

February 12, 2003

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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**February 12, 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.; David S. Buchan, D.P.M.; Anquetette Sloan; Patricia J. Davidson, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Pitambar Somani, M.D. The following did not attend the meeting: Ronald C. Agresta, M.D.

Also present were: William J. Schmidt, Assistant Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Lauren Lubow, Communications Administrator; Diann K. Thompson, Assistant Executive Director; 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. GARG MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONFER WITH THE ATTORNEY GENERAL'S REPRESENTATIVES ON MATTERS OF PENDING OR IMMINENT COURT ACTION. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

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

Dr. Garg left the meeting at this time.

MINUTES REVIEW

**MR. ALBERT MOVED TO APPROVE THE MINUTES OF DECEMBER 11, 2003. DR. BUCHAN 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. 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 noted that Board members were notified by e-mail the previous day that the Matter of Charles Vernon Porter, M.D., has been tabled for this month.

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: Robert Alan Graor, M.D.; Faye F. Istanbooly, M.D.; Richard C. Juang, M.D.; and Alex Y. Tseng, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye

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Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
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. Buchan	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- 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.

[ROBERT ALAN GRAOR, M.D.](#)

Mr. Browning directed the Board's attention to the matter of Robert Alan Graor, 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 advised that materials included with the objections are being construed as a request to submit additional evidence. He noted that the Assistant Attorney General has filed a Memorandum in Opposition to Respondent's "Motion" for Admission of Documents.

**DR. BHATI MOVED TO ADMIT THE ADDITIONAL EVIDENCE. DR. BUCHAN SECONDED**

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**THE MOTION.** A vote was taken:

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

The motion failed.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ROBERT ALAN GRAOR, M.D. DR. BHATI SECONDED THE MOTION.**

Mr. Browning noted that Dr. Graor is present, but has not requested to address the Board.

Dr. Graor was accompanied by his attorney, David C. Greer. Mr. Greer advised that he has had discussion with the Assistant Attorney General, and does wish to request an opportunity for a five-minute address.

**DR. STEINBERGH MOVED TO ALLOW MR. GREER TO ADDRESS THE BOARD. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Mr. Greer stated that Dr Graor is present to answer any questions Board members may have regarding the record. Mr. Greer stated that he has three issues to address: the first relates to patients and papers; the second to the shadow of Dr. Graor's prior suspension; and the third is the role of this Board in protecting society's investment in physicians.

Mr. Greer continued that it is Dr. Graor's position that the Findings and Recommendations soar far beyond

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the record in this case on the wings of speculation and in the shadow of Dr. Graor's prior suspension. An objective reading of the record indicates that a mistake was made in 1981, 21 years ago when Dr. Graor, took the Internal Medicine boards and indicated on a biography form from the Cleveland Clinic that he had passed the boards. That was given to the Cleveland Clinic on a date prior to the board results coming in, and the results came in negative. Dr. Graor did not pass the boards. There is a notation on the record that he failed the boards, but somehow the passing of the Internal Medicine boards got into the administrative computers and ended up on a computer disc that followed Dr. Graor to Dr. Dahdah's office. When Dr. Dahdah's office prepared applications on Dr. Graor's behalf, that misinformation was contained in those applications. Mr. Greer stated that the evidence is clear that Dr. Graor and Dr. Dahdah's office was on a treadmill of multiple patient practice, and Dr. Graor was given these applications with little "sign here" labels attached. Dr. Graor signed the applications without reading them. Mr. Greer stated that a sharp line needs to be drawn by this Board in considering the record between excusable neglect on paper work and intent to defraud. The main claim is that it represents that Dr. Graor is board-certified in internal medicine. As any physician knows, applications that go to insurance providers and hospitals are routinely and readily checked. There would be no motivation to intentionally misrepresent such a thing on the types of forms involved here.

Mr. Greer stated that this case was tried in the shadow of Dr. Greer's prior suspension. If that shadow is removed, it becomes a case, at worst, of excusable neglect on paperwork. The roots of the problem, as displayed in the hearing record, go back to a mistake made 21 years ago. It was, at the time, an innocent mistake on Dr. Graor's part. He was a little too optimistic about what the results would be.

Mr. Greer stated that everyone who testified and who has any knowledge of Dr. Graor, as far as his professional skills and his commitment to the profession, have uniformly praised those skills and that commitment. Dr. Graor is a fine doctor. He has written a great deal of material in his field. He has been in practice at Grandview Hospital in Dayton for the last several years, and all those there have nothing but praise for him as a skilled physician. Society has made an investment in people like Dr. Graor, who have much to provide in the way of patient care. He is not a threat to patients because of some substance abuse problem, psychological problem or lack of competence. It would be a waste of a precious asset for the Board to take away Dr. Graor's license.

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

Mr. Wilcox stated that he is in complete agreement with Ms. Murphy's Report and Recommendation in this matter. Dr. Graor, in his objections and as the Board has just heard, claims that part of the reason he's being punished here is for his past sentence. To a certain extent, Dr. Graor is correct. The Board's disciplinary guidelines list aggravating factors the Board can consider when making disciplinary decisions. Among these aggravating factors are prior Board actions. It is certainly within the Board's right to consider Dr. Graor's previous Board discipline when making a decision on discipline in this matter.

Mr. Wilcox stated that, even if Dr. Graor had not had the prior Board action, the conduct from this recent cite is still very serious. Dr. Graor has participated in a pattern of deception regarding his ABIM certification, and this deception has allowed him to obtain things such as hospital credentialing and

insurance coverage. Dr. Graor accepts no responsibility in this matter, as can be seen from the record. He blames all of it on his former secretary.

Mr. Wilcox stated that misrepresenting credentials is extremely serious in the medical profession, and given Dr. Graor's history of fraud and deception, the Board should permanently revoke his certificate to practice medicine and surgery at this time.

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

Dr. Steinbergh stated that this is very difficult issue; but, when the Board first saw Dr. Graor, it discussed revoking his license. She, as well as other members of the Board, were in support of a longer period of suspension. Dr. Graor's license was suspended for five years. He was dishonest then. The record before the Board now supports Dr. Graor's continued dishonesty. Dr. Steinbergh added that Board members cannot remove the past record from their thoughts. It is true that, should a person come before the Board for the first time, the decision may be different, but it may not be.

Dr. Steinbergh continued that there are some very simple things in this case. When a physician finishes postgraduate training and goes for board certification, it's a great moment in a physician's life. There is never a question as to whether or not a physician is board certified . You get a letter stating that you are board certified , and you get a certificate to hang on the wall stating that you are board certified . For a physician, under any circumstances to represent himself or herself as board certified without those pieces of information is clearly dishonest. Dr. Steinbergh stated that she believes that Dr. Graor always knew that he was not board certified. She cannot blame it on a secretary. Dr. Steinbergh added that she can't think of anyone in this room who doesn't know what his or her CV says. Each of the Board members is busy, but she would never think to send out a CV with inappropriate information, and she doesn't believe that any Board member would feel that he or she needs to misrepresent him or herself on the CV. Dr. Graor continued that over the years. She added that she's surprised that he was able to get any kind of privileges, but noted that it depends on hospital bylaws. Some hospitals do not require board certification and some hospitals do. Some physicians who are never board certified, but who have practiced for many years in a hospital, are often grandfathered in if the bylaws are changed requiring board certification. There could be opportunities for practice on a hospital staff without board certification.

Dr. Steinbergh stated that the record is replete with people believing that Dr. Graor is board certified, and he never clearly corrected that record until he was pressed. Dr. Steinbergh stated that she believes that Dr. Graor is a dishonest man, and honesty is a part of character that is critical to the practice of medicine. The Board never had a discussion about whether he was an appropriate physician because of his training. The Board has only talked about Dr. Graor's fraud and dishonesty. This is such an important part of the character of physician, that that's what the Board has before it today.

Dr. Egner agreed with Dr. Steinbergh, and stated that she would like to bring to light a few points that may be obvious but need to be said.

Dr. Egner referred to Dr. Graor's objections, which state that he had no motivation to lie about his board

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status. She stated that she takes great exception to that. There is great motivation to lie about your board status when you are not board certified. There is much importance put on board certification from the public standpoint, and from the Internal Medicine Board's standpoint. Board certification is a very important thing in a physician's life today.

Concerning past acts, Dr. Egner stated that the Board members bring those things into their thoughts all of the time. The Board does that every single meeting when dealing with impaired physicians. The Board doesn't look at them as individual acts. That is part of what this Board does. Today should be no exception to that.

Dr. Egner stated that she agrees that there has been a pattern of deception, and she disagrees that Dr. Graor would not know what was on his CV. Especially, a physician who has had dealings with the Medical Board should be that much more sensitive to everything that he or she does. He or she has not just been enlightened in a way that most physicians have not been. The physician would therefore be very careful of every piece of paper that goes out of his or her office with his or her name on it. She doesn't believe that Dr. Graor didn't know what was on the CV. It's not just his Board status that comes into question here. She noted that he didn't give the correct name of his medical school. This also raises the question of Dr. Graor's reliability.

Dr. Egner read the following from paragraph 20 of the Hearing Examiner's "Summary of Evidence."

Moreover, Dr. Graor initially testified that the first curriculum vitae had probably come to the Dahdahs in the period from 1990 to 1993 when the Dahdahs had started recruiting him to their practice. When asked why a curriculum vitae that the Dahdahs obtained between 1990 and 1993 contained dates for 1994 and 1995, Dr. Graor changed his testimony and stated that the Dahdahs had (sic) may have obtained it in 1994. He stated that he recalled meeting Dr. Dahdah at a golf course in 1994.

Dr. Egner asked whether Dr. Graor is suggesting that he might have had a CV in his pocket and given it to Dr. Dahdah on the golf course. She stated that it is ludicrous for him to even bring this up. The CV contained information after the time that he said the Dahdahs got it. Dr. Egner stated that this is just another example of a pattern of lying. For these reasons, unfortunately for Dr. Graor, permanent revocation is the most appropriate sanction.

Dr. Buchan stated that as he reviewed this case, the patterns of misrepresentation are too severe. The arguments made in Dr. Graor's favor were just simply not believable. It is unbelievable that he did not understand what his CV states, and he was not forthright in comments to the Board. Based upon that significant character misrepresentation, and the misrepresentation of his credentials, Dr. Buchan was in support of the Proposed Order, as written.

Dr. Bhati stated that he would have been willing to change this Proposed Order if this was a totally new matter without any problems in the past. Obviously the past problem cannot be ignored. Now, on top of it, he sees nothing to show that Dr. Graor recognizes his mistake and is sorry for it. He sees a persistent

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problem with deception after deception after deception, and trying to find some justification in explaining himself. Dr. Bhati spoke in support of the Proposed Order.

Dr. Steinbergh stated that she did wonder why, in the previous five years of suspension, Dr. Graor didn't prepare himself for board certification so that when his license was reinstated he could sit for the boards and take care of that issue. She stated that she would have wanted to take that opportunity to prepare, as important as certification is in this day and age.

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

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

The motion carried.

[FAYE F. ISTANBOOLY, M.D.](#)

Mr. Browning directed the Board's attention to the matter of Faye F. Istanbuly, M.D. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF FAYE F. ISTANBOOLY, M.D. DR. BHATI SECONDED THE MOTION.**

Mr. Browning continued that, although a request to address the Board was not timely filed on behalf of Dr. Istanbuly, she is present with her attorney and would like to address the Board.

**DR. STEINBERGH MOVED TO ALLOW DR. ISTANBOOLY TO ADDRESS THE BOARD. DR. BUCHAN SECONDED THE MOTION.**

Dr. Bhati stated that the Board needs to discuss this issue. He indicated that he can understand allowing an address without a timely request being filed in cases where the Proposed Order is for permanent revocation. He questioned allowing a late filing in cases where the Proposed Order is something as simple as a reprimand when the physician or his attorney does not even bother to file a timely request. He asked why the Board would even have a filing rule if it doesn't enforce it.

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Dr. Egner agreed, except that physicians whose licenses are being acted upon don't care if it is a revocation or a one-day suspension. It is important.

A vote was taken on Dr. Steinbergh's motion to allow Dr. Istanbuly to address the Board:

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

The motion carried.

Mr. Browning stated that five minutes would be allowed for that address.

Dr. Istanbuly was accompanied by her attorney, Randal G. Ammons. Mr. Ammons stated that, as the Board has seen from the Hearing Examiner's report, this matter stems out of a matter in Michigan. Dr. Istanbuly had prescribed Adderall to an adult patient. Unbeknownst to her, and virtually every other psychiatrist in Michigan, that required a waiver in Michigan, though it doesn't in Ohio. There was an investigation that resulted in a fine. There was no disciplinary action taken. The Michigan Board does not consider a fine to be a disciplinary action.

Mr. Ammons stated that while the process was going on, the Michigan action taking approximately two years, Dr. Istanbuly's Ohio medical license came up for renewal in April 2000. She had had talked with the Attorney General's office in Michigan and had been advised by her attorney that the end result would be a non-reportable offense. Mr. Ammons stated that he stresses "non-reportable" because that is what led to all of the problems. Dr. Istanbuly understood that to mean that it was basically erased and would never be brought up again. "Non-reportable" ended up meaning that Michigan was not supposed to report it to the National Practitioners Data Bank (NPDB). Michigan accidentally did report it, but has since revoked that report. Nevertheless, when Dr. Istanbuly filled out the renewal form in April 2000, she stated that she had not had a charge, investigation or complaint filed against her. She had, but she was already aware that it was going to result in a non-reportable event. She did the same thing on her April 2002 renewal. By that time it had, in fact, resulted in a non-reportable event. Dr. Istanbuly continued in her thinking that "non-reportable" meant just that. Unfortunately, that's not the case.

Mr. Ammons advised that Dr. Istanbuly has since learned that the hard way. She holds licenses in Texas, Michigan, and Pennsylvania, as well. Texas did the same thing as the Ohio Board has done, except they looked into it and decided that no action should be taken. The Pennsylvania renewal came up after this

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matter started in Ohio and after the Texas Board and looked into it. Dr. Istanbuly fully disclosed the Michigan matter in great detail to them up front. Pennsylvania gave her a license, and she has it with her today. Mr. Ammons stated that the important point that should be noted here is that Dr. Istanbuly has learned that this is something that needs to be reported, even if the State of Michigan considers it a “non-reportable event;” and, in fact, Dr. Istanbuly is now fully disclosing that to each state where she is licensed. She has an unblemished record in every state, other than this event in Michigan and the failure to disclose this event in Michigan. Mr. Ammons stated that they are before the Board today to ask the Board to reconsider the Hearing Examiner’s report. The Hearing Examiner concluded that Dr. Istanbuly intended to mislead, and there was no intention to mislead. There was no motive to mislead. It was simply a misunderstanding of what “non-reportable” meant. That misunderstanding has led to all of these situations.

Mr. Browning advised Mr. Ammons that he had one minute to conclude his statement.

Mr. Ammons stated that, as the Hearing Examiner noted, had Dr. Istanbuly reported the Michigan matter to the Ohio Board at the time of her application, most likely no action would have been taken against her. The lesson that has been learned is that this has to be reported and is now reported to every state in which she holds a license. It has been reported to all of the hospitals at which she currently works. Mr. Ammons stated that the Board has done its job; it has taught Dr. Istanbuly that this does need to be reported. Mr. Ammons asked the Board to alter the findings of the Hearing Examiner’s report to reflect that.

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

Mr. Michael stated that this case is not about Dr. Istanbuly’s knowledge of Michigan law related to prescribing Adderall or whether or not Michigan ultimately considered this to be a reportable offense. He asked the Board members to look at the dates involved when judging the conduct in this case. On April 10, 2000, Dr. Istanbuly signed her renewal card for Ohio, saying that she had not been investigated by other states. In December 1998, she had received notification of a complaint in Michigan, regarding their investigation against her. Prior to April 10, 2000, she had also received a first amended complaint from Michigan, changing the charges. That case was not finished until well after April 10, 2000, when she signed her Ohio cards. At the time she signed her Ohio cards, she had no definitive knowledge that this would not result in a reportable action. Whether or not it was reportable is not important, because the Ohio language is clear. It requires her to report all investigations and complaints filed against her. It says nothing about whether those would ultimately be reportable. Dr. Istanbuly said that she understood the nature of the question on the card. She was trying to skirt that answer because she thought that Michigan wouldn’t report it and nobody would find out about it. Mr. Michael stated that he believes that Dr. Istanbuly did intend to mislead this Board when she filed her renewal card. As such, the State is in support of the Report and Recommendation.

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

Dr. Steinbergh noted that, in the Report and Recommendation’s “Basis for Hearing” paragraph, it indicates that Dr. Istanbuly incorrectly responded to a question on her April 10, 2002 renewal application. Later in

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the Report and Recommendation, the date is indicated to be April 10, 2000. She asked which date is correct. She added that the record needs to be corrected.

Mr. Browning asked if Mr. Porter can answer the question.

Mr. Porter stated that he will need to review the Report and Recommendation to refresh his recollection.

**DR. STEINBERGH MOVED TO TABLE THIS MATTER TO CLARIFY THE RECORD.  
MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

[RICHARD C. JUANG, M.D.](#)

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

**DR. BHATI MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF RICHARD C. JUANG, M.D.  
DR. STEINBERGH SECONDED THE MOTION.**

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

Dr. Talmage stated that, based on the evidence the Board has, the Order seems to be reasonable. This is a fairly cut and dried case.

Dr. Buchan stated that the Findings of Fact clearly reflect Dr. Juang's situation in Pennsylvania. He added that he agrees with the Hearing Examiner's Conclusions, and believes that a suspension is most appropriate in this case.

Dr. Steinbergh stated that this particular case bothered her because she is aware of Pennsylvania's malpractice insurance requirements, and the difficulties physicians sometimes have. She stated that one of the questions she has is why Dr. Juang didn't have the appropriate malpractice insurance, noting that the

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record wasn't clear on this.

Dr. Egner stated that the information Dr. Steinbergh is seeking isn't in the record. Even though the Board knows that Pennsylvania is a crisis malpractice state, the Board can't base its decision on that.

Dr. Steinbergh stated that there was a timing issue. She added that this particular kind of issue does drag on in Pennsylvania, sometimes for years. Physicians don't know what's going to happen to them once Pennsylvania makes a charge. It's very different from Ohio's process. The Prosecuting Attorney in Pennsylvania takes charge of this. The Board itself really never knows about it until one day a decision is made. Sometimes they suspend a person for an hour, sometimes for 30 days, sometimes for months, depending upon their assessment of that particular case. Dr. Steinbergh stated that in this particular case, perhaps a reprimand would be a more appropriate order than a suspension because of the length of time it took for Dr. Juang to find out that there was, in fact, an action, and because she is aware of the difficulties that some of these physicians have in understanding what is going on with the Pennsylvania Board in regard to these malpractice issues. She added that if other Board members are reading this case differently, she'd be interested in hearing what they have to say.

Dr. Talmage stated that, in his reading of this case, Dr. Juang signed a consent agreement and knew that a suspension of his license was coming. It was not levied until later, but the knowledge that an action was being taken against his license, regardless of whether he knew what it was or not, was in his possession at the time he said that he had no action against his license. Dr. Talmage stated that he doesn't find an argument that the delay had an influence on whether or not he answered the question correctly to be a credible argument.

Dr. Bhati agreed with Dr. Talmage.

Dr. Somani joined the meeting at this time.

Dr. Egner stated that the question that is asked on the renewal card is not, "has there been an action taken against your license." It is, "has any board, bureau, department, agency or other body, including those in Ohio, other than this Board, filed any charges, allegations or complaints against you?" The excuse that no action had been taken on his license and therefore he answered, "no," is not excuse. That's not what the question asks. Several years ago that argument was heard more often, and the Board changed the wording of the question to make it clearer. Dr. Egner stated that she thinks that the question is very clear, and she can't imagine not understanding the wording of the question. The doctor knew that there had been some "charges, allegations, or complaints." Therefore, it is very obvious that the correct answer is "yes." That's really what is at issue. Would the doctor have known that the Pennsylvania Board was addressing an allegation or complaint. If he knew that, he knew to answer, "yes." Whether the Pennsylvania Board's investigation resulted in an action or not is irrelevant.

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

Vote: Mr. Albert - abstain

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Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Somani	- abstain
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

Mr. Browning asked Dr. Somani whether he had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Robert Alan Graor, M.D.; Faye F. Istanbooly, M.D.; Richard C. Juang, M.D.; and Alex Y. Tseng, D.O. Dr. Somani advised that he had.

Mr. Browning asked Dr. Somani whether he understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. Dr. Somani indicated that he does understand.

#### [ALEX Y. TSENG, D.O.](#)

Mr. Browning directed the Board's attention to the matter of Alex Y. Tseng, D.O. 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. Tseng. Five minutes would be allowed for that address.

Dr. Tseng was accompanied to the meeting by his attorney, Kevin P. Byers.

Mr. Byers noted that, unlike the previous cases the Board considered, Dr. Tseng is not before the Board for any allegation of deception, fraud or misrepresentation. He added that he perceives that the previous cases all seem to involve some element of that. Dr. Tseng is here as a bootstrap case of a Texas action.

Mr. Byers stated that he trusts that the Board members have had sufficient time to study the objections, and will hopefully earnestly consider at least the policy ramifications of the Proposed Order, which would mandate Board certification for the doctor to practice his specialty in this state. Mr. Byers stated that it would be a slippery slope for this Board to begin mandating board certification. Dr. Tseng is more than willing to comply with any kind of focused CME or remedial education that the Board feels is appropriate.

Dr. Tseng thanked the Board for the opportunity to appear. Dr. Tseng stated that he came to the United States at age 19 with only a few hundred dollars in his pocket. He worked as a busboy, dishwasher, janitor,

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doing yard work, lab assistant, and as an orderly in several hospitals. After college he worked as a respiratory therapist while waiting to become a U.S. citizen and go to medical school. Dr. Tseng stated that he was happy because he fulfilled his dream to come to the United States. He went to medical school in Texas and did his residency in Ohio. Dr. Tseng added that he has been blessed with a wonderful wife and a daughter.

Dr. Tseng stated that in 2000 he became aware of the fact that the Texas State Board was reviewing three cases. Eventually, they eliminated one case. As a result of the remaining two cases, he entered into an agreed order with the Texas Board in 2002. He agreed that he should have performed a more thorough workup on one patient. On the other one he was advised that he should not extubate a patient prematurely. Dr. Tseng stated that he will be eligible to request termination of the Texas order in seven weeks. As part of that agreement, he attended focused CME, and he also complied with all the requirements of the Texas State Board.

Dr. Tseng stated that the State of Ohio gave him excellent residency training. He has performed approximately 8,000 cases without any problems. As each patient is an individual and unique, he has always done his utmost to ensure that his patients receive the best care possible. He has had some job opportunities in Ohio that he has had to turn down because of his present status. Dr. Tseng stated that he has many friends in Ohio, and he would like to be able to come back and practice in Ohio.

Mr. Browning advised Dr. Tseng that he has one minute to conclude his statement.

Dr. Tseng stated that everyone faces many challenges in life. The patient's family, his family, and he, himself, have faced many challenges since 1999.

Dr. Tseng again thanked the Board for the opportunity to address it, and stated that he would be happy to answer any questions Board members might have.

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

Mr. Michael stated that the State believes that the Report and Recommendation is reasonable in this case. The Texas Order determined that, in two cases, Dr. Tseng failed to practice medicine in that state in an acceptable, professional manner, consistent with the public health and welfare. Mr. Michael stated that he believes that that is similar to a minimal standard violation in Ohio. Texas required Dr. Tseng to practice in an institutional group setting, do focused C.M.E., and provide a copy of the Order to his place of employment.

Mr. Michael stated that, because of what happened to these patients, it is reasonable to ask Dr. Tseng to demonstrate a level of competency, which board certification would provide, before he can practice in Ohio.

**DR. SOMANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ALEX Y. TSENG, D.O.**

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**DR. STEINBERGH SECONDED THE MOTION.**

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

Dr. Talmage stated that there is certain precedence in the Board requiring Dr. Tseng to obtain board certification to practice. The JCAHO states, as do Medicare regulations, that board certification should not be the sole qualification for a practitioner's ability to practice his or her specialty. However, when the Board has indication from another state that there has been substandard practice, perhaps the only additional requirement would be Board certification. The Board does not have any ability to evaluate Dr. Tseng's practice on a daily basis. This is not necessarily a slippery slope because it would not be a requirement placed on everybody. The Board must have some assurance that this individual, in addition to his residency training and being in practice right now, has the qualification to be a safe practitioner in Ohio. Board certification would be one of the few, and perhaps only criteria the Board could rely upon. Dr. Talmage stated that he feels that the Proposed Order is appropriate.

Dr. Davidson disagreed with Dr. Talmage. She stated that she worries about the slippery slope, and she thinks that this has a lot of implications. She also took into consideration what JCAHO says about board certification. Dr. Davidson stated that it would be a wonderful thing in an ideal world if there were a stamp to put on every doctor to ensure competence, but she personally feels that board certification does not guarantee competence on an ongoing basis. Dr. Davidson added that, under the Proposed Order, the Board would be putting Dr. Tseng in a Catch 22 situation because he couldn't take the board exams with a restricted license. Dr. Tseng has indicated that he has applied to take the boards this summer. If the Board adopts the Proposed Order, he would not be able to do that. The Board would have to find some other way to help him get his boards.

Dr. Davidson stated that her feeling when she read this case was that there was a terrible outcome. Two patients died. However, she feels that Texas has taken care of the problem. There's a significant question whether these outcomes were related to any actions by Dr. Tseng. The first case was a 34-year-old, 300 lb. patient needing an emergency laparoscopic cholecystectomy. The patient had a congenital heart defect. Dr. Davidson stated that she's heard of cases such as this. Would a more thorough workup have been able to diagnose and prevent that? Dr. Davidson stated that she's seen cases where it didn't. She added that in this era of HMOs, the procedure on a 34 year old woman, let alone emergency surgery, won't be paid for without a lot of rigmarole to get approval for payment for a workup in that setting. Dr. Davidson stated that the patient died ten days post-op, and the death may have had very little to do with the anesthetic management.

Dr. Davidson continued that the second case was obviously a very severely ill elderly gentleman. Dr. Davidson stated that she felt strongly for Dr. Tseng in his discussion with the patient who had expressed a desire not to end up on a respirator. Dr. Tseng took the tube out and gave the patient a trial at extubation. The Texas Board called that premature extubation. Dr. Davidson stated that she probably would have done the same thing. The patient ended up on a respirator, and ultimately passed away. Subsequently, the family did not seek redress for that outcome, according to what the Board has before it. Dr. Davidson stated that she feels like the Texas Board has taken care of these actions.

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**DR. DAVIDSON MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF ALEX Y. TSENG, D.O., BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED that the certificate of Alex Y. Tseng, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be subject to the following **PROBATIONARY** terms, conditions, and limitations:

1. **Refrain from Commencing Practice in Ohio**: Dr. Tseng shall not commence practice in Ohio without prior Board approval.
2. **Conditions for Approval of Commencement of Practice in Ohio**: The Board shall not consider granting approval for Dr. Tseng to commence practice in Ohio unless all of the following minimum requirements have been met:
  - a. **Hold Current Certificate to Practice in Ohio**: Dr. Tseng shall hold a current certificate to practice osteopathic medicine and surgery in the State of Ohio.
  - b. **Notify Board in Writing**: Dr. Tseng shall notify the Board in writing that he intends to commence practice in Ohio.
  - c. **Certification of Compliance with Agreed Order with Texas Board**: Dr. Tseng shall submit to this Board certification from the Texas State Board of Medical Examiners (Texas Board), dated no earlier than sixty days prior to Dr. Tseng's request to commence practice in Ohio, that Dr. Tseng has maintained full compliance with the April 5, 2002 Agreed Order entered into with the Texas Board.
  - d. **Enter Into Consent Agreement**: Dr. Tseng shall enter into a written consent agreement with the Board if deemed necessary by the Board. The consent agreement shall include probationary terms, conditions, and limitations, as determined by the Board.
3. **Declarations of Compliance with Terms of Agreed Order with Texas Board**: Dr. Tseng shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the April 5, 2002 Agreed Order entered into with the Texas Board. Moreover, Dr. Tseng shall cause to be submitted to the Ohio Board copies of any reports that he submits to the Texas Board whenever the Texas Board requires such submission.

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4. **Notification of Change in Terms of Agreed Order with Texas Board:**  
Dr. Tseng shall immediately notify the Board in writing and provide acceptable documentation of any modification or change to any term, condition, or limitation imposed by the Agreed Order with the Texas Board, including termination of that Agreed Order.
  
5. **Termination of Probation:** Upon termination of the April 5, 2002 Agreed Order entered into with the Texas Board, Dr. Tseng may petition the Ohio Medical Board for release from the above stated probationary terms, conditions and limitations. Such petition shall include acceptable documentation verifying that Dr. Tseng satisfactorily complied with the terms of the Texas Agreed Order and was formally released from the terms of that Order by the Texas Board.

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

**DR. BUCHAN SECONDED THE MOTION.**

Dr. Steinbergh stated that she agrees with Dr. Davidson's alternative order. She concurred with Dr. Davidson's evaluation, and felt that the Texas Board took care of the issue. Dr. Steinbergh stated that she disagrees with the concept that the Board should use board certification under circumstances like this. Credentialing bodies in hospitals in which any physician will practice will take care of that.

Dr. Steinbergh noted that the Report and Recommendation indicates that Dr. Tseng will take the boards in July 2002. She asked whether he did that.

Dr. Tseng stated that he did not do that. He will be taking it in June of this year.

Dr. Steinbergh asked whether this was an error in the Report and Recommendation.

Dr. Tseng stated that he had intended to take the boards in July 2002, but he had an injury and had to postpone.

In response to Dr. Steinbergh's questions, Dr. Tseng replied that he will be sitting for the allopathic boards in July. He's allowed to request termination of the Texas Consent Order on April 5.

Dr. Somani suggested that Dr. Davidson's alternative order would also be considered a restriction on Dr. Tseng's license, preventing him from taking the boards in July.

Dr. Davidson stated that her proposed alternative order could end when the Texas Board order ends.

Dr. Buchan agreed, stating that Dr. Davidson's order could be as short as three months.

Dr. Davidson stated that she considered just reprimanding Dr. Tseng, but she feels this order covers more eventualities.

Dr. Egner stated that she feels that the testimony Dr. Tseng gave in hearing was very truthful and insightful, and didn't leave a lot of question. One of the cases was an emergency case. The surgeon says to the anesthesiologist, this is an emergency. Dr. Egner stated that all surgeons have been in that situation, and she noted that the surgeon in his or her workup didn't find evidence of the congenital heart disease, yet the Board is requiring this of Dr. Tseng. Dr. Egner stated that it appears that the two physicians are being held to two different standards. Realistically, when you're preparing a patient for emergency surgery, everyone knows that the pre-op workup that person gets as opposed to non-emergency surgery is very different. Dr. Egner stated that she also agrees with Dr. Davidson about the second case. Dr. Egner agreed that board certification should not be used by the Board as a quality assurance measure.

Dr. Egner added that she feels that reprimand would be a more appropriate action than either the alternative or original Proposed Order. She stated that the Texas Board did require focused C.M.E., and she doesn't see anything more for the Board to do.

Dr. Talmage has some difference of opinion as far as board certification and its role as one part of assurance of quality. He does believe the suggested alternative order satisfies his concern, particularly with requirement number three. That requires that subsequent reports be filed with the Ohio Board before Dr. Tseng comes to practice in Ohio. If this alternative allows Dr. Tseng to take his boards, that would be more than acceptable to him. A reprimand does not address the issues in paragraph three that those reports be submitted prior to his joining practice.

Dr. Bhati stated that in reading the whole thing, Dr. Tseng has given a complete, clear honest answer. As Dr. Davidson indicated, this could have happened to anyone, and it has happened. Dr. Bhati asked why, if the Board knows that Dr. Tseng hasn't done anything wrong, it should do anything but dismiss this case?

Dr. Steinbergh stated that the Texas Board did find that Dr. Tseng did not meet standards of care. He has an action on his license in Texas. It's appropriate to reprimand him. She agrees that Dr. Tseng has been honest, and does have an intent to be a good physician, and has no intent to mislead the Board. If Dr. Tseng does decide to practice in Ohio, the Board could require him to supply a copy of the release from the Texas Board. She doesn't think that the Board needs anything more, but she doesn't think it would be appropriate to dismiss the case.

Dr. Bhati stated that he doesn't understand. The Board knows that Dr. Tseng acted appropriately in these two cases.

Dr. Steinbergh stated that the Texas Board found that he did not meet minimal standards of care. She understands Dr. Davidson's comments, which were very appropriate, but it doesn't satisfy the record in her mind. The Board has not reviewed the cases, as the Texas Board did.

Dr. Bhati asked upon what basis the Board would penalize Dr. Tseng.

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Dr. Steinbergh stated that it's based on the Board Order from Texas.

Dr. Bhati stated that Ohio's analysis of the two cases is negative. The Board doesn't have to follow the Texas Order. If the Board didn't know the cases, he would agree that something needs to be done, but when the Board knows about the cases and knows that nothing was done wrong during those two cases, why not dismiss this case.

Dr. Egner stated that the Board doesn't know that.

Dr. Buchan stated that he's giving some credit to the Texas Order. There are some bright people on the Texas Board who reviewed this case in detail, and he's buying into the notion that there was reasonable cause for this action. By Dr. Tseng's own admission he could have reviewed these particular patients better. There was some self-improvement. Dr. Buchan stated that he thinks that Dr. Tseng is understanding and will take care of the problems. Dr. Buchan stated that he would speak against the alternative order and for a reprimand.

Ms. Sloan agreed that a reprimand would be appropriate in this case. Dr. Tseng was very honest and has done his own retraining. This is something that has been taken care of by Texas. Because there was a Texas finding, a reprimand is appropriate.

**DR. DAVIDSON ASKED TO WITHDRAW HER PREVIOUS MOTION, AND MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF REPRIMAND. DR. BUCHAN, AS SECOND TO THE ORIGINAL MOTION, AGREED TO ITS WITHDRAWAL. HE ALSO SECONDED DR. DAVIDSON'S NEW MOTION FOR REPRIMAND.** A vote was taken:

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF ALEX Y. TSENG, D.O. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

[FAYE F. ISTANBOOLY, M.D.](#)

**DR. BUCHAN MOVED TO REMOVE THE MATTER OF FAYE F. ISTANBOOLY FROM THE TABLE. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Mr. Browning advised that staff has finished reviewing the hearing materials, and the second sentence of paragraph 1A should read as follows:

The Board alleged that Dr. Istanbuly had inappropriately answered “No” to a question on her April 10, 2000, application for renewal of her Ohio certificate.

Dr. Egner stated that she has the same comments as she made in a previous case. The question on the renewal application is very clear. It doesn't ask about reportable actions, but asks about complaints and allegations. Dr. Istanbuly certainly knew that her case was before the Michigan Board. The appropriate response on the renewal card was “yes,” and she should have known that by reading the question.

Dr. Egner stated that she would also like to address comments made in Dr. Istanbuly's objections that

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Dr. Istanbuly knew that this would be a non-reportable event. Dr. Egner stated that she doesn't think that anyone knows what any Board is going to do until the Board takes its final actions. The Board has seen that here. There have been times when a physician might have thought that his or her case was going to go one way and the Board has done something very different from what the recommendation was. It was very shortsighted on Dr. Istanbuly's part to say that she knew that that was going to be a non-reportable event.

Dr. Egner continued that the objections indicate that the Michigan Board does not consider the action it took to be a disciplinary action. Dr. Egner stated that she does not know that to be the case. When a \$2,500 fine is imposed on a physician following a hearing, she would read that as a disciplinary action. She doesn't know that it's a fact that Michigan doesn't consider it one.

Dr. Egner concluded that the Board Order is very appropriate in this case.

Dr. Bhati agreed with Dr. Egner.

Dr. Somani indicated that the testimony given in this case shows that there was an intent to mislead the Board. On that basis, he supports the Proposed Order.

Dr. Steinbergh stated that it is very difficult for her to decide on intent because she cannot be in the physician's mind when the physician answers that question; but it is clear that the application questions must be answered correctly. When the physician doesn't answer them correctly, there's generally a reason why.

Dr. Steinbergh continued that Dr. Istanbuly broke a Michigan law by not obtaining a waiver to write a prescription. Dr. Istanbuly indicated that she, as well as other physicians in the state, didn't know it was the law. Dr. Steinbergh stated that the fact that a physician doesn't know the law in no way allows that physician to break the law or use it as justification for having broken the law. Dr. Steinbergh spoke in support of the Report and Recommendation.

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

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

The motion carried.

Mr. Albert left the meeting at this time.

FINDINGS, ORDERS AND JOURNAL ENTRIES

[BASSAM DAHMAN, M.D.](#)

By letter dated December 18, 2002, the Board notified Dr. Dahman that the State Medical Board of Ohio proposed to approve his application for a certificate to practice medicine and surgery provided that he take and pass the Special Purpose Examination (SPEX), due to the fact that Dr. Dahman has not engaged in the active practice of medicine for more than two (2) years. The Board also proposed to restrict his certificate to practice medicine and surgery, if issued, by requiring that Dr. Dahman nominate a supervising physician, to be approved in advance by the Board, who shall oversee at least 25 surgical procedures performed by Dr. Dahman and provide a written report to the Board verifying that such surgeries were satisfactorily performed. Said notice was mailed via certified mail, return receipt requested, to Dr. Dahman'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. Dahman and more than 30 days have elapsed since the mailing of that notice. The matter was presented to the Board for final disposition.

**DR. STEINBERGH MOVED TO ENTER THE FOLLOWING ORDER IN THE MATTER OF BASSAM DAHMAN, M.D.:**

Accordingly, the Board hereby ORDERS that Dr. Dahman's application for a certificate to practice medicine and surgery in the State of Ohio be approved, provided Dr. Dahman takes and passes the Special Purpose Examination (SPEX) within six (6) months of December 18, 2002. It is further ORDERED that should Dr. Dahman become eligible for and receive such license, it shall be restricted to require that he nominate a supervising physician, to be approved in advance by the Board, who shall oversee at least 25 surgical procedures performed by Dr. Dahman and provide a written report to the Board verifying that such surgeries were satisfactorily performed.

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

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

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The motion carried.

Dr. Steinbergh stated that she wants the documentation to reflect a varying degree of complexity in the surgical procedures overseen.

[GOBI RATNASWAMI GANAPATHY, M.D.](#)

By letter of October 31, 2002, the Board notified Dr. Ganapathy that the State Medical Board of Ohio proposed to deny his application for a certificate to practice medicine and surgery in Ohio based upon the fact that Dr. Ganapathy does not hold certification from the Education Commission for Foreign Medical Graduates as required pursuant to Section 4731.091(B)(2), ORC and Rule 4731-6-15, OAC. Said notice was mailed via certified mail, return receipt requested, to Dr. Ganapathy's address of record. On December 24, 2002, a second mailing of the notice was sent. A signed certified mail receipt was returned to the Medical Board from that second mailing, documenting proper service of the notice. A letter was received from Dr. Ganapathy advising that he does not wish to request a hearing in this matter. The matter was presented to the Board for final disposition at this time.

**DR. SOMANI MOVED TO ENTER AN ORDER OF LICENSURE DENIAL, EFFECTIVE IMMEDIATELY, IN THE MATTER OF GOBI RATNASWAMI GANAPATHY, M.D.**

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

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

The motion carried.

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSION

[MARC J. BERNSTEIN, 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. BERNSTEIN.**  
**DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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Vote:

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

[BRETT BOLTON, 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. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. BOLTON. DR. STEIBNERGH SECONDED THE MOTION.** A vote was taken:

Vote:

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

[DONALD R. KISER, 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. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. KISER. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

Vote:

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye

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

The motion carried.

[DAVID MILES BAROFF, 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. BAROFF. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

[RALEIGH SHIPP CALLION, M.D. - ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING](#)

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

**DR. STEINBERGH MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. CALLION. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

Mr. Albert returned to the meeting at this time.

[BRIAN J. HUNTER, 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. HUNTER.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

[BRIAN F. MCNAMEE, 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. TALMAGE MOVED TO SEND THE CITATION LETTER TO DR. MCNAMEE.  
DR. SOMANI SECONDED THE MOTION.** A vote was taken:

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

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Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

[THOMAS ANH NGUYEN, 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. NGUYEN. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

[PARMAJIT SINGH, 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. BUCHAN MOVED TO SEND THE NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING TO DR. SINGH. DR. DAVIDSON SECONDED THE**

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**MOTION.** A vote was taken:

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

The motion carried.

[SAM HILL, D.O. - ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING](#)

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

**DR. STEINBERGH MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. HILL. DR. TALMAGE SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

[AYMAN M. KADER, 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

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Opportunity For Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

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

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

The motion carried.

Dr. Egner and Ms. Sloan left the meeting at this time.

#### RATIFICATION OF CONSENT AGREEMENTS

##### [CENTRAL OHIO SCHOOL OF MASSAGE](#)

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH THE CENTRAL OHIO SCHOOL OF MASSAGE. DR. BHATI SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Somani	- aye
	Dr. Davidson	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

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[DAVID E. ALLEN, M.D.](#)

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

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Somani	- aye
	Dr. Davidson	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

[GEORGE V. HASSINK, M.D.](#)

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

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Somani	- aye
	Dr. Davidson	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

Mr. Browning asked that the topic be tabled for another consent agreement to be considered on Thursday.

**DR. STEINBERGH MOVED TO TABLE THE TOPIC, "RATIFICATION OF CONSENT AGREEMENTS," UNTIL THE THURSDAY SESSION. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

Dr. Egner and Ms. Sloan returned to the meeting at this time.

#### PERSONAL APPEARANCES

##### RICHARD WEITZEL, JR., M.D.

Dr. Weitzel appeared before the Board pursuant to his request for release from the terms of the Board's Order of May 14, 1997.

In response to Dr. Somani's questions, Dr. Weitzel stated that he is currently doing great. He doesn't think that he will change anything from what he has been doing once he is released from probation. His sobriety date is August 26, 1995, and he doesn't feel that he should monkey with success. He will maintain his support systems when he is no longer under the Board's Order.

In response to Dr. Buchan's questions, Dr. Weitzel stated that the largest contributing factor to his success is the initial treatment. He underwent inpatient treatment for four months at Shepherd Hill, and he thinks that that was instrumental. Subsequently, once he was on the path, the support of the Board, and having certain guidelines, particularly in early recovery, is very important.

Dr. Buchan noted that the Board sees a fair amount of relapse. He asked what will keep Dr. Weitzel clean and sober.

Dr. Weitzel stated that it's summed up in the very first sentence of *The Big Book of Alcoholics Anonymous*. Success is guaranteed as long as he thoroughly follows the path. Dr. Weitzel stated that it's difficult for some people to follow that path.

Dr. Bhati stated that the Board has been told that 28 days of inpatient treatment is enough. He noted that Dr. Weitzel is saying that four months was necessary for him. Dr. Bhati asked what the difference is between those two situations. He asked why four months was necessary for him.

Dr. Weitzel stated that every case is different, but in his particular case, his withdrawal period alone was about three weeks. Protracted withdrawal lasted easily two months. Dr. Weitzel stated that he thanks God that it turned out the way that it did. Dr. Weitzel explained that when you first check into rehabilitation and you're supposed to get clean and sober, the first thought is that you'll stay for a couple of days and then you're out of there. Dr. Weitzel stated that he toyed with that thought, but he persevered. In retrospect, he sees that that is exactly what he needed. Dr. Weitzel stated that because physicians are "demigods," he would recommend a minimum of three months in treatment. He currently sponsors four

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other physicians, three of whom are before the Board. He sees inadequate treatment, and inadequate length of inpatient treatment, leading to relapse.

Dr. Davidson noted that Dr. Weitzel pled guilty to the felony charge of obtaining by deception approximately 145 liters of hydrocodone. She stated that she can understand why it took three weeks to get that out of his system. She added that she believes that Dr. Weitzel understands that this is a life-long disease, and that he's beaten the odds to this point. Narcotics are harder to beat than alcohol is, and it will be haunting him forever. She stated that he'll have to work hard to stay on the path.

Mr. Albert noted that Dr. Weitzel has been a good probationer, and he believes that Dr. Weitzel will do all right.

**DR. SOMANI MOVED TO RELEASE DR. WEITZEL FROM THE TERMS OF THE BOARD'S ORDER OF MAY 14, 1997. DR. BUCHAN SECONDED THE MOTION.**

Dr. Steinbergh stated that the Board is happy that he has come to this point. She noted, however, that the Board earlier cited a number of doctors who have been where Dr. Weitzel is today, smiling the same smile and saying the same things. She stated that the Board does not want to see Dr. Weitzel back. The goal is to have Dr. Weitzel back to practice and happy.

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

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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

ALLAN W. CLARK, M.D.

Dr. Clark made his initial appearance before the Board, pursuant to the terms of his December 12, 2002 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Clark stated that he is feeling pretty good. He has been in recovery about five months and feels like he's just starting to get stable. During the suspension period he's volunteering his time to a local agency that develops treatment plans for kids with behavior problems. He

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doesn't see the children himself, but helps develop their treatment plans. He is not practicing medicine currently.

Dr. Steinbergh cautioned Dr. Clark that he is a psychiatrist and it would be easy for him to slip back into practice with his current job.

Dr. Clark stated that currently he has a strong support system. His mother, who accompanied him to this meeting, has been very supportive. He also has a significant other who is very supportive of his recovery. Dr. Clark stated that he is doing what he needs to do to get healthy. He is also very active in his church, and spends a lot of time there. He's one of the audiotechnicians at the church. Dr. Clark stated that he gets together with those who are good influences. His brother is a psychologist who treats addiction, and he is very supportive. He has a sponsor with 15 years of sobriety, with whom he speaks all the time. His sponsor is also a member of his church. Dr. Clark stated that he feels pretty good, but he's still working on building up.

Dr. Steinbergh asked Dr. Clark how he became impaired.

Dr. Clark stated that he believes he always had the predisposition towards addiction, but it didn't really "rear its ugly head" until 1998. He was in the Air Force, with a four-year obligation for a scholarship. He got out and ended up practicing in Pennsylvania. He was working hard, got depressed, and had trouble coping. Eventually he began to self-treat himself with antidepressants, that kind of worked and kind of didn't. He convinced himself that he had attention deficit disorder (ADD), which his son has, so he took some of his son's medication. He got addicted. A year and a half later, after trying to quit 20 times or more, he voluntarily went to the Menninger Institute in Topeka, Kansas, for four weeks and thought he had it at that time. He was going to meetings and had sponsors, but he doesn't think he had it well enough. He didn't have the spiritual part of it down to really trust in a higher power that things would be okay. He went through an unpleasant divorce, depression hit again, and he reached for something that would make him feel no more pain. He took some pain killers, and then his soon-to-be ex-wife discovered that he had written a script in his son's name and had taken that medication. She notified the Pennsylvania Physician's Health Program. Then he went to rehabilitation at Marworth Treatment Center for two months. He notified his employer at St. Elizabeth's in Youngstown, at the time he switched. Dr. Clark stated that he was totally honest with what he did and how he got the drugs. He lost that job and was then reported to the Board at that point. Dr. Clark stated that he thinks it's a good thing that he was reported to the Board.

Dr. Bhati asked whether Dr. Clark has had a chance to read his consent agreement and whether he has any questions about it.

Dr. Clark stated that he has read the consent agreement and doesn't have any questions. He feels that the agreement is self-explanatory and very reasonable. He has no questions.

**DR. BHATI MOVED TO CONTINUE DR. CLARK UNDER THE TERMS OF HIS DECEMBER 12, 2002 CONSENT AGREEMENT AND THE BOARD'S POLICY OF DECEMBER 9, 1998, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE, THE**

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**NEXT APPEARANCE TO TAKE PLACE IN FOUR MONTHS. DR. TALMAGE SECONDED THE MOTION.**

Dr. Buchan advised Dr. Clark that this is the beginning of a long road, and he'll see the Board members and staff for a long time. The Board is here to help. He added that Dr. Clark has had one relapse, and the Board's tolerance is very low for future relapse.

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

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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

DAVID R. MILLER, M.D.

Dr. Miller made his initial appearance before the Board, pursuant to the terms of his November 20, 2002 Consent Agreement.

Dr. Somani noted that it appears that Dr. Miller's major problem has been major depressive disorder. He asked Dr. Miller how he's doing.

Dr. Miller stated that he is doing well and making gradual improvement. He has been seeing Dr. David DeMuth, who is working with him. He is comfortable with the care Dr. DeMuth is supplying. He also has a support system to help him. Dr. Miller related the details of his divorce problems, which he felt were responsible for much of his problem. Dr. Miller added that he also has business involving apartments and mobile home parks. Between everything going on with his divorce and his other business, it was impossible for him to work in medicine. He added that he was afraid that he would harm a patient because he was trying to run a household, attend his daughter's events, and run a practice. Dr. Miller stated that he was very depressed by what transpired, so he and Dr. DeMuth talked and the decision was made that he would stop practice. As a result of a meeting with Dr. DeMuth, he wrote a letter to the Board with Mr. Plinke's help.

In response to Dr. Steinbergh's questions, Dr. Miller stated that he is not currently taking any medications. He's tried four or five different things, and he's had bad reactions from all of them. The first medication

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he tried knocked him out and put him to sleep. The second drug he tried caused high blood pressure.

In response to further questions by Dr. Steinbergh, Dr. Miller stated that he's not sleeping at night. He sees his psychiatrist every two weeks. His short-term goal is to get through the divorce. His attorney believes that it will conclude in four to six weeks. He now has his daughter three percent of the time. Dr. Miller stated that he was a full-time father, and this has been very hard for him.

**DR. SOMANI MOVED TO CONTINUE DR. MILLER UNDER THE TERMS OF HIS NOVEMBER 20, 2002 CONSENT AGREEMENT AND THE BOARD'S POLICY OF DECEMBER 9, 1998, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE, THE NEXT APPEARANCE TO TAKE PLACE IN FOUR MONTHS. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

ALAN B. STORROW, M.D.

Dr. Storrow made his initial appearance before the Board, pursuant to the terms of his November 20, 2002 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Storrow stated that he does understand the terms of his consent agreement, and he feels very comfortable with where he is now. He has been clean and sober for about ten months. He has been fortunate in that his colleagues and department chairman know his situation and want him to stay on in a purely academic role until he gets his license back to practice clinical medicine. He's teaching and writing research protocols, all non-clinical things. He's been very fortunate to be able to keep that position.

Dr. Storrow continued that he has a very good support system with his family, mother, church, colleagues and friends. He is being monitored by OPEP.

In response to Dr. Talmage's questions, Dr. Storrow stated that once his license is returned, his research role will likely be much increased, and he will probably work clinically less than he did during the time he

was using. His career has been primarily focused on cardiovascular research. He does plan on going back to practice clinical emergency medicine at the university.

Dr. Talmage stated that, although physicians in general are no different from the general population, emergency medicine and anesthesia are the two specialties where addiction seems to be more prevalent, and usually much more severe when it happens, because of the availability of drugs. He urged Dr. Storrow to think carefully about what he will go back to.

Dr. Storrow stated that his workload will be planned when he returns.

Dr. Bhati stated that, as much as the Board wants to help Dr. Storrow, it has zero tolerance on relapse. He needs to be extremely careful.

in response to Dr. Buchan's questions, Dr. Storrow stated that he first realized that he had addiction tendencies after he started using and found that it was difficult to stop. Seven or eight months after he started using, he found it impossible to stop. He realized then that he was addicted, but he doesn't think he fully admitted it to himself. He knew it inside.

Mr. Albert asked whether Dr. Storrow started drinking while he was in college.

Dr. Storrow stated that, although alcohol isn't his primary drug of choice, he did drink in college. His primary drug of choice was lorazepam. He never used cocaine or marijuana in college.

Mr. Albert stated that Dr. Storrow has a long career ahead of him, and he needs to use his experience. The Medical Board can support him. He added that as long as Dr. Storrow works the program, he will have a good chance of recovery.

In response to Dr. Somani's questions, Dr. Storrow stated that he drank very little in medical school. He started using drugs because he made the bad decision to use drugs to deal with some very difficult personal situations that were going on at the time.

Dr. Davidson noted that most of the probationers the Board sees take their suspension time and do a variety of other things, all aimed at their treatment, such as construction, or something totally different from medicine. She worries that Dr. Storrow is working with the physicians who have been his enablers, and who have every vested interest in seeing him as they saw him before they knew he had an addiction problem. It would be very easy for him to slip into that and not take his recovery as seriously as if he'd totally removed himself from his prior place of employment. She stated that it's wonderful that he has that support and opportunity, but she would be on guard to fully immerse himself in his recovery during his suspension and not just go through the motions.

Dr. Storrow stated that his situation from where he was working has substantially changed. He is very comfortable with where he is in his recovery. He is very committed to his recovery. Dr. Storrow added that his use was almost entirely in isolation. People didn't know. Now his support system does include an

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entire department of 40 colleagues that know about his situation and what happened. He doesn't believe that they serve as enablers. They are very supportive and want to see him do well.

**DR. STEINBERGH MOVED TO CONTINUE DR. STORROW UNDER THE TERMS OF HIS NOVEMBER 20, 2002 CONSENT AGREEMENT AND THE BOARD'S POLICY OF DECEMBER 9, 1998, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. TALMAGE 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### ANESTHESIOLOGIST ASSISTANT RULES

Dr. Egner stated that she would like to make a few initial comments, hear from other Board members, and then make some closing comments before the Board decides what to do.

Dr. Egner stated that it is her heart-felt belief that it is time for the Board to move forward with these rules. Board members, the staff, volunteers on the advisory committee, and many members of the professional medical community have spent considerable amounts of time in pursuit of these rules. First and foremost the Board must protect the citizens of Ohio and maximize within that confine access to anesthetic care. Dr. Egner thanked everyone associated with this process for their commitment. She stated that the Board has worked on this for two years, and she feels very good about the rule options the Board has before it today. No matter what the option, the Board has agreed on standards of supervision, and extended supervision that will guarantee that physician anesthesiologists will play the central role in the anesthetic management. Medical judgments regarding anesthesia care will remain in the physicians' hands, regardless of the scope the Board ultimately chooses.

Dr. Egner stated that she feels good about this process. The Board has been characterized as being open and willing to examine all of the issues raised by people on all sides of the question. Whatever the final decision of this Board, it has forged and strengthened relationships with two groups of medical professionals that will serve the Board well as it addresses additional issues in the future.

Dr. Egner stated that she would like to hear discussion today from all members of the Board on issues

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about which there are still questions. However, at the end of the day, the Board must put uncertainties behind it and make a choice about the language that it wants to refile with JCARR.

Dr. Garg agreed with Dr. Egner that a lot of work has gone on in the past year or two, and it is time for the Board to decide today. The Board did vote before on Option A, after much deliberation. Following the hearing process, the Board must finally decide which option it should choose.

Dr. Garg stated that he did attend part of the hearings and has gone over all of the hearing material. He stated that he would address some of the issues raised.

Concerning definition of terms, Dr. Garg stated that he thinks the terms, “assistant” and “assist” are pretty simple English words. The Board isn’t here to rewrite the dictionary or reinvent the wheel. “Perform,” similarly, does speak for itself. Concerning a scope of practice, there is none for A.A.s. Any practice by A.A.s in the past 30 years not legal practice. It was the unlicensed practice of medicine and a lot of aiding and abetting. Concerning statements made that the OSA opinion does not represent the profession, Dr. Garg stated that, just because the 90 members, who hire A.A.s, out of the 1,000 physician members do not agree with the OSA viewpoint, does not mean that OSA does not represent the profession or specialty.

Dr. Garg stated that some Board members felt that one group was very convincing, while the others felt that it wasn’t. Just because one group comes in force and is more eloquent and more convincing than the other, that shouldn’t be grounds for leaning one way or another.

Dr. Garg stated that the argument has been made that if the Board doesn’t allow this and that, with the shortage of manpower, a few facilities will close. Dr. Garg stated that he finds it very difficult to believe that argument, and he doesn’t think that the Board needs to dilute requirements on that basis.

Dr. Garg stated that the question of patient consent was raised. He doesn’t think that the public or the patient know who is administering the anesthesia.

Dr. Garg noted that the argument has been made that if the Board doesn’t do something now, the Legislature will do it later. Dr. Garg stated that this is an ongoing process, and the Board must live within the law the way it is written. The way he reads the law, an A.A. is an assistant and is not a provider, and does not perform.

Dr. Garg stated that the question has been raised, “where is the harm?” He stated that the Board is here to prevent the harm. The Board hopes there will be no harm. It is not here to take care of things when the barn door is open and harm has been done. The Board should not help that harm to occur. He used the analogy of impaired physicians, stating that no evidence has been shown of harm to anyone. The Board still proactively takes care of impaired physicians. There is a potential for harm.

Dr. Garg stated that there was comparison of C.R.N.A. training and A.A. training, and the suggestion that A.A. training is superior. Dr. Garg stated that A.A.s have no medical background. C.R.N.A.s have nursing background and have been in the hospital and have probably done some practice, and they had two years of

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anesthesia training. Dr. Garg stated that he believes there is a lot of difference between the two entities.

Dr. Garg stated that every time he comes to the Board offices he asks himself what is expected of him as a Board member, and what is the Board member's role. His understanding is no different from any other Board member, and that is to protect the public. When the Board decides what to do about these rules, it has to look at the purpose of the Legislation, the intent of the Legislators and the objective for granting a license to A.A.s. To the best of his recollection, it was to "assist." He and Mr. Albert attended a few meetings with Senator Drake, and the legislation was only to "assist" anesthesiologists. It was to free the R.N.s to do other things. It was not to "perform." It was made very clear.

Dr. Garg stated that he knows that there may be some questions after the hearing, and some members may have been enlightened differently, but it has not changed his mind. The stakes are high for any surgical procedure, and the Board doesn't want to give a license to raise those stakes by providing anesthetic care by certain people who are not as knowledgeable, who are not as trained as anesthesiologists, and who the patient does not expect to provide the anesthesia. He added that he believes that most Board members, if asked, would want the anesthesiologist to perform the procedure, and questioned creating a double standard. Dr. Garg stated that he doesn't think that that is the Board's intent.

Dr. Garg stated that he considers regional anesthesia, epidurals, spinals and some arterial functions to be procedures of performance, not assistance. He advised that he's done thousands of spinal taps, and epidurals are something akin to that. You can show the person how to do it, they can read about it, they can help prepare for it, but when it is done, it's a procedure.

Dr. Garg stated that he has no doubt about the training given at CWRU, but the Board does not license people from just CWRU. It licenses individuals who will practice all over the state. There are circumstances and surroundings where people will abuse the system. When the Board creates the rules, it ought to be very sure that there are enough safeguards so that the institutions know exactly what the A.A. can do and what he or she cannot do. There are already 90 plus A.A.s, and there will be more.

Dr. Garg also questioned the contention that an anesthesiologist is there supervising the procedure. He stated that he has been in the operating room in all of his life as a physician, and he doesn't believe that it happens that way. People do abuse the system. Sometimes you don't even see the anesthesiologist during the procedure. He expressed concern that if the Board allows them a little leeway, they will abuse the system.

Dr. Garg stated that spinals and epidurals are performing and not just assisting. He spoke in support of Option A because he thinks it is more in line with the intent of the Legislators in defining the scope of practice for A.A.s.

**DR. GARG MOVED TO ADOPT OPTION A, EXCLUDING BRACHIAL PUNCTURES, BUT INCLUDING RADIAL AND DORALSALIS PEDIS.**

Dr. Talmage stated that there is an analogy that, as a sports fan, he likes to see the game decided by the

players and not by a referee's decision. What is happening here is that the Board is being asked to be a referee and decide the game. Dr. Talmage stated that he would like to see a consensus in anesthesia in this state and in Georgia. He stated that the other 48 states probably don't care one way or another because they don't have A.A.s and they don't train A.A.s, but they will. The Board is being asked to decide between two factions of anesthesia who probably will have difficulty ever getting together, no matter what the Board decides.

Dr. Talmage stated that he agrees with the issues of safety Dr. Garg mentioned, but there are very skilled C.R.N.A.s who do spinal taps, punctures, and epidurals. They are not trained as anesthesiologists, but they are very good at what they do. The A.A.s seem to have a good training program.

Dr. Talmage stated that, no matter what decision he makes when the Board votes on it, he will not be real comfortable with it. He added that he doesn't know that any of the Board members will be because they will only satisfy one side. He would like to see the anesthesiologists come back at some point with a consensus and recommendation for the Board. He wants to know what all anesthesiologists think, and not the minority who are using A.A.s right now. He stated that he doesn't like being put in this position; yet, it is the Board's responsibility to be put into this position. He's listening and still not absolutely firm on whether it is option A or option B. He tends to go with option B emotionally because of the training and the testimony, but he recognizes the concerns everyone has about allowing people to do things that are already being done very well by a group of well trained people called anesthesiologists.

#### **MR. ALBERT SECONDED DR. GARG'S MOTION.**

Mr. Albert commented that he is the oldest member of the Board, as well as being one of the senior members. Three governors have appointed him. Mr. Albert stated that he's sat on the Board for all of these years as a public member, and he's seen the practice of medicine whittled away. He has nothing against A.A.s, and he's sure that they are all fine young people with a college degree and two years' postgraduate in anesthesiology school, but he doesn't want anyone practicing medicine who is not a doctor. These individuals could go to school for two more years and become doctors, and this is what they should do.

Mr. Albert stated that anesthesiology is so important. The anesthesiologist is holding the patient between life and death. He can't think of anything more important. He questioned what would happen if there is one doctor, supervising more than one A.A., and something goes wrong with two patients. What will the doctor do? Mr. Albert stated that this has been argued for years. Mr. Albert stated that in every branch of medicine there's someone who is not a physician ready to step in and do things that they're not licensed to do. Dr. Garg and he have seen that there are things that go wrong. They look at over 3,000 complaints a year, and they know that things can happen, even to skilled people. Things can happen to people who go to medical school and do five to eight years of residency. If these individuals want to assist, that's what they can do. They can assist and not go in the operating room to do the procedure. He stated that with options B and C, the line between the anesthesiologist and the A.A. can become blurry.

Dr. Garg asked Mr. Albert whether or not he was correct in his earlier statements about meetings in

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Senator Drake's office.

Mr. Albert stated that the Legislators wanted to make these entities legal, but they were to work as assistants. Senator Drake spelled out what she wanted these individuals to do.

Dr. Garg stated that Senator Drake wanted to help these people so that they didn't waste all of their education. They weren't to act as anesthesiologists, which they are now trying to do, or being used as. That was not what the Board was asked to make rules about. The Board is not the referee. It has been asked to make the rules and it has to take that responsibility. There is no evidence, based on research, to show that A.A.s can safely perform these types of procedures. The Board should be cautious until such evidence becomes available.

Ms. Sloan stated that this issue has weighed heavy on her, being a consumer member who has to read every little thing in the hearing record. She stated that she feels schizophrenic at this point, going back and forth between options A and B. She began to question whether she even graduated from college because now she has to figure out what "assist" means and what "perform" means, and how many different definitions there are. This has really been difficult. She's still sitting on the fence on this. She has not had the experiences physicians members have had, and having to read and to understand and to do her own investigation has taken a lot of time. The Board has been given another packet of materials to read today.

Ms. Sloan continued that she is also present to listen to what her fellow Board members are saying in giving the guidance that is needed. She does need to hear more from other members to be able to assess where she needs to go and how she will vote.

Dr. Somani stated that he values all of the opinions being expressed, and he agrees with almost everything that has been said. His own experience and perception has been that a lot of issues are brought to bear in this matter, and one of the key ones is the issue of lack of manpower, and that without more manpower things will close down. He's heard that many times in relation to a number of different specialties, and none of them have happened in the last 25 years he's been keeping track of medical personnel and professionals.

Dr. Somani stated that, in his experience, this boils down to a simple matter of economics. He stated that Board members must determine how they can best serve the people of Ohio to protect them from shifting responsibilities from one group to another. Under the guise of a shortage and the need for more people to assist, medicine has gradually given more and more responsibilities to those who are not physicians to take on many of the functions of physicians. This is very unfortunate, especially if the public does not clearly understand what is happening when this transition is taking place. In that context, it is very clear that the Board should be more careful in changing things. The Board should take a cautious approach, rather than open up the flood gates. Dr. Somani indicated that he supports option A.

Dr. Buchan stated that two years ago he didn't know what an A.A. was. Today he has been overwhelmed with information, and he truly feels that he has studied and understands what they do and what their training and education is all about.

Dr. Buchan stated that he has two issues to address on this. First, as he looks at the training and education, two years versus a minimum of eight years, it does not parallel closely enough for him to put A.A.s in a position of performing anesthesia tasks. The training and education is certainly not parallel.

Dr. Buchan stated that his second thought about this is that the Board has been dealing with scope of practice issues, specifically, office-based surgery. In reviewing morbidity and mortality, the common denominator for morbidity seemed to be the level of anesthesia. Dr. Buchan stated that he believes that speaks to the high-stakes nature of what the Board is dealing with today. When dealing with office-based surgery, anesthesia risks dictate most of the morbidity and mortality that the Board has reviewed.

Dr. Buchan stated that he's not on the fence on this one, and he spoke in favor of option A. He believes that is where it needs to be, adding that he can't speak highly enough of the supervision necessary to perform these high-stakes procedures in this high-stakes medical specialty.

Dr. Davidson stated that Dr. Somani said what she wanted to say. She added that it would be very nice if someone else would make this decision for the Board; it's obviously very hard. The hearing process, including all of the work done in preparation, has been impressive. However, people, and their organizations, who have spoken to the Board have a different constituency than does the Board. The Board answers to the citizens of Ohio, and she agrees that the Board must make a conservative choice. To give A.A.s a scope of practice basically equivalent to anesthesiologists at this point seems inappropriate. Dr. Davidson stated that things can change in the future, but she feels that today it is the Board's job to serve the public with the conservative choice of option A.

Dr. Davidson stated that, in discussing the other options, one has to ask, "to what benefit?" If you read the fine print, an A.A. must do a regional with an anesthesiologist looking over his or her shoulder. So why have the A.A. do it? She stated that she always had to grit her teeth to teach residents regional anesthesia because her hand wasn't on the needle and she didn't know what they were feeling. She did not teach C.R.N.A.s regional anesthesia for that reason. She was fortunate in that her training program didn't require that. Unless the privilege is abused by not having a physician looking over the A.A.s shoulder, there is no benefit to any other scope of practice. If the physician is standing there, he or she might as well do the procedure.

Dr. Bhati stated that he would like to make one point. The Board's obligation is to protect the public in the state of Ohio. Before Board members make a decision, they should ask themselves who they would want to perform anesthesia on them if they were undergoing surgery. Do you want someone with ten years' training, or are you satisfied with someone with two years' training.

Dr. Steinbergh stated that she believes that the memorandum distributed to the Board today is inappropriate because the Board has had the hearing and the record was left open for presentation of new information. She hasn't read the letters, but does have a sense of what is contained in them. Dr. Steinbergh stated that it's important to hear those people who come to the hearing so that the Board can have a discussion at the time of the hearing and the presentation can be appropriately read.

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Dr. Steinbergh noted that there are a number of surgeons on the Board who are in the surgical suites every day observing anesthesiology. There is also an anesthesiologist on the Board. Dr. Steinbergh stated that she was the sole person, going into the hearing, who favored option C. Some of her concerns were that it is very difficult for this Board to micromanage what goes on outside in practice. She has respect for physicians who decide how to use their assistants. She attended the hearing, read all of the testimony and thought about all of the testimony. She indicated that she is in agreement with everything that has been said so far today, and added that the Board members are here for one reason only, and that's public protection. She has to respect the opinion of her colleagues who spend the most time in this area. Dr. Steinbergh stated that it is most important to listen to the consumer members because they are the public and they do have the ability to say how they feel about this issue.

Dr. Garg stated that the materials distributed today were sent to Ms. Murphy on December 20. If it is not appropriate for Board members to see, it should not have been circulated. If it is circulated, the Board should give it consideration. He said that the Board should take a little time to read it.

Mr. Wayda explained that two letters were distributed: a letter from Ron Harter, M.D., President of the OSA, and a letter from Liz Lawson that came in the last week and a half or so. The Board has always told people to feel free to let the Board know what they know. It's not part of the official hearing record, but they certainly are free to send things. Dr. Harter included with his letter a packet of materials that he had previously submitted. Those materials were, in fact, in the hearing record. Dr. Harter asked that they be recirculated.

Dr. Davidson stated that she didn't see some of those letters in the hearing record.

Mr. Wayda stated that they were in the exhibits to the hearing record.

Dr. Steinbergh stated that it's her understanding that the Board cannot consider information received outside of the hearing record. She added that she's not opposed to any information coming in, she just feels the Board should be consistent with what it does with other hearings.

Ms. Sloan stated that she would like to express her personal feelings. She has undergone surgery twice in her life, and she is an anesthesiologist's nightmare; she doesn't wake up that easily. However, she knows that when she is in surgery, the anesthesiologist is standing over her and saying to her that he or she is the one who will take care of her. That is the person she expects to do that job. That's the way she feels. Whether or not that happens, she has no clue because she's asleep. Ms. Sloan stated that that's a point that needs to be brought up. A lot of people do not have a clue.

Dr. Egner stated that that's a fact of medicine, not just for anesthesia. She stated that it's true if you walk into an emergency room or a dentist office, no matter where you are.

Dr. Davidson stated that you're not unconscious there.

Ms. Sloan stated that when you're talking about the lay person who is going in, who does not have the information that the Board members may have, this is something that they know. When she starts to look at what the Board is charged to do, i.e., protect the public and work for the betterment of the public, she has to say that there are a lot of things that happen. The point here is protecting the public, and when that is presented to her, she would have to say that option A is what she would go with.

Dr. Egner stated that she appreciates everyone's comments, and she knows that Board members have given this a lot of thought before coming here today. Concerning the "intent of the legislation," Dr. Egner stated that how this legislation may have been intended to be is not germane today. How the legislation is written is not what the OSA or the Board may have thought the intent originally was. Both sides were told, after it was written, that it was written in their behalf. The OSA was told that "assist" meant that the A.A.s wouldn't be doing, and the A.A.s were told that it meant that those were procedures that they could perform but only under the guidance of a supervising anesthesiologist. Intent cannot enter into the Board's decision making today because both sides were told what was best for them. It's written in a way that it is not clear as to what it means.

Dr. Egner continued that the statutory interpretation of "assist" is that one "assists in the performing of the task," that the A.A. assists the anesthesiologist "by performing certain tasks." The Board sees that. It is consistent with so much that the Board does in other areas, such as surgical assistants. The physician assistant is not just assisting. Every month the Board goes through procedures that they are doing, and they are doing a lot. They're not assisting. They're harvesting veins, doing lumbar punctures, they are not assisting. The A.A. is really what would settle all the Board's problems with the P.A.s. They go to a specialized school for two years in anesthesia, after a bachelors degree. If those specialized P.A students were going to a school like this, the Board wouldn't be struggling month after month over whether they have training to do it or not. This is the model that the Board wishes they all stood by. They are taught by dedicated people. No matter who comes up after this, what school pops up, the statute specifically says what they have to teach and what they have to do, or they're not licensed in Ohio. If a school comes up that doesn't abide by the statutory requirements, the A.A.s cannot practice here. Dr. Egner stated that the Board has more safeguards here than it has in anything else that it's come across in the non-M.D. provider. Dr. Egner stated that physicians doing everything is not the real world, and she's not even sure that it's the absolute standard.

Dr. Egner stated that she does take exception to the notion that, if she's having surgery, only the anesthesiologist can put her to sleep. If someone is an anesthesiologist's nightmare, he or she probably will get the anesthesiologist. The A.A. is not the same as the anesthesiologist. Throughout all of this it has been very clear that the anesthesiologist remains the boss and leader of the anesthesia care team (ACT).

Dr. Egner noted that the argument against A.A.s doing regional anesthesia is that spinal and regional anesthesia involves diagnostic assessment, indications, contraindications, prescription of drugs, institution of corrective measures, treatment in response to complications and are not merely technical parts of patient care. She stated that that's true, but all of those exact same characteristics are part of general anesthetics. If the Board wants to hold that standard, A.A.s shouldn't be giving general anesthesia either; yet, the Board has agreed that that's okay. They do use their judgment, skills and learning, whether they're giving general

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or regional.

Dr. Egner spoke in favor of option B. She feels it is the compromise position. She feels that option A is too restrictive. The biggest thing that swayed her from option A to option B was that when the subject of harm has come up, the Board knows that A.A.s have been doing those procedures, giving general anesthesia, doing epidurals and spinals, and not one person gave evidence of problems that have occurred with that. That was very important for her. If they were doing such a poor job and were not able to do this, those numbers would be there. The evidence would be there. Not one person presented that kind of evidence to the Board.

Dr. Egner stated that the one thing the Board does have is the ability to check on this, and that doesn't happen very often. There are fewer than 100 A.A.s in the state. They don't practice in numerous places.

Dr. Davidson stated that they are in about 50 places.

Dr. Egner stated that a large number practice in Cleveland. An investigator can go in and see if they are following the rules. The enhanced supervision is very unique. No one else has that. That's an easy thing to check on. The Board has the ability to see that they are really doing what the rule says to do. Whether the Board likes it or not, people other than physicians render medical care.

Dr. Egner stated that she spoke with Dr. Agresta prior to coming here today, and he was also in favor of option B. A.A.s have to be taught these procedures. The statute requires it. The statute says that teaching these procedures is part of the A.A.'s education. That also means that the Legislature knew that that is part of their scope of practice.

Dr. Egner stated that she believes that the Board has seen that the ACT is an optimal model. It's better than other options that the Board has. She believes that the education that the A.A.s get and the model that they work under alleviates a lot of concerns that the Board should have. Option B is restrictive, requiring the anesthesiologist to be right there.

Dr. Somani stated that five years ago, if you were talking about medical mistakes, Board members would have said that they aren't a major problem. Once people started looking into it in a serious manner, people were able to find problems. Part of the difficulty in the medical profession is that for too long it has denied that a lot of things happen, but physicians see it all of the time. He's not willing to accept the fact that because no one has shown there is a problem, the problems don't exist.

Dr. Egner stated that there are going to be medical mistakes, whether the doctor does everything or the doctor allows other people to help. The Board doesn't have evidence to say that it will lessen mistakes if it only lets doctors do things. That's a rather superior attitude to have. The Board doesn't have the evidence that that's true. The Board might be preventing more mistakes to have other people involved. They are not the same as the anesthesiologist. The anesthesiologist makes the plan and is the responsible party.

Dr. Garg stated that you may not consider the intent of the legislation, but you have to consider what is

written down. The statute specifically lists the tasks an A.A. may perform. There are two certain regional procedures that say that the A.A. may “assist” in the performance of the task. Dr. Garg noted that a lot of time harm is not reported; perhaps an anesthesiologist took care of the problem. That doesn’t mean that there was no harm. The Board doesn’t have to show harm. Forty percent of the disciplinary actions are on impaired physicians. Nobody has shown that they’ve done harm to part of the public, but the Board knows that there is the potential. He’s not reading the statute the way Dr. Egner is reading it.

Dr. Egner stated that that is exactly what Mr. Dilling has talked about. He told the Legislature that that’s where the Board would be when they wrote the law. They weren’t clear.

Dr. Steinbergh stated that she and Dr. Davidson also took part in the initial meetings with Senator Drake at the time the Legislation was being worked on, and it was clearly the intent that A.A.s would not “perform” procedures, but only assist. She doesn’t know about Senator Drake telling one group one thing and another group another. She only knows what she heard at the time of the discussion.

Dr. Garg said to forget about “intent,” and just go by what is written in the statute.

Mr. Wayda stated that the question is whether the Board can say that A.A.s can perform spinals and epidurals because the language of the statutes says “assist” versus “perform.” Mr. Wayda stated that at the September Board meeting, Mr. Dilling was asked in his role of legal advisor to the Board if there were reasons why the Board did not have the authority to pick any of the options, and Mr. Dilling’s answer was that the Board has equal authority to choose any of those three options.

Dr. Garg again stated that Mr. Browning asked the same question during the Executive Committee meeting and got the same answer. He then stressed how the law is written.

Mr. Browning stated that, to restate Mr. Wayda’s comments, the Board has the legal authority to pick option A, B or C. His experience with the Legislature is that “intent” conversations are fundamentally political conversations. The Board’s legal staff, backed up by the Assistant Attorneys General, have advised that the Board has the legal authority to choose option A, B or C. Board members shouldn’t feel that they can’t make a choice because of a discussion on “intent.”

Dr. Steinbergh stated that the hearing record was a terrific record, and Dr. Egner’s committee did a wonderful job in bringing together the educational experiences of the A.A.s. She noted that Dr. Egner personally visited the school to see how they were trained. The Board has heard testimony from anesthesiologists who use A.A.s, and she continues to have a respect for their decision making. She still feels that anesthesiologists ought to have extenders that they can use appropriately, based on the educational background. She does believe that they have presented their case. A lot of what is being heard is what she considers to be “emotional testimony.” The Board would like it if it didn’t have to have this discussion and the practice of medicine was only being performed by physicians today, but it isn’t. This group happens to be identifiably separate from other physician assistants because they are so trained specifically in one area. That is where they focus. They deal with these patients day in and day out. She must respect the anesthesiologist who uses them. It is the anesthesiologist’s license on the line. She

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respects the intellectual integrity of the anesthesiologist to choose how he or she will use an assistant.

Dr. Garg stated that he doubts the integrity of some, not of all. Dr. Garg stated that he doesn't think anyone has said anything emotional. Board members are just stating facts as they see them. The Board is trying to do its best in what is expected of it in the responsibility of making the rules. There is nothing emotional about it.

Dr. Garg added that, if Dr. Steinbergh is going to respect the feelings of the anesthesiologists, she should vote the way their Association urges.

Dr. Steinbergh stated that most of them don't use A.A.s.

Dr. Egner stated that the Board really doesn't know the feelings of the OSA membership. She doesn't think that the Association has been very good about telling us exactly who feels what way.

Dr. Garg stated that the Board has the OSA's testimony before it. The other side might have been more convincing because they attended the rules hearing in bigger numbers and were more vocal.

Dr. Egner stated that she believes the Board heard about equal numbers of those who were pro-A.A. and those who were part of the OSA. Even the OSA in one part of its testimony said that quite a few anesthesiologists today still don't know what an A.A. is. Dr. Egner stated that she doesn't think that the Board has a strong feel either way. She thinks that both sides have been very vocal and both sides have made very good points.

Dr. Talmage stated that the minority can sometimes be an educated and a corrected minority. It hasn't yet persuaded everybody in the medical community. Innovation comes in by somebody bringing about the innovation and saying that it will work, and will you give me fair hearing, and try to let it work. When it is dangerous, you have to put brakes on it.

Mr. Browning stated that it's important to go forward with this, and asked Dr. Garg to restate his motion.

Dr. Garg stated that he moved to adopt option A, excluding brachial punctures, but including radial and dorsalis pedis.

Mr. Albert stated that he seconded Dr. Garg's motion. He added that there are only around 90 of these individuals around. Ohio is breaking ground here, and there will be a lot of people watching what Ohio does. He commented that the physician population is finally getting to the point where they are accepting the fact that there are a lot of people getting hurt. There was a Harvard study five or six years ago that indicated that there are 90,000 people killed every year in hospitals. There are a lot of people hurt who don't know that they've been hurt. They just think they've had a bad outcome.

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

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

The motion carried.

#### PROBATIONARY REPORTS

Mr. Browning referred the Board to the Compliance Staff's reports of conferences with probationers on December 9 and December 10, 2002. He noted that all probationers are in compliance.

**DR. TALMAGE MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH NICHOLAS G. ESPINOZA, D.O.; WILLIAM H. FIEGENSCHUH, JR., M.D.; WALTER L. GEORGE, JR., M.D.; BRIAN HEIM, M.D.; RAYMOND E. HENSHAW, II, M.D.; W. ANDREW HIGHBERGER, M.D.; RICHARD M. HOFSTRA, M.D.; SIDDARTH M. KHOSLA, M.D.; WILLIAM H. NOBLE, III, D.O.; JOHN P. ROBINSON, D.O.; STEPHEN J. ROLFE, M.D.; WILLIAM A. ROMER, M.D.; DON R. SHEGOG, M.D.; JORDAN B. STERNS, M.D.; RODNEY L. TOMCZAK, D.P.M.; JOSEPH A. TORE, M.D.; KELLI D. WAHL, M.T.; SAMUEL Z. WESTERFIELD, M.D; PAUL W. WILSON, D.O.; ANDREGINALD O. WINDOM, M.D. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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PROBATIONARY REQUESTS

MOHAMMAD A. ADAS, M.D.

Dr. Adas' request for approval of a treating psychiatrist was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE PATRICE TORRES-AREHART, M.D., TO SERVE AS DR. ADAS' TREATING PSYCHIATRIST. DR. BHATI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

WILLIAM L. CRAWFORD, M.D.

Dr. Crawford's request for approval of a treating psychiatrist and a monitoring physician was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE PHILLIP L. BORDERS, M.D., TO SERVE AS DR. CRAWFORD'S TREATING PSYCHIATRIST. DR. STEINBERGH FURTHER MOVED TO APPROVE RONALD P. BRENNAN, M.D., TO SERVE AS DR. CRAWFORD'S MONITORING PHYSICIAN, WITH TEN (10) FILMS 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. Buchan	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

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Dr. Garg - aye  
Dr. Steinbergh - aye

The motion carried.

JOHN D. FREED, M.D.

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

**DR. STEINBERGH MOVED TO APPROVE DR. FREED'S REQUEST TO ELIMINATE THE CONTROLLED SUBSTANCE LOG REQUIREMENT. DR. TALMAGE 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. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

JAMES H. GRAY, JR., D.O.

Dr. Gray's request for approval of a recordkeeping course and an extension of time to complete the course was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE CASE WESTERN RESERVE UNIVERSITY'S INTENSIVE COURSE IN MEDICAL RECORD KEEPING, AS FULFILLMENT OF PARAGRAPH B.9. OF THE BOARD'S ORDER OF MARCH 13, 2002. FURTHER MOVED TO GRANT DR. GRAY'S REQUEST TO EXTEND THE PERIOD OF TIME IN WHICH HE CAN ATTEND THE COURSE TO THE NEXT TIME IT IS OFFERED, IN JUNE 2003. DR. GARG 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. Buchan	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

GLENN A. IBEN, M.D.

Dr. Iben's request for approval of a treating psychiatrist was presented to the Board for consideration at this time.

**DR. SOMANI MOVED TO APPROVE MICHAEL S. SCHOTTENSTEIN, M.D., TO SERVE AS DR. IBEN'S TREATING PSYCHIATRIST. DR. GARG 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

BAK C. KIM, M.D.

Dr. Kim's request for a modification to the terms of his August 11, 1999 consent agreement was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO DENY DR. KIM'S REQUEST TO ELIMINATE THE ALCOHOL AND DRUG REHABILITATION MEETING LOG REQUIREMENT OF HIS CONSENT AGREEMENT. DR. SOMANI SECONDED THE MOTION.** A vote was taken:

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

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Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

ANTHONY W. KITCHEN, M.D.

Dr. Kitchen's request for approval of a practice plan, a monitoring physician and a supervising physician was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE DR. KITCHEN'S PROPOSED PRACTICE PLAN, WITH THE EXCEPTION THAT HE CANNOT SUPERVISE PHYSICIAN ASSISTANTS. DR. STEINBERGH FURTHER MOVED TO APPROVE MARK S. SLABINSKI, M.D., TO SERVE AS DR. KITCHEN'S MONITORING PHYSICIAN, WITH TWENTY (20) CHARTS TO BE REVIEWED ON A MONTHLY BASIS, AND WAYNE B. CAYTON, JR., M.D., TO SERVE AS DR. KITCHEN'S SUPERVISING PHYSICIAN. DR. BHATI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

DAVID R. MILLER, M.D.

Dr. Miller's request for approval of a treating psychiatrist was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE DAVID W. DEMUTH, M.D., TO SERVE AS DR. MILLER'S TREATING PSYCHIATRIST. DR. BHATI SECONDED THE MOTION.** A vote

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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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

MICHAEL J. O'BRIEN, D.O.

Dr. O'Brien's request for approval of an assessing psychiatrist was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE PATRICE TORRES-AREHART, M.D., TO SERVE AS DR. O'BRIEN'S ASSESSING PSYCHIATRIST. DR. BHATI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

RAMACHANRA K. PUDUPAKKAM, M.D.

Dr. Pudupakkam's request for a reduction in his appearance schedule was presented to the Board for consideration at this time.

**DR. TALMAGE MOVED TO APPROVE DR. PUDUPAKKAM'S REQUEST TO REDUCE HIS**

**APPEARANCE SCHEDULE TO ANNUAL APPEARANCES. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

JAMES L. REINGLASS, M.D.

Dr. Reinglass' request for approval of a treating psychiatrist was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE GENE M. GILBERT, M.D., TO SERVE AS DR. REINGLASS' TREATING PSYCHIATRIST. DR. TALMAGE 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

DON R. SHEGOG, M.D.

Dr. Shegog's request for approval of a revised practice plan was presented to the Board for consideration at this time.

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Dr. Steinbergh stated that she did ask Ms. Bickers to obtain a copy of Dr. Shegog's CV to include his radiologic training because the practice plan would allow him to do locum tenens work in radiology. She suggested tabling this request until the Thursday session to allow more time for Dr. Shegog to submit his C.V.

Dr. Talmage stated that his concern with locum tenens is that the monitoring physician would be remote from the location in which Dr. Shegog is doing his work. Also, Dr. Shegog would be replacing a physician who would normally, in many cases, be the only physician reading x-rays in that facility. There wouldn't be a supervising physician. He questioned whether locum tenens is a tenable practice plan for this physician. The supervision would be extremely loose, and he doesn't think that that would be in the best interests of the patient.

**DR. TALMAGE MOVED TO DENY DR. SHEGOG'S REVISED PRACTICE PLAN. DR. BHATI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

SARAVANA E. SIVASHANKER, M.D.

Dr. Sivashanker's request for approval of a revised practice plan and a new monitoring physician was presented to the Board for consideration at this time.

**DR. SOMANI MOVED TO APPROVE DR. SIVASHANKER'S REVISED PRACTICE PLAN. DR. SOMANI FURTHER MOVED TO APPROVE BERNARD K. OPPONG, D.O., TO SERVE AS DR. SIVASHANKER'S MONITORING PHYSICIAN, WITH TEN (10) CHARTS REVIEWED ON A WEEKLY BASIS. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

JAMES E. STURMI, M.D.

Dr. Sturmi's request for approval of a treating psychiatrist was presented to the Board for consideration at this time.

**DR. BHATI MOVED TO APPROVE RICHARD E. MINTER, M.D., TO SERVE AS DR. STURMI'S TREATING PSYCHIATRIST. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

NED E. WEINER, M.D.

Dr. Weiner's request for approval of a treating psychiatrist was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE GREGORY B. COLLINS, M.D., TO SERVE AS DR. DR. WEINER'S TREATING PSYCHIATRIST. DR. BHATI 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. Buchan	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

REGINALD O. WINDOM, M.D.

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

**DR. STEINBERGH MOVED TO APPROVE JONATHAN L. MYLES, M.D, TO SERVE AS DR. WINDOM'S MONITORING PHYSICIAN, WITH TEN (10) CHARTS REVIEWED ON A MONTHLY BASIS. DR. BHATI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

REINSTATEMENT REQUESTS

WILLIAM A. ROMER, M.D.

Dr. Romer's request for reinstatement of his license to practice medicine and surgery, which was suspended by Board Order of September 12, 2001, was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO REINSTATE THE LICENSE OF WILLIAM A. ROMER, M.D. , EFFECTIVE FEBRUARY 14, 2003, SUBJECT TO THE PROBATIONARY CONDITIONS OF THE BOARD'S ORDER OF SEPTEMBER 12, 2001. DR. SOMANI 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. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

EUGENE ALLAN BREWER, M.D.

Dr. Brewer's request for reinstatement of his license to practice medicine and surgery, which was suspended by Board Order of July 10, 1996, was presented to the Board for consideration at this time.

**DR. GARG MOVED TO REINSTATE THE LICENSE OF EUGENE ALLAN BREWER, M.D., SUBJECT TO THE PROBATIONARY CONDITIONS OF THE BOARD'S ORDER OF JULY 10, 1996. MR. ALBERT 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. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

At this time Mr. Albert asked the Board to recognize Dr. Egner for her valuable work on the A.A. rules. The Board acknowledged Dr. Egner with a round of applause.

Thereupon at 5:15 p.m. the February 12, 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 February 12, 2003, as approved on March 12, 2003.



R. Gregory Browning, President



Anand G. Garg, M.D., Secretary

(SEAL)



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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**February 13, 2003**

R. Gregory Browning, Ph.D., President, called the meeting to order at 8:00 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; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Anant R. Bhati, M.D.; David S. Buchan, D.P.M.; Pitambar Somani, M.D.; Anquetette Sloan; and Anita M. Steinbergh, D.O. The following joined the meeting later Patricia J. Davidson, M.D. The following did not attend the meeting: Ronald C. Agresta, M.D.

Also present were: William J. Schmidt, Assistant Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Lori S. Gilbert, Chief Enforcement Coordinator; Rebecca J. Marshall, Enforcement Coordinator; Rebecca J. Albers, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Mark Wayda, Chief of Executive Staff.

At this time Mr. Browning recognized Dr. Somani for his term as President of the Board, and presented him with a plaque, expressing the Board’s appreciation of Dr. Somani’s leadership.

LICENSURE

PHYSICIAN LICENSURE APPLICANTS

At this time the Board considered applications for licensure as doctors of medicine and surgery, doctors of osteopathic medicine and surgery and doctors of podiatric medicine and surgery.

**DR. STEINBERGH MOVED TO APPROVE THE APPLICANTS LISTED IN LICENSURE EXHIBIT (A) FOR ENDORSEMENT LICENSURE, SUBJECT TO RECEIPT AND APPROPRIATENESS OF ALL NECESSARY DOCUMENTATION. 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. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

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The motion carried.

AMY BLACK, P.A. APPLICANT

Ms. Black's application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE MS. BLACK'S REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. GARG 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

LAWRENCE DECIPEDA, P.A. APPLICANT

Mr. DeCipeda's application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE MR. DECIPEDA'S REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. BHATI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

TRENTON HILES, P.A. APPLICANT

Mr. Hiles' application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. BHATI MOVED TO APPROVE MR. HILES' REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

SUKHDEEP REEN, P.A. APPLICANT

Mr. Reen's application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE MR. REEN'S REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. GARG 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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CHRISTINA WALLS, P.A. APPLICANT

Ms. Walls' application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. TALMAGE MOVED TO APPROVE MS. WALLS' REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. BHATI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

BELMONT COMMUNITY HOSPITAL - 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 BELMONT COMMUNITY HOSPITAL'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. GARG 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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JAMES GOTTFRIED, M.D. - P.A. UTILIZATION PLAN

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

**DR. GARG MOVED TO APPROVE DR. GOTTFRIED'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, AND SUBJECT TO RECEIPT OF CONFIRMATION THAT THE P.A. WILL SEE NO MORE THAN 25 PATIENTS PER DAY.**

Dr. Talmage advised that there is no rule or statute limiting the number of patients seen by a P.A. to 25 per day. He stated that it is simply the Board's custom to approve for that number only. In instances where the P.A. may be working ten to twelve-hour shifts, the Board may need to look at the 25-patient limit as an unrealistic expectation. He added, however, that in this case the 25 patient limit is appropriate.

Dr. Garg stated that the Board has had extensive discussion over the years and has come to the point where it feels a 25-patient limit is appropriate.

Dr. Buchan stated that the Board has approved more in the case of P.A.s working in emergency departments. This is a family practice setting. Each request should be evaluated on its own merits.

Dr. Garg stated that some specialties have only been approved for five to ten patients per day. Sometimes the Board has approved over 25.

Dr. Talmage stated that he has not seen the Board approve more than 25 for anyone. He added that, in an emergency room, on a twelve-hour shift, that would mean two patients per hour, and that would be totally unacceptable.

Dr. Bhati stated that that's not necessarily true. He could work on a trauma patient for two hours.

Dr. Talmage stated that the P.A. isn't going to see the trauma patient.

Dr. Bhati and Dr. Garg stated that they do. Dr. Bhati added that they will work with the physician on a patient.

**DR. BHATI 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

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Dr. Garg - aye  
Dr. Steinbergh - aye

The motion carried.

RONALD HAWES, M.D. - P.A. UTILIZATION PLAN

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

**DR. TALMAGE MOVED TO APPROVE DR. HAWES' 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. Buchan	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

HOCKING VALLEY MEDICAL GROUP - P.A. UTILIZATION PLAN

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

**DR. TALMAGE MOVED TO APPROVE HOCKING VALLEY MEDICAL GROUP'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. Buchan	- aye
Dr. Somani	- aye
Ms. Sloan	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

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The motion carried.

DAN O. ELLIOTT, M.T.

Mr. Elliott's application for restoration of his license to practice massage therapy, which lapsed on August 31, 1997, was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE MR. ELLIOTT'S APPLICATION FOR RESTORATION OF HIS LICENSE TO PRACTICE MASSAGE THERAPY, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, AND SUBJECT TO HIS 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. Buchan	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

ARNE SIPPENS GROENEWEGEN, M.D.

Dr. Groenewegen's request for endorsement of Steps 1, 2 and 3 of the U.S.M.L.E. was presented to the Board for consideration at this time. Dr. Groenewegen is a graduate of a school that is not accredited by the LCME. He has not been engaged in the active practice of medicine since 1998.

**DR. GARG MOVED TO APPROVE DR. GROENEWEGEN'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, AND SUBJECT TO HIS PASSING THE SPEX.**

Dr. Talmage noted that Dr. Groenewegen passed Step 3 of the USMLE in August 2002, and asked why he would need to take the SPEX.

**DR. GARG WITHDREW HIS MOTION.**

Dr. Somani at this time suggested that, in the future, applications with training or non-practice issues be given first to the Licensure Committee for review and its recommendation to the Board.

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Dr. Garg stated that that makes sense, so long as the licensing process isn't delayed.

Dr. Buchan suggested proceeding with this application, noting that Dr. Groenewegen had three years of training, and just passed Part 3 of the USMLE.

**DR. GARG MOVED TO APPROVE DR. GROENEWEGEN'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. HE FURTHER MOVED THAT, IN THE FUTURE, ISSUES SUCH AS THIS BE REFERRED TO THE LICENSURE COMMITTEE FOR ITS RECOMMENDATION TO THE BOARD.** The motion died for lack of a second.

Dr. Davidson joined the meeting at this time.

Ms. Thompson asked for clarification on what should go to the Committee.

Dr. Somani stated that the P.A. Committee currently reviews all supplemental applications. His main concern is that the Board should give careful consideration to applications that are exceptions to the standard requirements.

Dr. Steinbergh stated that she doesn't see a problem with this application since the applicant just passed the USMLE.

**DR. GARG MOVED TO APPROVE DR. GROENEWEGEN'S REQUEST FOR ENDORSEMENT LICENSURE, 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. Buchan	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

**DR. GARG MOVED TO REFER ANY FUTURE LICENSURE APPLICATION WHERE THERE ARE EXCEPTIONS TO THE BOARD'S LICENSURE COMMITTEE FOR RECOMMENDATION WITHIN THE SAME MONTH. IF THE COMMITTEE DOES NOT MEET, THE APPLICATION SHALL GO TO THE FULL BOARD, IN ORDER TO AVOID**

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**DELAY. DR. SOMANI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

DAVID E. JONES, M.D., D.P.M.

Dr. Jones' request for special accommodations under the ADA for Step 3 of the USMLE was presented to the Board for consideration at this time. Dr. Jones has been diagnosed with Attention Deficit Disorder (ADD)

Dr. Steinbergh stated that she felt that Dr. Jones' request was appropriate after reviewing the letters and the evaluation. Dr. Jones has ADD, and the National Board of Medical Examiners (NBME) recommends granting his request.

Dr. Talmage stated that the Board has several letters stating that there is little credible evidence that Dr. Jones has ADD.

Dr. Steinbergh disagreed, stating that the Board has a letter from a psychologist and a licensed counselor, advising that Dr. Jones has ADD. She felt that the Board should grant him extra time for the examination, as requested.

Dr. Bhati noted that the expert from the NBME does not agree with the diagnosis.

Dr. Steinbergh stated that she does not agree with the NBME expert's diagnosis. She feels that Dr. Jones falls clearly under the ADA, and allowing extended testing time is appropriate.

**DR. STEINBERGH MOVED TO GRANT DR. JONES' REQUEST FOR EXTRA TESTING TIME TO ONE AND A HALF TIMES THE NORMAL TESTING TIME. DR. GARG SECONDED THE MOTION.**

Dr. Bhati noted that Dr. Jones has submitted documentation of his ADD by an individual with a Ph.D. in developmental psychology, a professor of psychiatry, and a director of an ADHD clinic affiliated with a

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major university for many years.

Dr. Steinbergh stated that, as a primary care physician, she sees a lot of this. Sometimes recommendations will differ. She has to give some credibility to Dr. Jones' personal experience and also the counselor who is working with him and assessing him. She again stated that the documentation that he has ADD is credible, and she would hesitate to deny the request. She added that she doesn't know who the NBME evaluator is, and the Board doesn't have as extensive an evaluation from him as it has from Dr. Jones' counselor.

Mr. Albert asked how much extra time Mr. Jones wants.

Ms. Thompson stated that Mr. Jones has requested twice as much time. Applicants are permitted to request twice or one and a half the time.

Mr. Albert asked what the allotted time for a test is.

Ms. Thompson stated that it's a two-day test, so Mr. Jones wants to do it in four days.

Dr. Steinbergh stated that she agrees with one and a half times. She doesn't think that two times is appropriate.

Dr. Buchan stated that he voted to deny Dr. Jones' request when he reviewed it in his office, but he does find that Dr. Jones' letter was awfully compelling. The NBME expert did not have the benefit of seeing this individual. He stated that he would be willing to vote for Dr. Steinbergh's motion. The diagnosis was made by a counselor.

Mr. Albert also spoke in support of one and a half times.

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

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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

SHANNON JO BARTLETT, P.A. APPLICANT

Ms. Bartlett's application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE MS. BARTLETT'S REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

VICKI DISHON, P.A. APPLICANT

Ms. Dishon's application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE MS. DISHON'S REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. BUCHAN 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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JOHN MANUEL GARCIA, P.A. APPLICANT

Mr. Garcia's application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. BUCHAN MOVED TO APPROVE MR. GARCIA'S REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. BHATI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

FARAN HENWOOD, P.A. APPLICANT

Ms. Henwood's application for full registration as a physician assistant was presented to the Board for consideration at this time.

**DR. SOMANI MOVED TO APPROVE MS. HENWOOD'S REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. GARG 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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MARK JAROCH, M.D. - P.A. UTILIZATION PLAN

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

**DR. GARG MOVED TO APPROVE DR. JAROCH'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. Buchan	- aye
	Dr. Somani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

LISA LARKIN, 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. LARKIN'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. GARG 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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RONALD HAWES, M.D. - P.A. UTILIZATION PLAN

The above-captioned revised P.A. Utilization Plan was presented to the Board for consideration at this time. Dr. Hawes has asked to increase his P.A.'s patient load to 25 patients a day.

**DR. STEINBERGH MOVED TO APPROVE DR. HAWES' REVISED P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION.**

MIKE C. UMERAH, M.D.

Dr. Umerah's request for special accommodations under the ADA for the USMLE Step 3 examination was presented to the Board for consideration at this time. Dr. Umerah requested extended testing time and extra break time. He has been diagnosed with sleep apnea and narcolepsy. The NBME has recommended approved extra break time only.

**DR. TALMAGE MOVED TO GRANT DR. UMERAH'S REQUEST FOR EXTRA BREAK TIME AND TO DENY DR. UMERAH'S REQUEST FOR EXTRA TEST TIME. DR. GARG SECONDED THE MOTION.**

Dr. Steinbergh expressed concern that the information provided indicates that Dr. Umerah' is not following the guidelines that his physician has set up. He is at risk of falling asleep while driving and harming himself and others. Dr. Steinbergh stated that it is the Board's responsibility to point out to Dr. Umerah that the Board is aware that he is not following his physician's advised therapy.

Ms. Thompson stated that, if Dr. Umerah passes Step 3 and applies for a license in Ohio, the Board will get more current information.

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

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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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RULESADOPTION OF CHAPTER 1 RULES

At this time the Board reviewed the Findings and Order pertaining to Administrative Rules 4731-1-17 (new), 4731-1-19 (new) and 4731-1-24 (rescind), concerning limited branch schools. These rules were filed with JCARR on November 7, 2002; the public hearing was held on December 12, 2002; the JCARR hearing was held on December 30, 2002; and JCARR jurisdiction ended on January 11, 2003.

**DR. STEINBERGH MOVED THAT THE FINDINGS AND ORDER “IN THE MATTER OF THE ADOPTION OF AMENDED RULES 4731-10-01, 4731-10-02, 4731-10-04, 4731-10-05 AND 4731-10-07; RESCINDED RULES 4731-1-24; 4731-10-03, 4731-10-06, 4731-10-08, 4731-10-09, 4731-10-10, 4731-10-11, 4731-10-12, 4731-10-13, 4731-10-14, 4731-10-15 AND 4731-10-16; AND NEW RULES 4731-1-17, 4731-1-19; 4731-10-03, 4731-10-06, 4731-10-08, 4731-10-09, 4731-10-10 AND 4731-10-11 OF THE OHIO ADMINISTRATIVE CODE,” AS PERTAINING TO CHAPTER 1, AND AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 13<sup>TH</sup> DAY OF FEBRUARY, 2003, BE ADOPTED AS THE FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE PROPOSED RULES CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULES IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER. DR. SOMANI 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

ADOPTION OF CHAPTER 10 RULES

At this time the Board reviewed the Findings and Order pertaining to Chapter 10 Administrative Rules, concerning license registration and reinstatement. These rules were filed with JCARR on November 18, 2002; the public hearing was held on December 23, 2002; the JCARR hearing was held on January 21, 2003; and JCARR jurisdiction ended on January 22, 2003.

**DR. SOMANI MOVED THAT THE FINDINGS AND ORDER “IN THE MATTER OF THE**

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**ADOPTION OF AMENDED RULES 4731-10-01, 4731-10-02, 4731-10-04, 4731-10-05 AND 4731-10-07; RESCINDED RULES 4731-1-24; 4731-10-03, 4731-10-06, 4731-10-08, 4731-10-09, 4731-10-10, 4731-10-11, 4731-10-12, 4731-10-13, 4731-10-14, 4731-10-15 AND 4731-10-16; AND NEW RULES 4731-1-17, 4731-1-19; 4731-10-03, 4731-10-06, 4731-10-08, 4731-10-09, 4731-10-10 AND 4731-10-11 OF THE OHIO ADMINISTRATIVE CODE,” AS PERTAINING TO CHAPTER 10, AND AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 13<sup>TH</sup> DAY OF FEBRUARY, 2003, BE ADOPTED AS THE FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE PROPOSED RULES CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULES IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER, TO BE EFFECTIVE FEBRUARY 28, 2003. DR. GARG 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### OFFICE BASED SURGERY RULES

Dr. Bhati stated that that morning the Committee discussed certain issues that were raised during the hearing.

Dr. Bhati stated that one big issue concerned liposuction and how much total volume can be aspirated. The recommendations were anywhere from 150 to 300 cc. Most of the literature reviewed indicates that up to 4500 cc is an acceptable volume. The Committee accepted that.

Dr. Bhati stated that the main portion of the Committee's time was spent on the question of whether or not the Board needs to accredit the tumescent liposuction centers. The Committee voted three to two to require accreditation. Dr. Bhati stated that he understands that the issue of cost of accreditation was raised. According to Mr. Wayda, accreditation could cost as much as \$650.00. Dr. Bhati asked for Board input.

In response to Mr. Browning's questions, Dr. Bhati stated that the limit of 4500 cc would be per patient visit or per procedure. 4500 cc is the equivalent of four quarts.

Dr. Talmage commented that the four quarts is after they've put about 1500 to 2000 cc of saline with

anesthetic and epinephrine in it. They're taking that back out, plus 2000 to 3500 cc of fat.

Dr. Bhati stated that this is a large volume, but the literature supports that amount as being safe to aspirate.

Dr. Somani stressed that this is a single procedure.

Dr. Talmage agreed, stating that there would only be tumescent liposuction, without any other procedure performed.

Dr. Talmage stated that there were two on the Committee who felt that accreditation in an office where only local anesthesia was used was not necessary. As long as they use proper cannula size, proper dosing of epinephrine and local anesthetic and aspirate 4500 cc or less, accreditation is not necessary. He noted that that was a minority opinion on the Committee.

Dr. Bhati stated that it is a good argument, when reviewing cases in other states, problems arise where offices are significantly increasing the amount of aspirate. If the Board can make a center safer by requiring accreditation, the public will be better protected. Dr. Bhati added that liposuction does cost close to \$2,000 and more per procedure.

Dr. Garg asked where the Committee got the \$650 figure.

Mr. Wayda stated that the staff contacted different accrediting agencies and found out what their fee structure was for accrediting offices. Depending on who you go to and the type of accreditation you are seeking, it can be anywhere from as little as \$650.00 for one year, and as high as \$3,900.00. It depends on the organization you go to, how many physicians are working in the office, and the number of different procedures that will be performed in that office.

Dr. Somani stated that he sees more positive benefit for the public in accreditation. If the public knows that the center is accredited, they will feel a lot more comfortable that someone is watching what is going on.

Mr. Albert asked how much blood a person loses in this procedure.

Dr. Talmage stated that blood loss per procedure is very minimal, probably 50 cc or less.

Mr. Albert asked how often the patient can undergo the procedure.

Dr. Bhati stated that the Board doesn't have literature to answer that question.

Mr. Albert recalled a case where a doctor performed the procedure on a patient who later went home and went into shock and died.

Ms. Lubow stated that the patient actually died in the doctor's office.

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Dr. Bhati stated that technology has improved, as has the procedure. This has allowed the increased amount of aspirate. He added that there are claims that there have not been complications in over 66,000 cases of tumescent or diluted lidocaine suctioning. He added that he doesn't believe that claim. He added that he is very concerned about this.

Dr. Egner stated that accreditation is not going to assure the safety of the procedure. It's also not going to ensure the quality of the physician. It's only going to look at the steps that the office has in place to handle complications and report them.

Dr. Talmage stated that the accreditation process, however, does require that they have in place a credentialing process, which then should assure that the physician has the proper training to do that procedure. It will also require a quality assurance process to address reporting and examination of any complications or untoward outcomes.

Dr. Egner noted that, generally speaking, the Board does require accreditation of people doing surgery under local. She asked whether the Committee wants this to be an exception because the complication rate is potentially high.

Dr. Bhati stated that the Committee approved requiring accreditation. It is now up to the Board.

Dr. Garg asked Dr. Talmage whether accreditation is yearly.

Dr. Talmage stated that, typically, if there is a conditional, one-year accreditation, that means that there are minor variations. Accreditation is normally for three years. He added that his understanding is that a three-year accreditation is \$2950 for a three-year accreditation.

Dr. Garg asked whether they have to reapply for reaccreditation if they make any changes in that three years, such as adding a physician or changing location.

Dr. Talmage stated that, in order to have status with Medicare and JCAHO, they have to have a certain percentage of unannounced, interim reinspections. If there is a physician that changes or another major change, credentialing has to be revised.

Dr. Garg asked whether it is obligatory.

Dr. Talmage stated that he believes that it does require modification, but he's not sure.

Dr. Buchan stated that he is in favor of accreditation in general, but he drew this as an exception because it is under local anesthetic. The evidence, in his review, didn't support that tumescent anesthesia used purely created a high complication rate. Morbidity and Mortality was associated more with levels of anesthesia, not local anesthetic. He accepted this procedure under the criteria Dr. Talmage reviewed, cannula, anesthetic and volume of total aspirate as being acceptable without necessarily requiring accreditation. The

other side of that coin is, if the Board does require accreditation, the charge will be passed on to the consumer.

Dr. Bhati questioned doing 66,000 cases without complication. He doesn't believe for a minute that 66,000 cases, with up to 4500 cc being aspirated, would result in no complications.

Dr Talmage stated that there is a report by the Institute of Quality Improvement, which is a companion organization to the AAAHC, which did review tumescent liposuction as an individual procedure, and they found a complication rate of less than .7 percent. This involved a smaller number, and it was not voluntary reporting, but survey. They found that all of the complications were minor. They also looked at the ranges of dosages, volumes extracted, etc., and what they came up with was approximately the middle or just a little bit to the middle of the bell curve. There were volumes up to 11,000 cc extracted, and that was way outside the bell curve. There were doses of anesthetic up to 90 total mg, which was outside the bell curve. Even with those deviations from the average or mean, they still did not have the high complication rate. Most complications were such things as hematomas and slight fluid overload that required observation over night, without any deaths being reported.

Dr. Davidson stated that he agrees with Dr. Talmage. She stated that she was a resident when liposuction seemed to become a popular procedure, and it was a bloodbath. They would admit patients and transfuse them, and she wondered whether it was worth it. The tumescent technique came in, and shortly after those patients went out of the hospital and she didn't see them anymore, but, clearly, the canister of fat was no longer full of blood, it was just yellow fat. The patients were much more stable and able to handle things after their surgery.

Dr. Davidson stated that whenever the Board can go with true evidence, it's very worthwhile. The Board is handicapped by the lack of true data in this whole setting. She referred to the AAAHC Institute of Quality Improvement information in the hearing record, and stated that she feels that it is on point. With the criteria involved, she agrees with the minority opinion that accreditation is not necessary. She added that she is a huge fan of accreditation, but added that these rules are going to be a hard sell, and this is one area in which the Board can give way.

Dr. Bhati read from the hearing record the accounts of several procedures that resulted in adverse outcomes following liposuction.

Dr. Somani stated that Dr. Talmage has said that an independent group looking at these cases have found a 7 percent complication rate. That translates to seven out of 1,000. That means that out of 10,000 procedures, you can expect 70 complications. Dr. Somani stated that the risk is there. Accreditation puts everyone on notice that they have to follow certain procedures. Once the Board approves the rules, the Board will not be there to watch the centers. With accreditation, somebody would be monitoring quality, complications, etc. At least there will be a process in place where quality is being monitored. Without accreditation, there won't be anything in place. Seventy cases out of 10,000 seems to be a high number.

Mr. Wayda stated that, independent of accreditation, the Board has a separate rule on mandatory reporting,

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and a separate rule for requirements for the cannula size and those sorts of things, that the Board will enforce. He doesn't believe that an accrediting agency would enforce those things.

Dr. Bhati continued that Dr. Harter made a presentation to the Committee the previous day, comparing the serious complication of death in an accredited and non-accredited set-ups, and there are twelve times more complications in a non-accredited center.

Dr. Buchan stated that the Board is talking purely about pure tumescent anesthesia. Those complications reported in an office setting involved all varieties of surgery. He doesn't think that the Board can compare those two. There are guidelines in place, as well as checks and balances. He again stated that, while he is a fan of accreditation, this is a very narrow area for which he personally does not favor accreditation.

Mr. Browning asked whether the Board has information on the accreditation process.

Dr. Talmage stated that the Office of Accreditation handbook is available, and he can provide it to the Board. It goes over those areas that would be inspected and would acquaint the Board with the process.

Dr. Talmage agreed with Dr. Buchan, that Dr. Harter's comments were anecdotal. He added that Dr. Coldiron did analyze all of the Florida data and each of the cases in which there was a death involved a patient who should not have had any kind of office surgery in the first place. That would not have been found by accreditation. They were patients with anesthesia risks, they were given more than local anesthesia, or they had a complication after multiple procedures performed in the same setting. None of them were pure tumescent anesthesia. Dr. Coldiron analyzed those very carefully and in the narrow area of single procedure, tumescent anesthesia liposuction, there is no evidence of significant complications, nor are there deaths.

Mr. Albert stated that there are rules and reporting requirements, but he thinks that the cost of accreditation is a small amount to put in another layer of protection for the public.

Dr. Garg stated that Mr. Wayda was going to get a copy of the Florida study from Dr. Harter. He suggested that Board members review that information before voting on this issue.

Mr. Browning asked whether the Board should also be given copies of the accreditation materials.

Mr. Wayda stated that he has copies of the office accreditation manuals from all of the accreditation groups. He would make those available to any Board members who would like them.

Dr. Bhati asked Mr. Wayda to find out how much it would cost to accredit an office for tumescent liposuction under local anesthesia.

Mr. Wayda stated that he will ask, but he doesn't know whether any agency will wish to speculate on that.

Dr. Bhati stated that the second issue talked about involves C.M.E. credits required for those physicians

supervising C.R.N.A.s in an anesthetic state. At hearing, the O.S.M.A. spoke in opposition to having five hours of C.M.E. specified for those individuals who supervise C.R.N.A.s. Dr. Bhati stated that C.R.N.A.s also object to this because it puts an added burden on physicians who supervise them. Dr. Bhati noted that a non-anesthesiologist physician could be supervising the C.R.N.A., and he asked whether such a physician would be able to supervise the C.R.N.A. administering anesthesia and handle any problems that arise. Dr. Bhati stated that he doesn't think that most physicians are equipped to do that. Most physicians who graduate from internships and residency programs, don't even go through a rotation in anesthesiology. The Committee believes those individuals should have five hours of C.M.E. in anesthesiology.

Mr. Wayda stated that the twin issues are C.M.E. and hospital privileging, and whether it does, in fact, expand the scope. He has talked with Mr. Dilling and Ms. Thompson about this and their recommendation is that the Board draw these pieces of the rules out into a separate rule so that if, in fact, the JCARR challenge on this rule is lost by the Board, it won't impinge on the integrity of the rest of the rule package.

Dr. Bhati stated that, according to the existing rules, the person who performs the procedure cannot give anesthetic. Michael Kreines, M.D., testified at hearing that the standard practice right now is for gastroenterologists to give IV medication to the patient for sedation and then have a nurse monitor while he performs the procedure that needs to be done. Dr. Kreines indicated that he would like an exception to the proposed rule for gastroenterology. Dr. Bhati stated that the question arose as to what happens if the patient needs more medication in the middle of a procedure. It was decided that at that point the physician would discontinue the procedure, let the nurse give the patient Demerol and then make sure that the Demerol does not have an adverse effect on the patient, and then continue his procedure. He cannot take the colonoscope out to administer the drug himself. Dr. Bhati stated that the Committee made some changes in the language of the rule to allow that.

Dr. Bhati stated that the last point is that Propofol is a rather new drug being used by endoscopists now. They give continuous medication. The advantage of this drug is that it leaves the system very quickly. The problem is that the Committee didn't want to address a specific drug to be used because that would open Pandora's box, and the Board would have to address every drug used. The Committee decided not to comment on that drug.

Dr. Talmage stated that the other issue on Propofol is that, while it does metabolize rather quickly, it is also very difficult to regulate the depth of anesthesia because it occurs very rapidly. The transition from moderate to deep conscious sedation could be very rapid even in general anesthesia. Making an exception for Propofol doesn't seem to be appropriate in an office setting at this time.

Dr. Davidson agreed, and added that the wording changes made to accommodate the gastroenterologists is very appropriate and well-written. The bit about Propofol concerns her. Dr. Davidson stated that people kind of push the envelope and then the organizations and regulatory side of it catches up, hopefully not too late. Propofol is what you give instead of Pentathol. Propofol is a better drug because the patient wakes up better and doesn't throw up. It's a general anesthetic. It has worked its way out into the world and is probably one of the hottest topics in medical staff regulations. Gastroenterologists have been very creative in using it for colonoscopy. Dr. Davidson stated that the American Society of Anesthesiologists (ASA) has

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guidelines and recommendations. They had not addressed the use of Propofol for the same reason as the Committee did not, but recognized it as a special situation and did state that, by definition, you're doing deep sedation if you're using Propofol, and you have to use the safety measures of deep sedation. That's what concerns her about the gastroenterologists, because she doesn't think that that really got brought out. Gastroenterologists were not talking about deep sedation.

Dr. Buchan stated that the Committee's focus was on anesthesia, and not drugs per se. As long as they stay in the moderate to mild category, the Committee doesn't care how they get there.

Mr. Wayda advised that he believes that the Board will be seeing this again, and will be asked to make final decisions on these rules.

Dr. Davidson stated that she has one comment on the C.M.E. requirement. She stated that she hopes that the Board can support that requirement. It looks like it has a lot of opposition, but she doesn't believe that O.S.M.A.'s objection to the C.M.E. requirement is on point. O.S.M.A. has always been against mandated focused C.M.E., but this isn't as a condition of licensure. This is to allow the physician to do certain things. This is how hospitals handle it, and she thinks it is appropriate for the Board to handle it in the same way. It probably won't cure everything. The available C.M.E. isn't perfect, but it's getting there. It is very appropriate to require some kind of education, some kind of documentation of competence to supervise the administration of anesthesia. This requirement has been legally upheld in other states.

Dr. Garg stated that the Board has to have language in the rule concerning the purpose for requiring it. He spoke in favor of this.

Dr. Steinbergh spoke in favor of focused C.M.E. in this area. It's clear that, if people want to supervise C.R.N.A.s in the administration of anesthesia, they do need focused training in anesthesia.

Dr. Steinbergh continued that, as far as accreditation, she does favor it in pretty much all areas. She always worries about these little start-up businesses where there's a gimmick and a way to make money. If it's not properly regulated or monitored, there's no question that it puts the patient population at risk. She favors accreditation.

Dr. Garg added that if a physician is practicing in the hospital and doing a new procedure, he or she has to prove that he or she has had that extra training. He doesn't think focused C.M.E. in these situations is a new thing.

Mr. Albert also spoke in support of the focused C.M.E.

#### [PATIENT SAFETY DISCUSSION FORUM \(PSDF\) ON REDUCING MEDICAL ERRORS](#)

Ms. Lubow referred to her and Mr. Dilling's memorandum of January 28, 2003, a copy of which shall be maintained in the exhibits section of this journal. She advised that she and Mr. Dilling have been attending meetings of this group, which is organized under the auspices of the Department of Health at the behest of

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Governor Taft. It's comprised of regulatory health board representatives and representatives from professional associations. The goal of the group is to come up with some project that will promote the reduction of medical errors.

Ms. Lubow stated that copies of information the group will be launching in conjunction with Patient Safety Awareness Week are being distributed to Board members. They are also going to be launching a website in conjunction with this. The focus of their first project, which they're calling, "Ohioans First," is to eliminate dangerous abbreviations. The website will allow visitors to click on logos for each of the member organizations to get a summary of the kinds of projects each organization is doing in order to promote elimination of these abbreviations, as well as other things they are doing to eliminate medical errors.

Ms. Lubow continued that one of the things that the Medical Board's site will have is access to the Board's newsletter. The current issue deals with medical errors, and includes an article about the PSDF project. There are also articles by Dr. Somani, Dr. Garg and Mr. Albert, and a statement from the Pharmacy Board and Medical Board, talking about legibility of prescriptions.

Ms. Lubow advised that the PSDF will meet via teleconference call to wrap up the details for the launch of the website. They are also going to be discussing future projects this group might take on. Ms. Lubow commented that Mr. Dilling has been very interested in getting this group to take on the idea of endorsing JCAHO's goals for 2003. His enthusiasm for this is that it's something that's already done. It's sitting out there on their website and is designed primarily for organizations, but there are people who are working within all of these organizations, and they seem like very laudable goals. Ms. Lubow stated that the PSDF group is more geared toward putting together big projects. Mr. Dilling would like to urge them to do this as an interim measure, but he also is asking the Board members to take a look at this and endorse this as a group themselves. It has been included in the Board's newsletter as part of the Secretary and Supervising Member article.

**DR. STEINBERGH MOVED TO ENDORSE JCAHO'S 2003 NATIONAL PATIENT SAFETY GOALS AND RECOMMENDATIONS. DR. GARG SECONDED THE MOTION.**

Mr. Albert stated that he thinks this is a great deal. One of the big criticisms the public has of the medical profession and Medical boards in general, whether real or perceived, is that they don't recognize medical errors that are occurring. This project is really great and does a lot to protect the public, and it does a lot to enhance the Board's image.

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

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

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

The motion carried.

JOINT REGULATORY STATEMENT REGARDING THE USE OF PROTOCOLS TO INITIATE OR ADJUST MEDICATIONS

Dr. Davidson stated that the Board has seen this joint statement, a copy of which shall be maintained in the exhibits section of this journal, before. It's coming to the Board for approval at this time.

**DR. STEINBERGH MOVED TO APPROVE THE "JOINT REGULATORY STATEMENT REGARDING THE USE OF PROTOCOLS TO INITIATE OR ADJUST MEDICATIONS."**  
**DR. GARG 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

SECRETARY AND SUPERVISING MEMBER REPORT

SECRETARY TRANSITION

At this time Dr. Garg indicated his intention to resign from the position of Board Secretary at the end of June. Toward that end, a list of his duties has been distributed to Board members for their consideration in electing a new Secretary. Dr. Garg stated that he has served as Secretary for about five and a half years, and he feels it is time for someone new to take over.

Dr. Garg suggested that the Board create the office of Secretary Elect, so that the incoming Secretary has time to work with him to learn his responsibilities. Dr. Garg commented that it is disruptive when there is a change of Secretaries and the new Secretary is unfamiliar with the job. Things slow down because there

is so much to learn. He suggested that the Secretary Elect would start to work with him and Mr. Albert on April 1.

Mr. Browning stated that the Assistant Attorney General has suggested that that could be done with minor modification, not in the substance of the concept, but in the language used. He stated that there is some anxiety about having a Secretary Elect get involved in investigative activities, even in a shadowing sort of role. It would be better to nominate and elect a Secretary to take office July 1, and understand that there will be a transition period in the sense that there will be a concerted effort to do as Dr. Garg described, i.e., a learning period where the new Secretary would be involved in learning and understanding the job and being a part of the process without being designated, "Secretary Elect."

Dr. Garg stated that he hopes that the Assistant Attorney General discussed this with Mr. Dilling, because they spent a lot of time on structuring this, and they didn't see any problem with it.

Mr. Browning stated that he doesn't think that it is a substantive change, other than the investigatory issue that will have to be worked out.

Dr. Garg stated that most of the work done is investigative.

Mr. Browning stated that this is going the extra mile to make doubly sure that it can be done in the appropriate fashion.

Mr. Schmidt stated that it truly is semantics. The statute doesn't address the position of Secretary Elect. Many organizations have a President and President Elect, but that's provided in the bylaws of the organization. Rather than voting for a Secretary Elect, the Board would be voting for a Secretary to assume office on July 1.

Mr. Browning questioned whether the Board needs an election at this time.

Dr. Talmage suggested that a proper motion would be that the Secretary position shall be elected a minimum of three months prior to taking that office. That provides for what would have been proposed here. Everyone else is elected one month prior to taking office.

Dr. Steinbergh stated that she would hesitate to do that. There's nothing wrong with just simply electing a Secretary now and not projecting into the future.

Dr. Garg remarked that the Secretary "Elect" will not sit in on investigative conferences that appear to be headed toward citation or consent agreement.

Mr. Browning stated that Ms. Albers has stated that the Secretary "Elect" will not participate in any investigative work that would compromise his or her ability to vote on the same case. It's not just the substance, but the appearance that the Secretary "Elect" may be both prosecutor and juror.

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**DR. GARG NOMINATED DR. TALMAGE TO SERVE AS SECRETARY, BEGINNING JULY 1, 2003. DR. BHATI SECONDED THE NOMINATION.**

**DR. GARG MOVED TO CLOSE THE NOMINATIONS. DR. BUCHAN 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

By acclamation, Dr. Talmage will serve as Secretary, beginning July 1, 2003.

#### PRIORITY CODES

Dr. Garg referred the Board to statistics on disciplinary actions and priority codes. He stated that the report is a good summary of the statistics for the last five years. He stated that the Board has had about 513 QIP cases from the time QIP began. That does take away numbers by resolving problems through other than disciplinary action.

Dr. Somani stated that the statistics highlight the fact that the Board is doing a great job. There is no question that the Board sees a lot of tough cases.

Dr. Somani asked where this information fits in with what Ohio is doing with malpractice situations and complaints. He noted that there have been issues raised in public discussions about what the Board is doing about all these bad doctors who malpractice. Dr. Somani stated that he would like to see additional information.

Dr. Bhati stated that the Board has been talking about it for a number of years, but has done nothing about it.

Ms. Gilbert stated that there are a few things to consider when thinking about malpractice. It can come to the Board's attention in a number of different ways. If it comes directly from the patient, the Board would categorize it as something other than malpractice. You may not get a malpractice report for five years after the fact, when the physician actually has to make a pay-out. The Board may have addressed that long

before it became a reportable event.

Ms. Thompson stated that when malpractice comes to the Board in the form of a formal action, the Board will not know whether there's been a malpractice case or not, no matter how the Board learned about it. What the Board will see is a minimal standards case. The fact that it also is a malpractice case and there was a payout is not relevant to what the Board is looking at in the hearing setting. Some patient harm cases could be malpractice cases, or they may not be. The patient may never have sued the doctor, maybe they did, or maybe they will while the Board's process is going on. They're very independent processes. The Board tells complainants that because sometimes they'll come to the Board first, and they'll be concerned. They're told that a malpractice case is separate and that the complainant needs to see a private attorney, and that can go on at the same time the Board's process is going on and it won't come into the hearing record. At this time Ms. Thompson explained how the Board staff processes malpractice reports.

Dr. Somani stated that he believes the Board needs a general idea of what's happening in those cases. An analysis on a regular basis might be helpful.

Dr. Garg asked Ms. Wehrle to add a "malpractice" column to her report.

Ms. Wehrle indicated that she will work with Ms. Thompson and Ms. Gilbert on the report.

Dr. Talmage stated that he understands that in some malpractice cases, the record is sealed with no negligence admitted, and that information isn't available to the Board if the individual makes a separate complaint to the Board. Malpractice really has almost no bearing on what the Board would consider because the Board doesn't have evidence available to it in many cases. Sometimes it's an expert against an expert in the courtroom.

Ms. Thompson stated that it's true that almost all settlement agreements have a confidentiality provision in them that aren't filed with the court. What you see in the court record is, "dismissed with prejudice, cost to the defendant." Because of state and federal mandatory reporting requirements, the Board does get those reports, which are supposed to tell the Board how much is paid out and give the Board a synopsis. Almost always liability is disputed. Physicians are not admitting that they did anything wrong.

Dr. Garg added that there are some cases that are expunged, where the Board can't get information.

Dr. Bhati stated that he thought the Ohio Bar Association produces a report of all judgments against doctors. That would be a very easy source to get all of the reports. Most of the lawfirms have that information.

Ms. Thompson stated that, by law, the Board is supposed to get those reports.

Ms. Gilbert stated that the Board doesn't have trouble getting a report because of a confidentiality agreement. The Board has more trouble due to the time that's passed since the case has been at issue, or because it's been in the courts, the records have been subpoenaed and the original x-rays are now with

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someone's attorney.

Dr. Talmage stated that the Board has had challenges and appeals based upon the fact that the Board is inconsistent. He asked the Disciplinary Policy & Guidelines Committee to look at the feasibility of trying to develop a profile of what has been the range of discipline in certain types of common cases that the Board sees so that the Board can remain as consistent as it possibly can.

Ms. Lubow stated that Mr. Porter does a compilation report of cases on a quarterly basis.

Dr. Steinbergh stated that the guidelines are very specific. The Board members always discusses its reasons for taking a disciplinary action that falls outside the guidelines.

Dr. Bhati expressed an interest in seeing statistics on how impaired physicians with a one year probation do as compared to physicians with five years' probation.

Mr. Albert and Dr. Somani left the meeting at this time.

Dr. Garg stated that some Board members have expressed concern about Dr. Talmage being both President and Secretary next year. Dr. Garg stated that he's not sure that would be the right thing, but that's a question for future discussion.

#### RATIFICATION OF CONSENT AGREEMENTS

**DR. BHATI MOVED TO REMOVE THE TOPIC OF CONSENT AGREEMENTS FROM THE TABLE. DR. STEINBERGH SECONDED THE MOTION.** All members voted aye. The motion carried.

[JAMES M. ROSSELIT, JR., D.O.](#)

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

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

The motion carried.

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## REPORTS BY ASSIGNED COMMITTEES

### EXECUTIVE COMMITTEE

Mr. Schmidt at this time referred to Mr. Dilling's Administrative Report. He introduced Shannon Freed, the Board's new Executive Staff Attorney, who will work with Mr. Wayda on legislation and various other projects.

Mr. Browning stated that the Committee discussed the budgetary problems the state is facing and the need for a policy regarding the attendance at annual meetings or any other out-of-state travel. The Committee recommends that Board members who attend, do so every other year, alternating with other Board members. Six members would go each year. Mr. Browning stated that the policy isn't written in stone, and can be changed in the future, as needed.

Dr. Garg stated that perception is very important when everyone is under a budget crunch. He added that the Board can probably get as much information from presentations made by those who attend. The only thing the Board has to consider is how it wants to do this. It should be on a rotating basis so that the same people don't go every year, while the Board is in budget difficulties. He noted that Dr. Talmage has suggested that new members, who have not been exposed to the Federation, should probably be given the opportunity to attend, but seniority is also important, as are nominees to Federation office.

Mr. Browning stated that it seems reasonable that the Board would consider those on an ongoing basis. He added that a motion isn't needed, as long as there is agreement that six members is a reasonable number. The Board already knows that Dr. Agresta, Dr. Talmage, Dr. Steinbergh and Dr. Somani are going and are paid for in whole or in part. There are two openings, as well as two staff being paid for by an executive staff scholarship which is sponsored by the Federation. Mr. Dilling and Ms. Gilbert will be attending in those spots. At issue today is the two vacancies.

Dr. Steinbergh agreed that it is very important for new Board members to attend the meeting. It is also important for members to attend who are involved in the elective process at the Federation and/or if they have a goal to be elected in the future. Being present on a yearly basis is very important for those members who may have that goal. It's important for them to be seen and to be known.

Dr. Talmage stated that there is a dichotomy here in that the Federation pays the travel expenses for some people, but it does not pay the per diem. Six people go with per diem. If they choose to go on travel only and not take the per diem, that could be extended to a seventh or eighth member.

Dr. Steinbergh stated that any Board member could go at his or her own expense.

Mr. Browning agreed with Dr. Steinbergh. He stated that the Board can afford to send everyone, but there is the broader issue of what is appropriate given the context of state government.

Dr. Garg stated that it will be a very fine line to walk to decide who goes and who doesn't. Unless you

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have seniority, you're not going to get into the election process; but that doesn't mean you should go every year if you have designs on running for office some day.

Mr. Browning suggested filling the two vacant spots after the meeting, noting that staff has to know today.

Ms. Sloan stated that she is not able to attend this year, and she will not be able to attend every year.

Dr. Egner stated that she doesn't need to go, but those in private practice and in jobs make arrangements ahead of time. The decision must be made in a timely fashion. She already has that time blocked off on her calendar, and if she isn't going to go to Chicago, she will work.

Mr. Browning stated the decision will be made this morning.

#### EDUCATION, PUBLIC RELATIONS AND RISK MANAGEMENT COMMITTEE

Dr. Egner stated that the Committee has nothing to report at this time. She referred to the current of "Your Report," which she feels is excellent. She added that the Board's website is constantly being updated and changed, and she referred to new pages that will be added, copies of which are in the agenda package. Dr. Egner thanked Ms. Wehrle, Mr. Wayda and Ms. Bates for their efforts on the newsletter.

#### PRESCRIBING COMMITTEE

No report this month.

#### LICENSURE COMMITTEE

No report this month.

#### LEGISLATIVE LIAISON AND RULES REVIEW COMMITTEE

Mr. Browning stated that the Legislature is just getting off the ground and is focused on the state budget, which will be center stage through June 30. Other items will emerge in time.

#### LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed a draft rule (a copy of which shall be maintained in the exhibits section of this journal) revising the rule on massage therapy curriculum. The modifications are consistent with academic and curriculum changes. Dr. Buchan reviewed the proposed changes to the rules.

#### **DR. GARG MOVED TO DIRECT STAFF TO PROCEED WITH RULES HEARING ON THE PROPOSED DRAFT RULES. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Buchan stated that Dr. Garg assisted with the drafting of these rules, based on his experiences as

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Secretary in reviewing complaints. That addition helped the Committee address areas of concern.

Dr. Steinbergh referred to a recent article in the newspaper about a licensed massage therapist being charged with sexual assault on a client.

Ms. Schmidt advised that the newspaper was in error. The individual named in the paper is not licensed by this Board.

Dr. Steinbergh stated that the Board should seek a retraction of that statement. She stated that there are implications there for the Medical Board if that's not true. It's interesting that that particular spa is hiring non-licensed individuals.

Mr. Wayda stated that the Board has a long-standing relationship with the Cosmetology Board, which has a law that says you cannot do massage in a spa unless you are licensed as a cosmetologist or esthetician and you're doing only relaxation massage, or if you are licensed as a massage therapist and doing therapeutic massage. Unlicensed people cannot do massage in a salon. The case in the newspaper was one where a salon owner hired somebody and the Cosmetology Board has acted.

Dr. Steinbergh again stated that she felt this should be clarified in the newspaper.

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

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

The motion carried.

Dr. Buchan stated that the Committee reviewed the application of Coastal Carolina Institute of Massage Therapy, in Wilmington, North Carolina, for a certificate of good standing, and recommends approval.

**DR. GARG MOVED TO APPROVE COASTAL CAROLINA INSTITUTE OF MASSAGE THERAPY REQUEST FOR A CERTIFICATE OF GOOD STANDING. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

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Dr. Buchan	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

P.A. COMMITTEE

Derald Madson, Jr., M.D. - Supplemental P.A. Utilization Plan

The above-captioned Supplemental P.A. Utilization Plan for the application of light based medical devices for the purpose of hair removal, using 10% direct supervision and 90% onsite supervision, with the P.A. observing the physician in performing no less than 25 procedures and the physician observing the P.A. in performing no less than 25 procedures to determine competency was presented to the Board for consideration at this time. Dr. Talmage stated that the Committee recommends approval of this request, with the proviso that the first application on a patient be done by the physician with subsequent applications done by the P.A., which is consistent with past Board decisions.

**DR. TALMAGE MOVED TO APPROVE DR. MADSON'S SUPPLEMENTAL P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, AND CONTINGENT UPON THE PHYSICIAN PERFORMING THE FIRST APPLICATION ON A PATIENT, WITH SUBSEQUENT APPLICATIONS DONE BY THE P.A. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Crystal Clinic – Supplemental P.A. Utilization plan

Dr. Talmage advised that the Committee reviewed the Crystal Clinic's supplemental request that their P.A.s be permitted to perform corticosteroid injections of the knee and diagnostic arthrocentesis of the knee. He stated that, although the P.A. Policy Committee recommended approval of these procedures for a

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P.A., the P.A. Committee recommends denying the request, based on the fact that evaluation required for the procedure is performed concurrent with the injection or aspiration. Both of these procedures can result in a surgical outcome, and would therefore be inappropriate for P.A.s to perform.

**DR. GARG MOVED TO PROPOSE TO DENY THE CRYSTAL CLINIC'S P.A. UTILIZATION PLAN, ON THE BASIS THAT THE MEDICAL EVALUATIONS AS TO THE NEED FOR SURGERY ARE MADE CONCURRENT WITH THE PERFORMANCE OF THE PROCEDURES, MAKING THEM INAPPROPRIATE FOR PERFORMANCE BY A P.A. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### QUALITY ASSURANCE COMMITTEE

Dr. Talmage advised that the Committee reviewed the Closed Complaint Review Summary Report, and recommends approval.

**DR. TALMAGE MOVED TO APPROVE THE CLOSED COMPLAINT REVIEW SUMMARY REPORT. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### SCOPE OF PRACTICE COMMITTEE

No report this month.

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

Thereupon at 10:25 a.m. on February 13, 2002, the February 12-13, 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 February 12-13, 2002, as approved on March 12, 2002.



R. Gregory Browning, President



Anand G. Garg, M.D., Secretary

(SEAL)

