.-C. DR. AGRESTA SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

RICK BUCHER, M.D. - P.A. UTILIZATION PLAN

The above-captioned P.A. Utilization Plan was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE DR. BUCHER'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. BHATI SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

RAJESWARI GUNDA, M.D. - P.A. UTILIZATION PLAN

The above-captioned P.A. Utilization Plan was presented to the Board for consideration at this time.

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**DR. BHATI MOVED TO APPROVE DR. GUNDA'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION.**

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

NORTHEAST OHIO SURGERY CENTER - P.A. UTILIZATION PLAN

The above-captioned P.A. Utilization Plan was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE NORTHEAST OHIO SURGERY CENTER'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

UNIVERSITY COMMUNITY ORTHOPEDICS - P.A. UTILIZATION PLAN

The above-captioned P.A. Utilization Plan was presented to the Board for consideration at this time.

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**DR. TALMAGE MOVED TO APPROVE UNIVERSITY COMMUNITY ORTHOPEDICS' P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

DEIRDRE BETH, M.T.

Ms. Beth's application for restoration of her license to practice massage therapy, which lapsed on August 31, 1999, was presented to the Board for consideration at this time.

**DR. SOMANI MOVED TO APPROVE MS. BETH'S APPLICATION FOR RESTORATION, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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DEBORAH JANE SCHNEIDER, M.T.

Ms. Schneider's application for restoration of his license to practice massage therapy, which lapsed on August 31, 1993, was presented to the Board for consideration at this time.

**DR. TALMAGE MOVED TO APPROVE MS. SCHNEIDER'S APPLICATION FOR RESTORATION, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION. DR. BHATI SECONDED THE MOTION. A** vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

DECEMBER 2002 COSMETIC THERAPY EXAMINATION RESULTS

At this time the Board reviewed the results of the December 2002 cosmetic therapy examination.

**DR. STEINBERGH MOVED TO APPROVE THE RESULTS OF THE DECEMBER 2002 COSMETIC THERAPY EXAMINATION, AND TO CERTIFY AS PASSING AND LICENSE THOSE RECEIVING A SCORE OF 75 OR GREATER ON THE EXAMINATION, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, AND TO CERTIFY AS FAILING AND DENY LICENSURE TO THOSE WHO RECEIVED A SCORE OF LESS THAN 75 ON THE EXAMINATION. DR. SOMANI SECONDED THE MOTION. A** vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye

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Dr. Garg - aye  
Dr. Steinbergh - aye

The motion carried.

DECEMBER 2002 MASSAGE THERAPY EXAMINATION RESULTS

At this time the Board reviewed the results of the December 2002 massage therapy examination.

**DR. STEINBERGH MOVED TO APPROVE THE RESULTS OF THE DECEMBER 2002 MASSAGE THERAPY EXAMINATION, AND TO CERTIFY AS PASSING AND LICENSE THOSE RECEIVING A SCORE OF 75 OR GREATER ON THE EXAMINATION, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, AND TO CERTIFY AS FAILING AND DENY LICENSURE TO THOSE WHO RECEIVED A SCORE OF LESS THAN 75 ON THE EXAMINATION. DR. GARG SECONDED THE MOTION.** A vote was taken:

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Agresta	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

The Board discussed the poor performance of the graduates of some schools.

Mr. Dilling reminded the Board that it is in transition with a new examination.

Mr. Browning asked whether there is a way to intervene in the situation.

Mr. Dilling stated that he believes that the Board is intervening. It has promulgated a number of rules that are dovetailed exactly towards the curriculum and the examination. Mr. Dilling stated that he looks at the results and feels that things are going well, and that the Board is making a marked improvement.

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REPORTS BY ASSIGNED COMMITTEES

CONSENT AGREEMENT COMMITTEE

Dr. Steinbergh stated that it has been suggested that, once the Board approves a physician to serve as an assessor for purposes of reinstatement, further full Board approval would not be necessary for that physician to serve as assessor in other cases. The staff would present the request for approval to the Secretary and Supervising Member; if they believe that the assessor would be appropriate in the specific case presented, they could approve the request. If there is any question, the matter will be brought to the full Board.

**DR. BHATI MOVED TO APPROVE THE PROPOSED CHANGE IN PROCEDURE.  
DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

PRESCRIBING COMMITTEE

Dr. Somani stated that Dr. Davidson is the new Chair of the Prescribing Committee.

Dr. Davidson advised that she, Dr. Somani and Mr. Wayda met with about five members of the Pharmacy Board. One issue discussed was the legibility of prescriptions. The Pharmacy Board hoped for automated order entry to come on line, but that is still five to ten years away for most general practitioners. The Pharmacy Board feels that the problem is escalating, due to everyone trying to do more with less time. She advised that possible solutions were discussed, as was the change in Pharmacy Board rules that will require the physician to include a phone number where he or she can be reached on the prescription. The Pharmacy Board is also working on a rule that will prohibit the physician from writing more than three drugs on one prescription slip.

Dr. Talmage suggested that the physician enter his license number, rather than his name, adding that numbers are usually more legible than signatures.

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Dr. Davidson stated that Dr. Somani and Mr. Wayda are working on a newsletter article that will include a lot of information, including what the Department of Health is doing about medical errors and abbreviations, pulling together a lot of different people's work that is related to legibility, errors, and difficulties with patients getting the right care.

Dr. Davidson advised that the dialogue with the Pharmacy Board will be ongoing.

Mr. Dilling stated that the Ohio Pain Advisory Committee (OPAC) meets quarterly. He and Mr. Schmidt are members, and there was a bill passed at the end of last year that created an end of life task force. Dr. Davidson, as Chair, will be the Board's representative. That Committee will be run through the Department of Health. OPAC has been given a significant role in leadership of that Committee.

Dr. Davidson commented that this is a big and diverse group that will look at things in very different ways, fundamentally.

Dr. Davidson stated that she also gave the Committee an update of the Committee on Prescriptive Governance.

#### LICENSURE COMMITTEE

Dr. Somani stated that in August Dr. John Haaga, Chair, Department of Radiology at University Hospitals, made a presentation to the Board's Licensure Committee concerning workforce shortage issues. His presentation focused primarily on radiology shortage issues, but obviously extends to other fields of medicine and healthcare in general. At the conclusion of his presentation, Dr. Haaga offered two proposals that he felt would assist any efforts in addressing workforce shortage issues.

Proposal one: Request that the Legislature amend Ohio Revised Code (O.R.C.) Section 4731.293 to permit unlimited renewals for the visiting faculty certificate. Dr. Somani advised that the license is currently good for one year and is non-renewable. Dr. Haaga would like that changed to allow visiting faculty to hold an extended license. Dr. Somani stated that he has asked Mr. Dilling to look at the proposed language, and to see what other states are doing. Next month the Committee will discuss a possible response to Dr. Haaga's request.

Proposal two: O.R.C. Section 4731.14 permits the Board to determine equivalent training to the required number of months of graduate medical education for licensure. Historically, the Board has utilized its discretion on a case-by-case basis. There is no Board rule giving further guidance to what the Board considers to be equivalent training. Dr. Haaga has suggested that the Board consider recommendations of the deans from medical and osteopathic medical schools and academic chairs when making these types of equivalency decisions. Dr. Somani stated that this is a much broader issue.

Dr. Bhati stated that the matter of an inadequate number of radiologists is not very unique. A shortage can be found in other specialties, but the answer to the problem isn't going to other countries to recruit physicians for Ohio. The answer to the problem is to open up residency programs.

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Dr. Garg stated that he doesn't think that any change to the current licensure rules or statutes is needed. He noted that today there is a shortage in radiology, but about three years ago there was not. Dr. Garg expressed concern that changing the Board's procedures for this reason would be opening up a Pandora's box.

Dr. Talmage agreed, adding that one of the examples is the nursing shortage. They've brought in nurses from other countries, let them work for a year, and they've had some disastrous results in some hospitals. Dr. Talmage stated that staying on the Board's principle is the way to go.

Dr. Somani asked about extending the visiting faculty certificates for one year. The point Dr. Haaga is making is that these people are contributing to education, training, and research. Why should there be a one-year limitation on it?

Dr. Garg stated that he doesn't see any merit to the argument. Why should he have a license when others have to take an examination for licensure?

Dr. Talmage commented that that is taking a professor from another country away from that country. And after two years, what will that individual go back to.

Dr. Somani stated that that's a broader issue. Every single profession in this country depends upon people trained abroad. Teachers are being imported because there is a teacher shortage.

Dr. Garg stated that what he's saying is that Ohio doesn't have to dilute its licensure.

Dr. Somani stated that the Board should stand firm that it wants quality health care for Ohio's citizens, and the standards required are two years of approved training and passing the required examinations.

Mr. Albert expressed concern that, if the Board extends the visiting faculty certificate, its other licensees will look for extensions, as well. He added that Ohio welcomes physicians from everywhere, and all that they have to do to get a license is comply with Ohio's statutes.

Dr. Talmage stated that Dr. Haaga's suggestions would be like putting a band aid on a major laceration. It's not curing the problem.

Mr. Dilling stated that he and Mr. Wayda will look into what exactly came about from the Health Department's Health Care Workforce Shortage Task Force and where they've gone.

Dr. Somani stated that the reality is that the Medical Board has limited responsibilities in terms of who it licenses and how it ensures quality for those who are licensed. This is a much broader issue, and he doesn't feel that the Medical Board can solve it. The Board can participate in that type of discussion, but he doesn't think the Board can solve the problem.

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Mr. Dilling stated that the Board is being fingered as being the problem at the State House. They don't hear about the bigger problems. When it comes down to these task forces and scopes of practice, the Medical Board is blamed for protecting the profession.

Dr. Somani asked whether Mr. Dilling can suggest another strategy for Board members.

Mr. Dilling stated that Board members must go to their associations and other entities, such as the Cleveland Clinic and University Hospitals, and say that this isn't a Medical Board problem, that the Medical Board has limited jurisdiction.

Dr. Somani suggested that this could be drafted in a response to Dr. Haaga.

Mr. Browning stated that the other thing the Board can do is communicate with the Governor about its opinions. The report from the Task Force has been written, recommendations have not been implemented, and it would be helpful for him to have the Board's perspective. The Board doesn't have all the answers. Mr. Browning stated that he understands what Mr. Dilling is saying, but he also believes that people think this is a bigger issue than the Medical Board. It might be helpful to turn this into a project and put together a statement that would help the Governor and others think about this.

Dr. Somani stated that this is a good charge for the Licensure Committee. It will review the issue and come back to the Board with suggestions.

Dr. Agresta indicated that a part of the problem is that Legislators don't hear about the problems created by groups whose scopes of practice are expanded because patients who run into trouble then see physicians who correct the problem without informing the appropriate regulatory agency about the other individual's sub-par treatment. He commented that another problem is that the other regulatory agencies aren't taking significant action. He advised that he has filed complaints about two optometrists, based on poor outcomes for patients he has seen, and they were given a slap on the wrist. Physicians are in the back seat because of that.

Dr. Agresta stated that, in relationship to getting the Federation involved, he believes that the Federation should be involved in these issues; but they won't get involved in these issues unless enough states put pressure on them to get involved. One or two states will put a resolution in, it will be discussed at the Board of Directors meeting, and the Board will say that it's a hot potato issue and they want to stay out of it. If there were enough states sending resolutions, there would be a better response from the Federation. He noted that in the recent past a state put a resolution in to explore scope of practice issues. Dr. Agresta stated that he thought that was appropriate but the Federation Board thought that it should stay out of it because it's not what they're supposed to do. Dr. Agresta questioned that, saying that this is one of the things they should be doing – advocating for states on issues like this that are very hot in individual states. Dr. Agresta suggested filing another resolution to readdress this issue.

Mr. Albert suggested getting consumer groups involved.

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LEGISLATIVE LIAISON & RULES REVIEW COMMITTEE

Mr. Browning advised that, due to the state budget crisis, the Board's reserves have dropped by \$500,000. He added that it is fortunate that the Board's funds don't go into the general revenue fund, and added that he believes there will be another round of cuts ordered. The next budget will be introduced in early February, and will be the major focus of concern for Legislators.

Mr. Wayda stated that his intention has been to prepare a letter of introduction to all of the Legislators and their staffs, explaining what the Board does, and informing them about the Board's Legislative Committee and the work it does, and offering the Board's assistance and willingness to answer questions the Legislature may have.

Mr. Browning suggested that Mr. Wayda call them, as well.

Dr. Talmage suggested that Board members meet with their own representatives.

LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Garg advised that the Committee reviewed a request from the Pittsburgh School of Massage Therapy for a certificate of good standing as an out-of-state school teaching massage therapy.

**DR. GARG MOVED TO GRANT THE PITTSBURGH SCHOOL OF MASSAGE THERAPY A CERTIFICATE OF GOOD STANDING. DR. AGRESTA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

P.A. COMMITTEE

Dr. Talmage stated that the Committee reviewed a request by Anderson Medical Enterprises to add another physician to its utilization plan.

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**DR. BHATI MOVED TO APPROVE THE ADDITION OF JOSEPH C. RUSSELL, M.D., TO ANDERSON MEDICAL ENTERPRISES' P.A. UTILIZATION PLAN. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### EXECUTIVE COMMITTEE

Mr. Browning reviewed a draft of goals for 2003, a copy of which shall be maintained in the exhibits section of this journal. He advised that the list is not necessarily in priority order. Mr. Browning stated that the Board could add to the list; this is just an effort to give the Board a sense of direction as it begins a new calendar year. It is certainly not controlling.

Dr. Bhati suggested assigning the issue of malpractice to either a standing committee or one created for this issue.

Mr. Browning stated that he will come back with a recommendation on Dr. Bhati's suggestion in February. He asked that Board member input be given to Mr. Dilling.

Mr. Browning stated that the Federation's annual meeting is scheduled to take place in Chicago on April 10 to 12. He asked how many Board members intended to attend. All members indicated that they intend to attend.

#### SECRETARY AND SUPERVISING MEMBER REPORT

Dr. Garg introduced Ms. Thompson and Ms. Gilbert who reviewed a revised list of priority codes used by the Enforcement Section.

**DR. GARG MOVED TO APPROVE THE REVISED PRIORITY CODES. DR. EGNER SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
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Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Stienecker	- aye
Dr. Garg	- abstain
Dr. Somani	- aye

The motion carried.

#### ADMINISTRATIVE REPORT

Mr. Dilling advised that the Federation of State Medical Boards contacted him concerning the Clinical Skills Examination. The Federation has offered to send someone from the Board to tour the building in Philadelphia where the examination is given. Dr. Garg asked Board members who are interested to contact him for further details.

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

#### EXECUTIVE DIRECTOR POSITION; POSITIONS EXEMPT FROM CLASSIFIED CIVIL SERVICE

Mr. Browning referred to a memorandum which advises that State law requires that the Board appoint an Executive Director and give him the authority to sign personnel actions and fiscal documents on behalf of the Board. The Board must also designate staff positions that are exempt from classified civil service (unclassified).

**DR. STEINBERGH MOVED THAT THE BOARD CONTINUE THOMAS A. DILLING IN THE UNCLASSIFIED POSITION OF EXECUTIVE DIRECTOR. THE EXECUTIVE DIRECTOR SHALL BE AUTHORIZED TO SIGN, ON BEHALF OF THE BOARD, ANY PERSONNEL AND FISCAL DOCUMENTS THAT WOULD OTHERWISE HAVE TO BE SIGNED BY THE BOARD AS THE APPOINTING AUTHORITY, FOLLOWING RESOLUTION OF THE BOARD TO TAKE SUCH ACTION**

**I MOVE THAT PURSUANT TO SECTION 124.11(A)(8), REVISED CODE, THE BOARD DESIGNATE THE FOLLOWING POSITIONS AS UNCLASSIFIED: ADMINISTRATIVE ASSISTANT 3, POSITION CONTROL NUMBER 83016.1, AND SECRETARY, POSITION CONTROL NUMBER 83022.4. DR. BHATI SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye

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Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Agresta	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

FEDERATION OF STATE MEDICAL BOARDS – CALL FOR RESOLUTIONS

Mr. Browning advised that Dr. Somani has prepared a draft resolution for the Federation.

Dr. Somani stated that he developed his proposed resolution following discussions about expediting licensing procedures. Part of the problem that has been identified is that one-fourth of the physicians practicing in this country are international medical graduates, many of whom move around from state to state for whatever reason. Often they are required to produce the original educational documentation. Dr. Somani stated that the ECFMG obtains that documentation prior to issuing its certification. The physician may be in practice in one state for a number of years, and if they want to move the FCVS or the state licensing board may require original documentation once more. Dr. Somani stated that this is an unnecessary delay when all of this information has already been obtained by ECFMG.

Dr. Somani stated that his resolution calls for cooperation between the ECFMG and FCVS to eliminate duplication.

**DR. GARG MOVED TO APPROVE SUBMITTING THE DRAFT RESOLUTION TO THE FEDERATION. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

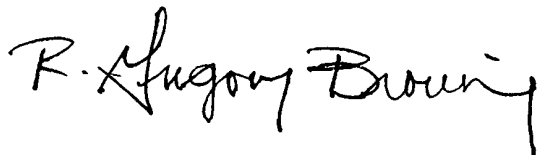
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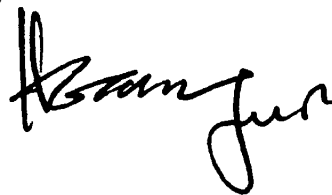
**DR. BHATI MOVED TO ADJOURN. DR. GARG SECONDED THE MOTION.** All members voted aye. The motion carried.

Thereupon at 10:30 a.m. on January 9, 2003, the January 2003 meeting of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on January 8-9, 2003, as approved on February 12, 2003.



R. Gregory Browning, President



Anand G. Garg, M.D., Secretary

(SEAL)

