

February 9, 2005

MINUTES**THE STATE MEDICAL BOARD OF OHIO****February 9, 2005**

Patricia J. Davidson, M.D., President, called the meeting to order at 1:11 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1960, with the following members present: Andrew F. Robbins, Jr., M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Anant R. Bhati, M.D.; David S. Buchan, D.P.M.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Anand G. Garg, M.D., and Anita M. Steinbergh, D.O.

Also present were: Thomas A. Dilling, Executive Director; William J. Schmidt, Assistant Executive Director; Diann K. Thompson, Assistant Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Lauren Lubow, Senior Executive Staff Attorney; Shannon F. Baldwin, Executive Staff Attorney; Lori S. Gilbert, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Burrow, Sallie J. Debolt, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, Kathleen S. Peterson and Charles A. Woodbeck, Enforcement Attorneys; Rebecca J. Albers 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; 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. MR. BROWNING SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

February 9, 2005

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

The following joined the meeting after the executive session: Sharon W. Murphy, Hearing Examiner.

MINUTES REVIEW

DR. GARG MOVED TO APPROVE THE MINUTES OF JANUARY 17, 2005. 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. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Emeka Obinna Ekwulugo, M.D.; Wenshi Gao, M.D.; Mahesh Chand Goel, M.D.; and Willie L. Josey, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

February 9, 2005

Dr. Davidson 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
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

Dr. Davidson 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.

Dr. Davidson 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.

EMEKA OBINNA EKWULUGO, M.D.

Dr. Davidson directed the Board's attention to the matter of Emeka Obinna Ekwulugo, M.D. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Ekwulugo was represented by his counsel, Douglas E. Graff. Mr. Graff explained that Dr. Ekwulugo is not present today because he is in Dallas, Texas, and their motion to postpone consideration of this case was denied. Mr. Graff stated that Dr. Ekwulugo does send his regrets for his inability to be here today.

Mr. Graff stated that this is an unusual case. Dr. Ekwulugo has been charged with failing to adequately

February 9, 2005

disclose dates and information on two applications: One was his original licensure application to the State Medical Board of Ohio from the early 1990s. The other is a reinstatement application that he has currently pending before the Board. Mr. Graff stated that Dr. Ekwulugo clearly did not list one residency program that he attended in his 1991 application. Mr. Graff noted that the record is very clear on that. This was a residency program that Dr. Ekwulugo fulfilled satisfactorily, but he did not list it on his original 1991 application. Clearly that is an oversight.

Mr. Graff stated that the second issue is that when Dr. Ekwulugo returned after ten years out of residency, he was put back as an employee at Hamot Medical Center in Erie, Pa. Dr. Ekwulugo did not consider this a residency program and therefore did not list it as a residency program when asked on his reinstatement application. That residency program did list him as a "resident," though, in fact, he was not seeking board certification. Mr. Graff noted that Dr. Ekwulugo is board certified as an OB/GYN. He didn't list his employment in the Hamot program, and he probably should have in his reinstatement application.

Mr. Graff stated that the hearing revolved around one particular event that he found unusual. In March 1988, Dr. Ekwulugo left his residency program, went on vacation, was unable to return because he didn't have a visa to return from Nigeria, his home. A lot of the hearing was used discussing why Dr. Ekwulugo left the residency program on that day because someone had written a memo and put in his file that they didn't know that he was going to leave that afternoon. No disciplinary action was taken by the program. One chief resident was upset that Dr. Ekwulugo left and put a memo in his file. Mr. Graff suggested that this is a series of cases with which the Board will have to deal. Rather than putting into the record the Form 3 that both this Board, the sister jurisdictions and the Federation of State Medical Boards agree adequately describes whether or not a disciplinary matter has taken place in a residency program, this Board refuses to do so. The Board wants to pull out individual documents from a residency file to show the physician was warned.

Mr. Graff stated that there has been national agreement that there is an absolute check on whether or not disciplinary action has been taken within a residency program. All states use it. But this Board will not put those records in the file, and holds them as confidential and not for the Board's review or the Hearing Examiner's review. Mr. Graff stated that this is not the only case in which this happened. Instead, they pull out one form where someone said, "if you don't go to more of our programs for lunch for educational purposes, you are warned you might have a problem." Mr. Graff stated that the Board now claims that his client has lied because he was warned within a residency program 15 years ago. Mr. Graff stated that that's unfair. There is a clear and absolute check that this Board will not use. Mr. Graff stated that that is information that the Board members need to have to decide whether or not his client has lied. It is not in the record and it has not been provided. This is not the first case and this is not the last case. This is information this Board needs to decide whether Dr. Ekwulugo made an inadvertent error or he lied. Mr. Graff stated that they believe that it was an inadvertent error of a program that he successfully completed.

Mr. Graff asked that Dr. Ekwulugo be given the opportunity to return to practice under whatever restrictions the Board wishes. They understand that Dr. Ekwulugo has been gone from Ohio for a while, but he does deserve the right to practice.

February 9, 2005

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

Mr. Wilcox stated that, in this matter, he agrees with the Report and Recommendation of the Hearing Examiner. He stated that the record reflects that Dr. Ekwulugo has engaged in a pattern of deceit regarding his attempts to gain licensure in Ohio. If it had been a few isolated incidents, it could potentially be explainable, but in this case the physician has misrepresented or lied about important residency program information to many sources, including to the programs themselves and the State Medical Board of Ohio. The State provided documentary evidence showing that Dr. Ekwulugo had reasons to hide reports and warnings that he had received at different times throughout his training. These reports and warnings were not at all flattering to Dr. Ekwulugo's competency as a physician. In fact, the records from the residency programs indicate that, from his earliest residency training in the late 1980s through a recent residency program at Hamot in 2003, Dr. Ekwulugo had many instances of being warned, disciplined and even suspended by the various programs.

Mr. Wilcox continued that Dr. Ekwulugo has attempted to downplay the seriousness of these written records by stating that all residents are subjected to such warnings throughout their training. Mr. Wilcox stated that the State would submit that not all residents receive written warnings threatening suspension and other disciplinary measures. Dr. Ekwulugo also suggests that these warnings and disciplinary actions are somehow not reflective of "final actions" taken by the programs, and that this somehow exempts him from reporting these actions to the Board on its application. However, the licensure application in Ohio asks for "any" disciplinary actions or warnings. It does not specify only final actions.

Mr. Wilcox stated that it all boils down to the simple fact that Dr. Ekwulugo had serious problems in not just one, but most of the training programs in which he has participated. He clearly was aware of this; he just did not want the Board to know about his past. Mr. Wilcox stated that he believes the Board can infer, as the Hearing Examiner did, that his intent was clearly to deceive. This could be seen by looking at the entire record as a whole. By failing to take responsibility for this prior conduct, by attempting to conceal his past record from the Ohio Board, and by repeatedly providing false information regarding his performance in numerous residency programs, Dr. Ekwulugo has demonstrated that he is not trustworthy. Mr. Wilcox stated that he does not believe that Dr. Ekwulugo can handle the responsibility of licensure in the State of Ohio.

Dr. Kumar asked Mr. Wilcox about the form 3.

Mr. Wilcox stated that his understanding is that it's a part of the licensure application. It's a form explaining how a physician performed in past residency programs. He again stated that, it's not about a final determination or a final pass by a program. The application questions ask whether the physician has ever been warned or censured by a program.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF EMEKA OBINNA EKWULUGO, M.D. DR. STEINBERGH SECONDED THE MOTION.

February 9, 2005

Dr. Davidson stated that she would now entertain discussion in the above matter.

Dr. Steinbergh stated that she absolutely agrees with the Report and Recommendation, and she also agrees with the Proposed Order of permanent denial of a license. She commented that Dr. Ekwulugo has had difficulties in each of his training programs. He has been warned, he has had letters, there are patient concerns throughout his training. Dr. Ekwulugo is certainly guilty of fraud on his application. He answered, "no," to questions to which he should have answered, "yes," and for which he should have supplied information. Dr. Steinbergh stated that she doesn't think that his explanations about forgetting or oversight in noting his training completely in his application were true. In reviewing the record, she sees every evidence that Dr. Ekwulugo had a rather long, torturous training period and wasn't successful at any step. Dr. Steinbergh spoke in support of denying licensure.

Dr. Egner stated that she also agrees with the Report and Recommendation. She added that she was not only bothered by the case, she is bothered by the oversimplification of it by the applicant. The Board hears today that there was just a problem with dates, and that that's what this case is really about, and that Dr. Ekwulugo needed to attend some lunch-time conferences. Dr. Egner stated that she didn't find that to be the case in this record. She found that there was a resident who left a program without any notification. He failed to list the Brookdale residency program on any materials when he entered the Jamaica Medical Center program. He used abusive language, was suspended from a program, his OR privileges were terminated. He had been reprimanded and then met with the program director for a re-review. The director wrote a letter saying that Dr. Ekwulugo failed to improve in a number of areas, including attending conferences, completing patient notes in a timely manner, completing a log book, approaching attendings for feedback and providing appropriate patient care. The director also wrote that he would not successfully complete his internship year, and no contract was offered to him.

Dr. Egner again stated that this was not a problem with dates and lunch-time conferences. It's far more serious than that. That's why Dr. Ekwulugo lied about all of this. He didn't want the Board to know how serious it was. Dr. Egner stated that she's very bothered that it's portrayed as something much simpler than that.

Dr. Garg agreed with both Dr. Steinbergh and Dr. Egner. He added that he also agrees with the Proposed Order. The only thing he wants to stress, in addition to what has been said, is that there were definite patient safety concerns in these programs. That's a very important issue. Dr. Garg stated that the Board does not have to license somebody with this kind of record.

Dr. Kumar stated that he also agrees with what has been said so far. There is no question about the fact that there are some parts of the record and notations that talk about the fact that the residency director has not sanctioned or reprimanded him for reasons other than charts and so on and so forth, but there is plenty of evidence that there was a problem with providing appropriate patient care, that he could not effectively continue to do that. Dr. Kumar stated that that is really troublesome to him. Although there are some letters of recommendation from program directors that talk about the fact that Dr. Ekwulugo is a man of high character and impeccable character, on the clinical side in every residency he had a problem. One

February 9, 2005

time his clinical responsibilities were terminated as of March 26, 2003. Having taken all of this into account, and despite the fact that the Board doesn't have the final say from the residency programs, there is enough evidence that Dr. Ekwulugo didn't do the residencies appropriately. He was having problems with all those places, with his clinical responsibilities, and with personal responsibilities. Therefore he does not deserve to have his license restored.

Dr. Bhati stated that he thinks enough has been said, but the one thing he didn't find in the chart was board certification. He couldn't find any record that Dr. Ekwulugo is board certified.

Dr. Buchan stated that he agrees with what has been said, but Mr. Graff suggests that Dr. Ekwulugo deserves the right to practice in the State of Ohio. Dr. Buchan stated that his feeling has always been that one doesn't have a right to practice. It continues to be a privilege, and will always be a privilege. Dr. Buchan stated that Dr. Ekwulugo's pattern of deceit was well-described by the Hearing Examiner. Dr. Buchan spoke in support of the Proposed Order, as written.

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

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

The motion carried.

WENSHI GAO, M.D.

Dr. Davidson directed the Board's attention to the matter of Wenshi Gao, M.D. She advised that no objections were filed to Hearing Examiner Clovis' Report and Recommendation.

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

Dr. Gao was accompanied by his attorney, Daniel D. Connor.

Dr. Gao thanked the Board for its time and consideration. He stated that there was life-threatening and life-long illness in his family during the period he was studying for and taking the USMLE. Dr. Gao stated

February 9, 2005

that he lost his mother, who had been struggling with AML (acute myelogenous leukemia), complicated by gastric obstruction and also a thoracic spine fracture.

Dr. Gao stated that in addition to his mother's illness, his son, his mother's only grandson, almost lost his life secondary to vaccine-related injury. He has been handicapped since then. Dr. Gao stated that as a son and a father, he had every reason and obligation to help both of them, while he was very busy in his training, working in the operating room with long working hours. As a medical professional for many years, he felt shame because he could not help his mother in China, when she needed him the most. He felt guilty for giving his son his oral vaccine. This was just like handing a loaded gun to an innocent kid to play with. The medicine he trusted permanently injured his only child.

Dr. Gao stated that he was very confused at the beginning, and he felt hopeless and depressed. He lost weight, and could hardly concentrate. He was so busy in the operating room, taking care of so many patients in critical condition. He did pass USMLE Step 3 last year, but that was ten months late, beyond the seven-year limitation. Dr. Gao stated that he was very, very sorry for that.

Dr. Gao continued that people in Ohio have treated him very well for the past three years. He's graduated from Ohio State. He is now only considering his family and his friends here. Dr. Gao stated that he was trained here at Ohio State, and he wishes that he could have a chance to serve Ohio people with his best in the future.

Dr. Gao again thanked the Board for its attention.

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

Ms. Albers stated that, as the Board will see from the record, Dr. Gao had some tragic circumstances in his life; but this Board has a rule that says that the waiver can be granted if the applicant suffered from a significant health condition which, by its severity, would necessarily cause a delay to the applicant's medical study. Dr. Gao's son's polio was in 1994 and his mother's death in 2001. Again, while these were tragic circumstances, there was no medical documentation introduced into this record at all of a diagnosis of a significant health condition. She asked that the Board keep that in mind as they deliberate this matter.

**DR. GARG MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF WENSHI GAO, M.D.
DR. STEINBERGH SECONDED THE MOTION.**

Dr. Davidson stated that she would now entertain discussion in the above matter.

Dr. Steinbergh stated that the Board has the ability to make an exception to the seven-year rule if the applicant ". . . suffered from a significant health condition which by its severity would necessarily cause a delay to the applicant's medical study" She stated that it's always been very difficult for the Board in discussion to decide how it applies this particular concept. Dr. Steinbergh stated that, in this particular case, she feels confident in saying that she would, in fact, vote to grant him licensure because she thinks

that he did suffer tremendous emotional loss. The condition of his son and the loss of his mother was, without question, critical in his life and his personal and mental health. Culturally, she thinks that she understands why he would have been emotionally distraught over this and how it could affect his studying and his ability to do his steps of the USMLE on time and so forth. Dr. Steinbergh stated that she agrees with the Proposed Order granting Dr. Gao a license. She stated that she sees no reason, from the educational perspective, why the Board could not.

Dr. Buchan stated that this case for him boiled down to one simple fact or thought. At the end of the day, is this fellow somebody that the Board wants to take care of citizens in this state? Dr. Buchan stated that his answer to that question is yes. The Board has the opportunity to make an exception, and he thinks that Dr. Gao's education and training is excellent, and the Board needs to move forward from here and allow Dr. Gao to work and to take care of the citizens of the State. Dr. Buchan stated that he's most comfortable with Dr. Gao being a physician in the state of Ohio and would vote in favor of the Order, as written.

Dr. Garg stated that he believes he's leaning toward that also. He stated that it's always a problem to decide whether your own personal health problems or illness are more important than those of your family, especially, in some cases, culturally. Dr. Gao has had some problems with all three steps, and perhaps that is due to the family circumstances.

Dr. Garg stated that he was impressed by Dr. Gao's summation, and if it is the wish of the Board to grant Dr. Gao a license, he will support that.

Dr. Robbins stated that he wrestled with this case a lot, too, and he's on the fence. His difficulty here is that Dr. Gao passed Step 3 on the seventh try. At the same time, during this period of significant emotional distress because of the family illnesses, he did remarkably well in his residency. There is nothing to suggest that he had difficulty at all during that time. In fact, if anything, the letters of recommendation praise him for the excellent job that he did do. Dr. Robbins stated that, to him, that doesn't connect. Dr. Robbins stated that he has difficulty with saying that the reason Dr. Gao didn't complete the USMLE in seven years was because of the family situation, but everything else in his professional life was fine. He has difficulty with that. Dr. Robbins stated that he came here today with the thought that he would have difficulty allowing the waiver in this case.

Dr. Kumar stated that, in a way, he would echo Dr. Robbins' remarks. The Board has had, in the past, individuals who did not have medical problems themselves, but because of their family situations, such as women physicians who couldn't do the examination in a seven-year period because of young children, and some have really sick children, as well, and the Board did not allow that as a reason to grant a waiver. Although he sees that Dr. Gao really had illness problems, in the past the Board has not applied the same standard if the physician wasn't medically affected him or herself.

Dr. Steinbergh stated that she understands that concern. Reading through this case she also had concerns about the number of times that he had to do the Steps, and yet, he was doing very well in the training program. Although the Board doesn't have any evidence that was put into the record in regards to the difference between clinical work and the ability to take and pass licensure examinations, she feels the

February 9, 2005

record does show that Dr. Gao put tremendous effort into his residency and was doing very well, but then there was this disconnect in terms of the examination process. So the Board does have concerns about the examination process.

Dr. Steinbergh continued that she agrees that the Board looked at this with other applicants with the same background of family stress, and she thinks that she personally was impressed or concerned about this young physician and his desire to practice in this state. He has passed the three steps, falling ten months out of the seven-year range. Dr. Steinbergh commented that it's more of an emotional response than a clear-cut response to the seven-year issue.

Dr. Garg stated that it is very difficult. He agreed with Dr. Robbins and Dr. Kumar, but if you really put your heart into your residency, it's not an easy job. It's a lot of work. Then if you have family problems, even if it's not your own health, that just adds to it. Dr. Garg stated that he is inclined to make an exception because Dr. Gao did do so well in his residency. He agreed with Dr. Kumar that there have been a lot of physicians who have had illness in their families, and it is a big issue that the Board faces again and again.

Dr. Bhati stated that he doesn't think a parent can have more pain than having their children getting hurt. He thinks that this is exactly what is being seen in this case. There was tremendous upheaval with this little boy's problems. Dr. Bhati added that he also understands the eastern civilization, from where Dr. Gao comes, and how his mother's death would have adversely affected him. Dr. Bhati spoke in support of granting Dr. Gao a license.

Dr. Garg stated that he was a little perturbed that Dr. Gao had so many attempts on different exams, but it may be due to those reasons, or maybe he's just not good at exams.

Dr. Kumar stated that one of the positive things for Dr. Gao is that he did very well in his residency program without any problems at all. He actually got glowing recommendations. Dr. Kumar stated that he has no problem granting the waiver, but he feels that the Board needs to be consistent.

Dr. Garg stated that when granting licenses, what does the Board look at? Is this individual capable of giving good medical care to the citizens of the state? Except for Dr. Gao's not being able to complete the exam sequence in seven years, he did pass exams. He has good training and good recommendations. Dr. Garg stated that he feels that Dr. Gao will be able to take care of the citizens of the State of Ohio because of the residency record.

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

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

February 9, 2005

Dr. Kumar	- nay
Mr. Browning	- aye
Ms. Sloan	- nay
Dr. Robbins	- nay
Dr. Garg	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

MAHESH CHAND GOEL, M.D.

Dr. Davidson directed the Board's attention to the matter of Mahesh Chand Goel, M.D. She advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members; however, these objections were not filed in a timely manner. Dr. Davidson asked whether the Board members wished to admit the late objections into the record.

**DR. GARG MOVED TO ADMIT DR. GOEL'S OBJECTIONS INTO THE HEARING RECORD.
DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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

Dr. Goel was accompanied by his attorney, Kevin Byers.

Dr. Goel thanked the Board for allowing him to appear before it. He apologized for taking the Board's valuable time.

Dr. Goel stated that he graduated from medical school in 1987, and he has had an unblemished medical

February 9, 2005

career ever since, with the exception of this one tragic incident that happened in the United Kingdom. He has a family to look after, including his wife, two daughters, and his elder parents. Medicine is his only profession, and he is dependent upon this profession for his livelihood, as well as for a visa to live in this country.

Dr. Goel stated that he made a mistake in the United Kingdom that was a part of systems failure five years ago. He stressed the trauma and ordeal he has been through in the last five years. No one can turn the clock back. If he could, he would.

Dr. Goel stated that he wanted to pursue medical training in the United States and was preparing for the USMLE examinations long before this incident happened in the United Kingdom. He filed the Ohio State Medical Board training certificate application form with the best of his knowledge and understanding. He had no intention to misrepresent or to deceive the Board.

Dr. Goel continued that most of the events in the United Kingdom happened later in time. He answered the question with the perspective of the United States. He added that this information is easily available and accessible to anyone, either through the internet or through the media. It was stupid to think that one could escape from the regard of the licensing boards and not disclose information.

Dr. Goel stated that he personally informed the Federation of State Medical Boards when his license was suspended in the United Kingdom. He made a similar mistake on the application form for the West Virginia Board, despite the volunteer information he gave to the Federation of State Medical Boards.

Dr. Goel advised that the Board could look at his C.V. and find that he is an academically oriented person. He wants to pursue an academic area if he is permitted to do so. He was not involved in any other lawsuit, or even in a traffic violation incident during his entire life. These, as well as his recommendations can vouch for his character.

Dr. Goel asked the Board to note that he has had no clinical difficulties or any adverse incident in the past five years, since that particular incident. In retrospect, he now fully understands the mistakes made by himself on the application form. He asked the Board to note that all the mistakes are related to a single incident. Dr. Goel stated that he fully accepts his responsibility for these mistakes, and he is ready to accept any monitoring or oversight by the Board.

Dr. Goel stated that he has been through a lot in the last five years, and today his 20-year career in medicine is at stake, and his livelihood remains bleak. Dr. Goel asked that the Board be empathetic to himself and to his family, and to minimize its penalty. Dr. Goel assured the Board that he will deliver and maintain the highest standards of care.

Dr. Kumar advised that he had a couple of questions for Dr. Goel.

Dr. Davidson advised him to proceed.

February 9, 2005

Dr. Kumar stated that Dr. Goel's presentation had raised two questions. Dr. Kumar asked whether the Cleveland Clinic was aware of the U.K. incident when he applied for his residency there.

Dr. Goel stated that he had told them. He added that he didn't come as a resident, but in a fellowship. He indicated to them that he had had trouble in England.

Dr. Kumar noted that Dr. Goel raised the issue of his visa in his address. He asked what Dr. Goel's alien status is at this time, and noted that the paperwork the Board has indicates that the visa would expire on December 31, and asked for verification that the visa was renewed.

Dr. Goel indicated that that was correct.

Dr. Garg asked Dr. Goel if, when he was doing surgery, his attending, Mr. Roberts, was also scrubbed.

Dr. Goel stated that when he was doing the surgery, he was a registrar.

Dr. Garg stated that he knows that. He asked whether Mr. Roberts was also scrubbed.

Dr. Goel stated that Mr. Roberts positioned the patient and put everything in order. He added that Mr. Roberts was not scrubbed.

In response to Dr. Bhati's questions, Dr. Goel again stated that he did not position the patient. He added that he wasn't even in the room at the time the patient was positioned. He was taking care of the first patient. When he came into the room, the patient was already positioned, and the consultant asked him to go ahead and start the case. He indicated that he would join in very soon. With that intention in mind, he checked the name of the patient and started the surgery. He was under the impression that Mr. Roberts would join in with the surgery. Dr. Goel stated that all the events were going smoothly, so Mr. Roberts never scrubbed in that case.

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

Ms. Albers stated that the evidence in this case is very clear, in fact, overwhelming, that Dr. Goel made numerous misstatements, misrepresentations to this Board. Nowhere in any of the questions is the applicant limited to what happened in the United States. The fact that the Board may have found out about this because of Internet access should have no bearing on the Board's decision. The Board's decision should be based upon the fact that Dr. Goel did not correctly answer the questions on the Board's application. Dr. Goel made misrepresentations. Ms. Albers stated that she doesn't believe Dr. Goel's testimony that he thought the questions only applied to the United States is credible.

Ms. Albers continued that the Hearing Examiner did a good job of setting out the evidence in this case, but she thinks this Board needs to question whether somebody who is willing to answer questions like he did on these applications should be permitted to practice in the State of Ohio. She asked the Board to consider that.

February 9, 2005

DR. EGNER MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MAHESH CHAND GOEL, M.D. DR. ROBBINS SECONDED THE MOTION.

Dr. Davidson stated that she would now entertain discussion in the above matter.

Dr. Garg stated that he has the start of an amendment here. Dr. Garg advised that, first, the Medical Board staff has informed him that Dr. Goel is already licensed, not waiting for a license. The license was issued as a full license to practice medicine in June 2003.

Dr. Garg stated that Dr. Goel was suspended, as was his attending, Mr. Roberts, for one year in the United Kingdom. Dr. Garg spoke in favor of reducing the Proposed suspension from 18 months to one year.

Dr. Garg stated that there are some problems in this case. If the Order stands the way it is, there are certain things that will have to be changed in the Proposed Order. Dr. Garg stated that it is very true that once a patient is positioned, which the attending did himself, according to records, and you're asked to start the case, that's a pretty normal routine in any institution. He added that he knows it is in Great Britain, having worked there. The initial mistake was not with the attending, Mr. Roberts. The initial mistake was, when Dr. Goel came back from vacation, he made a wrong entry, putting the wrong side. That's where it started. Then there was a system failure: X-rays were put the other way around, so that they read "right" as "left," and vice-versa.

Dr. Garg stated that the most important thing is that, even if the mistake of starting on the wrong side was made, you're doing surgery for a nephrectomy, a diseased kidney with a blocked artery, and you get in and you find that the artery is pulsating, which indicates that the kidney probably looked very normal. It's not very difficult for a urologist to tell if it's a diseased kidney, a bad kidney or a normal kidney. Dr. Garg stated that he thinks that that's the reason the General Medical Council of the United Kingdom's Professional Conduct Committee was really perturbed and suspended both physicians for one year.

Dr. Garg stated that the reason he asked whether Mr. Roberts was scrubbed was because the whole responsibility for this case was Dr. Goel, because the attending never scrubbed. Dr. Garg stated that he thinks that there is culpability here, and it's just not somebody who sutures a wound that didn't heal or something. The patient died in this case because one kidney was bad and the normal kidney was taken out. Dr. Garg stated that this is a serious mistake, and it's a very perturbing situation. Dr. Garg noted that Dr. Goel advised that he does take responsibility and that this was the only mistake. Dr. Garg commented that this was a big mistake and it could have been caught.

DR. GARG MOVED TO AMEND THE PROPOSED ORDER TO REMOVE THE LANGUAGE GRANTING A LICENSE AND TO SUSPEND DR. GOEL'S LICENSE FOR 12 MONTHS RATHER THAN 18 MONTHS. DR. KUMAR SECONDED THE MOTION.

Dr. Egner stated that she feels the Board has really gotten off track of what this case is about. This case

February 9, 2005

has absolutely nothing to do with Dr. Goel's taking out the wrong kidney or making a medical error. Dr. Egner stated that the previous day she received something that listed medical errors by specialty, and urology was in there. Whenever you have that "right/left" thing, there can be a medical error. Dr. Egner stated that this case is about fraud, misrepresentation, and publishing a fraudulent statement. It is not about Dr. Goel's practice.

Dr. Egner stated that she doesn't find the explanation given, that Dr. Goel didn't know that the Board would also be referring to his practice in Great Britain, to be plausible. When Dr. Goel filled out his timeline of what he had done in practice, he included all of his training and practice in Great Britain. If his thinking that what he did in Great Britain has no meaning in the United States, why would he include that on his timeline? Dr. Egner stated that she believes that Dr. Goel purposely did not tell the Board because he didn't want the Board to know. Dr. Egner stated that she doesn't find this to be that much different from the first case the Board considered today. She added that, even today, Dr. Goel talks about having to support his family and his concern about his visa. Dr. Egner stated that that is germane to every single physician who comes before the Board. Every physician's livelihood is on the line. Dr. Egner stated that she doesn't feel that Dr. Goel should have a license in Ohio because he lied multiple, multiple times, and he meant to.

Dr. Garg stated that he doesn't disagree that Dr. Goel committed fraud in his application.

Dr. Robbins stated that he agrees totally with Dr. Egner. He stated that this case is about a fraudulent statement. Dr. Robbins commented that there's no defense for wrong-sited surgery, adding that it is the horror of the surgeon. Dr. Robbins stated that if it happened to him, he doesn't know that he could practice. There's no defense for that, and Dr. Goel suffered a price. Dr. Robbins continued, however, that if this happened to any physician, it is the first thing he or she would tell a licensing board, anywhere in the world. You would put it in an addendum. If the question isn't in there, and you're questioning whether they just want activities in the United States, you'll put it in there because this had such a profound effect on your life because of what happened. Dr. Robbins stated that he doesn't think that there's any defense for applying for a license, as Dr. Goel did, and not revealing this. Dr. Robbins spoke in favor of revocation.

Dr. Steinbergh stated that she absolutely concurs. Dr. Goel was disciplined for the case itself. The Board didn't charge him with that. The Board charged Dr. Goel for the fact that he had misrepresented the facts. The real issue is that he fraudulently applied. She added that he misrepresented himself going into the Cleveland Clinic; he misrepresented himself in West Virginia and in the State of Ohio.

Dr. Steinbergh stated that she's surprised to learn now that Dr. Goel has an Ohio license, but when she came to the Board it was her intent to permanently deny licensure.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER TO ENTER AN ORDER OF PERMANENT REVOCATION.

Dr. Egner stated that there is already an amendment on the table.

February 9, 2005

**DR. GARG STATED THAT HE WOULD WITHDRAW HIS MOTION TO AMEND.
DR. KUMAR, AS SECOND, AGREED TO THE WITHDRAWAL.**

Dr. Garg suggested amending the language by substituting the following for Paragraph A of the Proposed Order:

The certificate of Mahesh Chand Goel, M.D., to practice medicine and surgery in the State of Ohio shall be suspended for an indefinite period of time, but not less than 18 months.

Dr. Garg stated that then the Board can talk about revocation or whatever it is doing or not doing.

Ms. Lubow suggested that the Board might amend the Proposed Findings to include a finding that Dr. Goel holds a current license.

Ms. Sloan agreed with Dr. Egner, Dr. Steinbergh and Dr. Robbins. She looked at this case and she didn't see any difference from the first case the Board considered. She looked at how many times a questionnaire had to be answered by Dr. Goel and how many times the answer he gave was, "no." Ms. Sloan stated that she believes it started from the fact that he was trying to hide the wrong-site surgery, because it's ridiculous the number of times Dr. Goel incorrectly answered, "no." Ms. Sloan stated that she would not be in favor of allowing Dr. Goel a license in the State of Ohio.

Dr. Kumar stated that this really points out a system failure in multiple aspects, not only what happened in the U.K. But in one way it also points to the Board that it grants training licenses or full licenses without doing criminal background checks. The Board needs to seriously look at that.

Dr. Kumar stated that, in Dr. Goel's defense, he asked Dr. Goel a specific question about whether he told the Cleveland Clinic before he applied whether he had had this problem. Dr. Goel stated that he doesn't have any record to show that. The Board has to take his word for it, and Dr. Goel did say that he told the Cleveland Clinic about the issue when he applied for his residency.

Dr. Kumar stated that there is no way that he can really accept Dr. Goel's explanation that he was filling out the application only for USA purposes. Dr. Kumar commented that he thinks that that was an attempt by Dr. Goel to cover it up. There's no question about it.

Dr. Kumar continued that, if Dr. Goel did not have that ethical problem, and if it were only a case of wrong-site surgery, he would be willing to give Dr. Goel a chance. But since the issue comes up as his not telling the truth and trying to cover it up, he can support revoking his license, as well.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED CONCLUSIONS OF LAW BY DELETING THE SECOND PARAGRAPH UNDER THE FIVE STARS, AND TO AMEND THE FIRST PARAGRAPH TO READ AS FOLLOWS:

February 9, 2005

The evidence demonstrates that Dr. Goel has lied numerous times to this Board, the West Virginia Board, and to the Cleveland Clinic. All of these lies stem from one tragic incident: his involvement in a wrong-site surgery which resulted in a patient's death. Dr. Goel testified that he had not volunteered information about this incident because it had happened in Great Britain, and he had believed that the questions only concerned his activities in the United States. This is a poor rationalization for his deceit. Further, the incident about which he lied was extremely serious.

DR. STEINBERGH FURTHER MOVED TO AMEND THE FINDINGS OF FACT TO ADD A FINDING THAT DR. GOEL DOES, IN FACT, HOLD OHIO LICENSE NO. 35.082727. DR. STEINBERGH FURTHER MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION OF HIS LICENSE. DR. ROBBINS SECONDED THE MOTION.

Dr. Davidson stated that she would now entertain discussion on the motion to amend.

Dr. Buchan stated that he thinks that this case is different from the first case. There is not a pattern of deceitfulness in the sense of multiple incidents. There's not a pattern of abusive behavior or poor conduct or bad language. This is one incident. He stated that, although he agrees that the wrong-site surgery is a forgivable act, it is a horrific medical nightmare and is something that, hopefully, no Board member will have to endure; the deceitfulness and lying was the issue in this case.

Dr. Buchan continued that he tried to convince himself that Dr. Goel was just in such a significant state of denial on this issue because of the horrific nature of it, he made a bad, bad choice not to disclose this information. Dr. Buchan stated that one bad surgical outcome continued into a series of bad choices not to be forthright; that warrants sanction, but not revocation. Dr. Buchan stated that this man has training, and he believes Dr. Goel is salvageable. He added that they believed he was salvageable in the U.K. on the issue of wrong-site surgery. For the issue of deceitfulness, he thinks that Dr. Goel should sit out for a year. He stated that he would underline and highlight the requirement for a professional ethics course and a personal ethics course. Dr. Buchan stated that he doesn't think that Dr. Goel needs to be retrained or monitored. Dr. Buchan concluded that he respects his colleagues' thoughts on this matter, but he doesn't think it rises to the level of permanent revocation for this physician. Dr. Goel has some redeeming qualities, and the horrific nature of this case, for him, allows some forgiveness on the matter.

Dr. Garg stated that Dr. Goel made a serious mistake and a patient died. Dr. Garg stated that he doesn't think that there is any question here that there is a denial when such a mistake happens. He added that he's probably learned a lesson of a lifetime. Dr. Garg stated that he thinks that there was a system failure, but he doesn't agree that there was a denial or should ever be a denial of that kind of fact. Dr. Garg stated that the only thing that the Board doesn't know is whether or not it's true that Dr. Goel thought he was supposed to write only about the United States and not about what happened outside the United States. Dr. Garg stated that, as Dr. Egner pointed out, you list everything: Where you trained, what you did, and if there had been any problem, you should list it. Dr. Garg stated that there is definitely a hiding of the fact

there, that if he doesn't tell anyone, no one will know. What the Board does about it, he doesn't know at the moment.

Dr. Bhati stated that this is a difficult case. He stated that nobody denies that a serious, fatal medical error took place. That can happen to any physician, particularly in Dr. Goel's circumstances, where the patient has already been positioned. Dr. Bhati stated that that's not the issue here. The issue here is deceptive, fraudulent representation. He asked whether that justifies permanent revocation, and added that he's not sure about that. He stated that he would definitely agree with a suspension. As far as the clinical status of this doctor is concerned, which has not shown any fault like the first case discussed today in which there were problems after problems after problems in the residency programs, Dr. Bhati stated that he believes that this physician is salvageable. How that is done is a different issue.

Dr. Egner stated that one thing she would like to say is that if the Board is not going to go for a permanent revocation of Dr. Goel's license, then she definitely thinks that whatever is done should fall within the Disciplinary Guidelines, and those call for stayed permanent revocation, minimum one-year suspension, and 5-years' probation. No one has talked about placing a stayed permanent revocation on this case, should Dr. Goel be allowed to keep his license, and she thinks that that is very important – not because of the wrong-site surgery. Dr. Egner commented that she hadn't even read this case yet, when she operated this week, and even in the operating room they had a discussion about wrong-site surgery, and every nurse in that room was able to recall an incident. That's why there's such a focus on medical errors today. It has come to the public view, and physicians need to make amends for this. That's why today Dr. Goel should have fallen on the sword and said, "I did it, it will affect me for the rest of my life." Dr. Egner stated that she doesn't believe that Dr. Goel will ever do it again, and she hopes that it will live with him forever, as it would any surgeon. Dr. Egner stated that Dr. Goel didn't do that today, nor did he do it at the hearing. That's the crux of her problem. If Dr. Goel is going to maintain his license, it must be within the guidelines.

Mr. Browning agreed with Dr. Egner. He added that he doesn't understand the logic of reducing the suspension period to one year. There was someone who was killed. It wasn't intentional, but somebody got killed. The Board members can say that they understand that, but this patient died. Now Dr. Goel lies about it repeatedly, and someone is suggesting a one-year suspension, which is a financial punishment.

Dr. Davidson suggested voting on Dr. Steinbergh's proposed amendment.

Dr. Garg stated that the question is fraud, not medical care. But if it was medical care, there were a lot of system failures. Dr. Garg stated that they are very conscious about that in the States because something is being done about it. You mark the knees, the head, the kidneys, and everybody checks and they ask the patient 20 times what is being done. Dr. Garg stated that he doesn't think that that is done in the other countries. Dr. Garg stated that there were too many people involved in this. Dr. Garg stated that he agrees that Dr. Goel is salvageable. He added that the Board doesn't know what Dr. Goel's record was in India, but knowing Great Britain, he stated that he is sure that they looked at the case and came up with a one-year suspension.

February 9, 2005

Dr. Steinbergh stated that Dr. Goel hadn't lied to the Board in Great Britain.

Dr. Garg agreed, stating that the case before the Board is lying, fraud. Whether it suspends Dr. Goel's license for one year, 18 months, five years, it doesn't matter. But the Board is dealing with misinformation. He added that he was very disappointed with Dr. Goel's presentation. He would have liked to hear Dr. Goel admit that he made all these mistakes, and he didn't. Dr. Garg stated that that was extremely disappointing for him.

Dr. Buchan stated that there is an amendment on the table, but he is in full agreement, based upon his significant feeling about the lying issue, that a stayed permanent revocation and suspension would be appropriate. He will write an order to follow, depending on the outcome of the vote on the amendment on the floor.

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

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF MAHESH CHAND GOEL, M.D. DR. ROBBINS SECONDED THE MOTION.

Dr. Davidson stated that she would entertain further discussion in this matter. There was no further discussion.

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

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

February 9, 2005

Dr. Buchan	- nay
Dr. Kumar	- nay
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Garg	- nay
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

WILLIE L. JOSEY, M.D.

Dr. Davidson directed the Board's attention to the matter of Willie L. Josey, M.D. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Josey's attorney, Kevin P. Byers, at this time withdrew Dr. Josey's request to address the Board.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF WILLIE L. JOSEY, M.D. DR. BHATI SECONDED THE MOTION.

Dr. Davidson stated that she would now entertain discussion in the above matter.

Dr. Kumar stated that he believes that this case was remanded because, initially, there was an issue of a particular test and whether the test was correct or incorrect. However, at the remand, testimony was taken from Gregory E. Skipper, M.D., the expert who had actually written the referenced article about the fallibility of that test. Dr. Skipper testified that Dr. Josey's level of EtG was a lot higher than the level he would question, and that he felt that Dr. Josey definitely did relapse and had ingested alcohol. Under that scenario, he will support the Proposed Order of permanent revocation.

Dr. Egner stated that it is very unusual for the Board to permanently revoke a license based on impairment, and that's the way that it should be; but every once in a while, there is just no other answer. In this instance, that is the case. She noted that Dr. Josey has been familiar to the Board since 1987. She stated that one would be especially diligent after already having a consent agreement, a previous Board Order, released from probation, and then another Board Order. Once again Dr. Josey violated the probationary terms. Dr. Egner stated that it is very unfortunate, but she doesn't think that the Board has another choice.

Dr. Bhati commented that the last Board Order issued a stayed permanent revocation, meaning that should

February 9, 2005

he relapse his license would be permanently revoked.

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

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

The motion carried.

FINDINGS, ORDERS AND JOURNAL ENTRIES

ELIZABETH ANN DORIOTT, D.O.

Dr. Davidson advised that, on January 20, 2005, the Board sent a letter via certified mail, return receipt requested, stating that it had reason to believe that Dr. Doriott was unable to practice according to acceptable and prevailing standards of care pursuant to Section 4731.22(B)(26), Ohio Revised Code, to wit: "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," and ordered Dr. Doriott to undergo an examination. Dr. Doriott was duly notified of the examination order and its scheduled date. Dr. Doriott failed to appear for the scheduled chemical dependency evaluation. Further, at no time did Dr. Doriott inform the Board that her failure to appear was due to circumstances beyond her control.

Dr. Davidson continued, stating that Section 4731.22(B)(26), Ohio Revised Code, provides that "failure to submit to a mental or physical examination ordered by the Board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence." Thus, the matter of Dr. Doriott is now before the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 20, 2005 NOTICE AND TO ENTER THE PROPOSED ORDER IN THE MATTER OF ELIZABETH ANN DORIOTT, D.O., EFFECTIVE IMMEDIATELY. MR. BROWNING SECONDED THE MOTION.

February 9, 2005

Dr. Davidson stated that she would now entertain discussion in the above matter.

Dr. Kumar stated that there is nothing more the Board can do.

Dr. Steinbergh stated that the record demonstrates that the Board has reason to believe that Dr. Doriott has been involved in illegal conduct to obtain controlled substances. There have been patients who witnessed her inappropriate behavior in the office. There is evidence that Dr. Doriott has agreed at times and is aware of these issues in regard to investigation. On November 18, 2004, the Board served interrogatories, and Dr. Doriott failed to respond to them. Dr. Steinbergh stated that she agrees that Dr. Doriott's certificate shall be suspended for an indefinite period of time and that the Board shouldn't consider reinstatement until Dr. Doriott meets the conditions listed in the Proposed Order.

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

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

The motion carried.

JOCINDA KAY FERGUSON, M.T. APPLICANT

Dr. Davidson advised that, on December 15, 2005, the Board sent a letter via certified mail, return receipt requested, stating that it had reason to believe that Ms. Ferguson was unable to practice the limited branch of massage therapy according to acceptable and prevailing standards of care pursuant to Section 4731.22(B)(26), Ohio Revised Code, to wit: "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," and ordered Ms. Ferguson to undergo an examination. Ms. Ferguson was duly notified of the examination order and its scheduled date. Ms. Ferguson failed to appear for the scheduled chemical dependency evaluation. Further, at no time did Ms. Ferguson inform the Board that her failure to appear was due to circumstances beyond her control.

Dr. Davidson continued, stating that Section 4731.22(B)(26), Ohio Revised Code, provides that "failure to submit to a mental or physical examination ordered by the Board constitutes an admission of the

February 9, 2005

allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence." Thus, the matter of Ms. Ferguson is now before the Board for final disposition.

MR. BROWNING MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE DECEMBER 15, 2004 NOTICE AND TO ENTER THE PROPOSED ORDER IN THE MATTER OF JOCINDA KAY FERGUSON, M.T. APPLICANT, EFFECTIVE IMMEDIATELY. MS. SLOAN SECONDED THE MOTION.

Dr. Davidson stated that she would now entertain discussion in the above matter.

Dr. Bhati stated that Ms. Ferguson obviously has an addiction problem. She's been given a chance, but did not show up for the evaluation. It is appropriate to deny her a license at this time.

A vote was taken on Mr. Browning's motion:

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

The motion carried.

RATIFICATION OF CONSENT AGREEMENTS

L. JEAN COOPER, M.D.

DR. BHATI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. COOPER. MS. SLOAN SECONDED THE MOTION. A vote was taken:

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

February 9, 2005

Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

MARK ANDREW BANKS, M.D.

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. BANKS. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MILES EDWARD DRAKE, JR., M.D.

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. DRAKE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

February 9, 2005

Dr. Steinbergh - aye

The motion carried.

PHILLIP THIELE NORTH, M.D.

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

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

The motion carried.

Dr. Davidson stated that she would like to table the topic, "Ratification of Consent Agreements," for an additional consent agreement the following day.

DR. STEINBERGH MOVED TO TABLE THIS TOPIC UNTIL THE THURSDAY SESSION. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

February 9, 2005

CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

BRUCE DOUGLAS FERTAL, D.P.M. – CITATION LETTER

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

DR. BHATI MOVED TO SEND THE CITATION LETTER TO DR. FERTAL. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

HANDEL JAY ROBERTS, M.D. – CITATION LETTER

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

DR. BHATI MOVED TO SEND THE CITATION LETTER TO DR. ROBERTS. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

February 9, 2005

The motion carried.

JOSEPH WILLIAM FISCHKELTA, P.A. – CITATION LETTER

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

DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO MR. FISCHKELTA. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Kumar left the meeting at this time.

JOHN PAUL HANYAK, 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. ROBBINS MOVED TO SEND THE CITATION LETTER TO DR. HANYAK. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

February 9, 2005

Dr. Garg - abstain
Dr. Steinbergh - abstain

The motion carried.

GERMAN V. PRADA, M.D. – CITATION LETTER

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

DR. BHATI MOVED TO SEND THE CITATION LETTER TO DR. PRADA. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Bhati	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

PERSONAL APPEARANCES

GLENN A. IBEN, M.D.

Dr. Iben appeared before the Board pursuant to his request for release from the terms of his December 11, 2002 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Iben stated that he is currently working at the United Medical Corp., which is soon to be disbanded because of Medicaid fraud charges brought against the owner of the corporation. Currently they're making efforts to incorporate themselves as physicians so that they can continue to provide medical care for a rather unattractive but needy population in the Hilltop and Cleveland Ave. districts of the city. There are three full-time physicians and one part-time physician in the practice at both clinics. He is working as the medical director at the clinics.

Dr. Steinbergh asked Dr. Iben to tell the Board what he does under those circumstances and whether or not he also practices.

February 9, 2005

Dr. Iben stated that he does practice, and added that he does more of that than just about anything else. Right now he's pretty much employed in putting together the new corporation so that they can do a decent job at what they set out to do. As medical director, what he tries to do is keep everyone practicing medicine there to a particular standard, following rules and regulations. As president of the new corporation, he will probably be responsible for the billing, too, and that will be a very interesting situation, because they have to keep it honest. People will be looking over their shoulders. Dr. Iben stated that he doesn't think that it's too much responsibility, but it's a lot. He has some systems in place, including his psychiatrist, that he didn't have almost three years ago when he became totally insane for a day and decided to commit suicide.

In response to further questions by Dr. Steinbergh, Dr. Iben stated that he sees his psychiatrist, Michael S. Schottenstein, M.D., monthly. He was seeing him every two weeks as a result of the Board-mandated agreement. He had done that for two years, and Dr. Schottenstein never really felt that they needed to see each other that frequently. He takes his medications regularly.

Dr. Bhati asked Dr. Iben to provide further information about the Medicaid investigation.

Dr. Iben stated that the investigation has concluded. The Bureau of Workers' Compensation and the Ohio Department of Job and Family Services investigated the clinics' previous owners for Medicaid and Workers' Compensation fraud. The medical director was pretty much kept out of the billing arena there. Dr. Iben stated that none of the doctors were found to be in the least culpable.

DR. BHATI MOVED TO RELEASE DR. IBEN FROM THE TERMS OF HIS DECEMBER 11, 2002 CONSENT AGREEMENT.

Mr. Albert suggested that Dr. Iben might be better off working in a different environment than that in which he is currently working.

MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

February 9, 2005

DOUGLAS B. KAREL, M.D.

Dr. Karel appeared before the Board pursuant to his request for release from the terms of his February 11, 2004 Consent Agreement. If approved, release from probation would become effective February 11, 2005.

In response to Dr. Bhati's questions, Dr. Karel stated that he is doing well. Regarding his experience with the Board, Dr. Karel advised that he's met with representatives several times, and the Board has helped him. He's followed up with his psychologist and psychiatrist. Dr. Karel stated that he has been helped quite a bit. He's very impressed with his psychiatrist, Dr. Levine. He's learned quite a bit.

Dr. Bhati asked whether Dr. Karel's pattern of communication has significantly altered.

Dr. Karel stated that he does believe so.

In response to Dr. Steinbergh's questions about his practice, Dr. Karel stated that he plans to move to Pennsylvania and has wound down his practice. He saw a few patients earlier in the day and will see one or two the following day. He will be moving to a place outside Pittsburgh. He will be working with a group of neurologists.

DR. BHATI MOVED TO RELEASE DR. KAREL, EFFECTIVE FEBRUARY 11, 2005, FROM THE TERMS OF HIS FEBRUARY 11, 2004 CONSENT AGREEMENT. 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. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Karel stated that he would like to say that Ms. Bickers has been very helpful.

February 9, 2005

MICHAEL TODD ADAMS, M.D.

Dr. Adams made his initial appearance before the Board, pursuant to the terms of his November 12, 2004 Consent Agreement.

In response to Dr. Bhati's questions, Dr. Adams stated that he is doing well. He has looked at his consent agreement and does not have any questions concerning it. He is following everything the Board has asked of him. Dr. Adams advised that, after his training certificate was suspended, he was dismissed from the clinic and his vascular surgery fellowship. He remains unemployed. He attends A.A. meetings every day and has weekly monitored urinalysis with Dr. Collins. He has a sponsor. He's also active in a Caduceus group. Dr. Adams stated that he spends the rest of his time working out, and taking care of his son while his wife works to support them.

Dr. Garg asked whether the clinic left the door open for him to reapply.

Dr. Adams indicated that he doesn't think it did.

Dr. Bhati suggested that Dr. Adams talk to the clinic on that particular issue.

Dr. Buchan asked what Dr. Adams is going to do.

Dr. Adams stated that he doesn't think that it's best for him to pursue fellowship training right now. His plan is to move back to Georgia, where he came from. He will do that within the next two months. His license in Georgia is also indefinitely suspended. He appeared before the Georgia Board last week and is waiting to hear what they've decided as far as lifting his suspension. His sponsor, his support, his colleagues and his friends are all in Georgia, so he thinks it's best that he return there. He added that Dr. Collins agrees that it would be best for him.

Dr. Bhati asked where in Georgia Dr. Adams would be moving.

Dr. Adams stated that he is going to Savannah.

Dr. Kumar asked whether Dr. Adams had a medical problem or physical problem which caused him to start taking Percocet and Ultram.

Dr. Adams stated that he had pain in his neck from his days of playing rugby. That started his Percocet problem. Then he had some back pain that developed that started him on Ultram. He's fine now that he's not sleeping on the floor and standing in the OR all the time. He doesn't really have pain now.

DR. BHATI MOVED TO CONTINUE DR. ADAMS UNDER THE TERMS OF HIS NOVEMBER 12, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. GARG SECONDED THE MOTION.

February 9, 2005

Dr. Egner asked whether Dr. Adams is going to be a general surgeon in Georgia.

Dr. Adams stated that he is, eventually.

In response to further questions by Dr. Buchan, Dr. Adams stated that he started his residency and surgery at Walter Reed in D.C. and then went to Savannah after he got out of the army and finished his general surgery residency.

Dr. Garg asked whether Dr. Adams has his Boards. Dr. Adams replied that he does. He stated that when he got out of treatment in Cleveland, he took and passed the written and oral general surgery boards.

Dr. Egner asked what Dr. Adams' wife does to support the family.

Dr. Adams stated that his wife works for the hospital in Savannah, where he did his residency. She's an attorney. She was able to keep that job and continue with it from their home in Cleveland. She will continue the job that she's had for five years.

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. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

MARK E. BLAIR, M.D.

Dr. Blair made his initial appearance before the Board, pursuant to the terms of his October 15, 2004 Consent Agreement.

Dr. Steinbergh commented that Dr. Blair is also seeking approval of a monitoring physician.

In response to Dr. Steinbergh's questions, Dr. Blair stated that he works at the Mansfield Correctional Institution. He's practicing psychiatry, although he's not board eligible in psychiatry yet. He's working for a locum tenens company, and he works about 40 hours a week doing outpatient psychiatric work.

February 9, 2005

Dr. Bhati asked whether Dr. Blair has any questions for the Board. Dr. Blair stated that he doesn't think so.

DR. STEINBERGH MOVED TO APPROVE J. HERBERT MANTON, M.D., TO SERVE AS DR. BLAIR'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH. DR. STEINBERGH FURTHER MOVED TO CONTINUE DR. BLAIR UNDER THE TERMS OF HIS OCTOBER 15, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. 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. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

JULIA RUFFIN, D.P.M.

Dr. Ruffin made her initial appearance before the Board, pursuant to the terms of her November 16, 2004 Consent Agreement.

In response to Mr. Browning's questions, Dr. Ruffin stated that she is currently working as an instructor for a local college, teaching medical terminology, anatomy and physiology. She finds the work to be very rewarding. She's also searching for other employment because her instructor position is only a part-time job. She's being considered for positions in management in different areas, not just health-care related.

In response to Dr. Steinbergh's questions, Dr. Ruffin stated that her relationship with her psychiatrist is very good. They have an open relationship, and she feels comfortable discussing any problems that she has with him. She sees him on a regular basis, about once a week.

In response to further questions by Dr. Steinbergh, Dr. Ruffin stated that she is currently taking Abilify. She has been taking it since about September 2004. Prior to that, she took Ativan and Zyprexa. She's never taken Geodon.

February 9, 2005

Dr. Steinbergh asked Dr. Ruffin to describe for her the changes that she feels have occurred since she changed from Zyprexa to Abilify.

Dr. Ruffin stated that she doesn't have any of the side effects that were associated with Zyprexa. She doesn't feel tired and exhausted or anything like that.

Dr. Bhati asked Dr. Ruffin whether she has any questions for the Board.

Dr. Ruffin thanked the Board for the opportunity to meet with it. She stated that she appreciates that.

DR. BHATI MOVED TO CONTINUE DR. RUFFIN UNDER THE TERMS OF HER NOVEMBER 16, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. 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. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

EXECUTIVE SESSION

MR. BROWNING MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONSIDER THE EMPLOYMENT OF A PUBLIC EMPLOYEE. DR. KUMAR SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye

February 10, 2005

MINUTES

THE STATE MEDICAL BOARD OF OHIO

February 10, 2005

Patricia J. Davidson, M.D., President, called the meeting to order at 8:07 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1960, with the following members present: Andrew F. Robbins, Jr., M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Anant R. Bhati, M.D.; David S. Buchan, D.P.M.; Deepak Kumar, M.D.; Anquetette Sloan; Anand G. Garg, M.D., and Anita M. Steinbergh, D.O. The following did not attend the meeting: R. Gregory Browning, Ph.D.

Also present were: Thomas A. Dilling, Executive Director; William J. Schmidt, Assistant Executive Director; Diann K. Thompson, Assistant Executive Director; Shannon F. Baldwin, Executive Staff Attorney; Marcie P. Burrow, and Kathleen S. Peterson, Enforcement Attorneys; Rebecca J. Albers, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; and Danielle Bickers, Compliance Officer.

LICENSURE REQUESTS AND PROBATIONARY REPORTS

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

There were no requests to consider a matter separately.

DR. GARG MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT "A", THE P.A. APPLICANTS LISTED IN EXHIBIT "B", AND THE P.A. UTILIZATION PLANS SUBMITTED BY THE FOLLOWING: INSTITUTE FOR INTEGRATED HEALTH SOLUTIONS; CLARK IORIO, D.O.; THE KIDNEY GROUP, INC.; LIMA PULMONARY & CRITICAL CARE ASSOCIATES; PARS NEUROSURGICAL ASSOCIATES; AND RADIOLOGY PHYSICIANS OF SPRINGFIELD. DR. GARG FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH: FRANK R. BRUENING, M.D.; DANIEL H. BRUMFIELD, M.D.; ALLAN W. CLARK, M.D.; DAVID A. DOUGHERTY, D.O.; LYNNE A. EATON, M.D.; WILLIAM H. FIEGENSCHUH, JR., M.D.; JOHN D. FREED, M.D.; ANN V. GOVIER, M.D.; W. ANDREW HIGHBERGER, M.D.; NORMAN I. HIRSCH, D.O.; RICHARD M. HOFSTRA, M.D.; PAUL E. KELNER, M.D.; ROBERT F. LINN, D.O.; MARK S. MCALLISTER, M.D.; MICHAEL SOLIMAN MIKHAIL, M.D.; DAVID R. MILLER, M.D.;

February 10, 2005

WILLIAM H. NOBLE, III, D.O.; ERDULFO PAZ PAAT, M.D.; STEPHEN J. ROLFE, M.D.; MARIE T. SHEDLOCK, P.A.; JORDAN B. STERNS, M.D.; DAVID E. SUBLER, M.D.; EUGENE F. TARESHAWTY, JR., M.D.; MICHAEL J. VJECHA, M.D.; PAUL W. WILSON, D.O.; AND REGINALD O. WINDOM, M.D. MR. ALBERT SECONDED THE MOTION.

At this time Dr. Davidson advised that, at his suggestion, Dr. Kumar has been asked to look into the feasibility of the Board's doing criminal background checks on all applicants for licensure.

Dr. Kumar advised that he would like to include in those checks those applying for training certificates, as well. Toward that end, he requested that he be provided with the number of new training certificate applicants. He indicated that he didn't need to know about renewal applications.

Mr. Dilling advised that the licensure staff would provide Dr. Kumar with the information.

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

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

The motion carried.

LICENSURE

CENTER UROLOGY ASSOCIATES, INC. – 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 THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY CENTER UROLOGY ASSOCIATES, INC., CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

February 10, 2005

Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

PROBATIONARY REPORTS AND PROBATIONARY REQUESTS

MARK E. GOLDSMITH, M.D.

The staff's report of office conference and Dr. Goldsmith's request for reductions in his appearance schedule and in his drug screen requirements were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO APPROVE THE STAFF'S REPORT OF OFFICE CONFERENCE WITH DR. GOLDSMITH ON JANUARY 10, 2005, AND DR. GOLDSMITH'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS AND A REDUCTION IN HIS DRUG SCREEN REQUIREMENTS FROM ONCE A WEEK TO TWICE PER MONTH. 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. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

AKI S. PURYEAR, M.D.

The staff's report of office conference and Dr. Puryear's requests for a reduction in his appearance schedule and approval of a monitoring physician were presented to the Board for consideration at this time.

DR. BHATI MOVED TO APPROVE THE STAFF'S REPORT OF OFFICE CONFERENCE WITH DR. PURYEAR ON JANUARY 11, 2005, AND DR. PURYEAR'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS AND TO APPROVE ELIZABETH ENGEL, M.D., TO SERVE AS HIS MONITORING PHYSICIAN.

February 10, 2005

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. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

WILLIAM DENNY ROBERTSON, M.D.

The staff's report of office conference and Dr. Robertson's request for approval of a monitoring physician were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO APPROVE THE STAFF'S REPORT OF OFFICE CONFERENCE WITH DR. ROBERTSON ON DECEMBER 6, 2004, AND DR. ROBERTSON'S REQUEST TO APPROVE RICHARD M. HINES, M.D., TO SERVE AS HIS MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED EACH MONTH. 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. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

February 10, 2005

PROBATIONARY REQUESTS

MICHAEL SHANE GAINEY, M.D.

Dr. Gainey's request for approval of a personal and professional ethics course was presented to the Board for consideration at this time.

DR. GARG MOVED TO APPROVE DR. GAINEY'S REQUEST FOR APPROVAL OF THE PERSONAL AND PROFESSIONAL ETHICS COURSE TAILORED FOR HIM BY IDA CRITELLI SCHICK, PhD, FACHE, AS REQUIRED BY PARAGRAPHS B.4. AND B.5. OF THE BOARD'S ORDER OF APRIL 14, 2004. DR. BHATI SECONDED THE MOTION.

Dr. Kumar noted that the course description does not list the number of hours. He suggested that the Board request that information in the future. He also indicated that it is important to him to know whether the course is being taught face to face.

It was the consensus of the Board that future outlines, especially for tailored courses, should include the content, the number of hours of the course, and information as to whether or not the course is taught on a face-to-face basis.

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

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

The motion carried.

LAMBERTO T. R. GALANG, JR., M.D.

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

DR. STEINBERGH MOVED TO APPROVE DR. GALANG'S REQUEST FOR APPROVAL OF KEVIN W. EGGERMAN, TO SERVE AS HIS TREATING PSYCHIATRIST. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

February 10, 2005

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

The motion carried.

ANIL H. JHANGIANI, M.D.

Dr. Jhangiani's requests for approval of a treating psychiatrist and a monitoring physician were presented to the Board for consideration at this time.

DR. KUMAR MOVED TO APPROVE: OTTO R. DUENO, M.D., TO SERVE AS DR. JHANGIANI'S TREATING PSYCHIATRIST; AND SUKIRTHARAN SINNATHAMBY, M.D., TO SERVE AS HIS MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED MONTHLY. 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. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

ROBERT E. MARSICO, JR., M.D.

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

Dr. Steinbergh noted that Dr. Cervino, Dr. Marsico's nominee, is a plastic surgeon, while Dr. Marsico is a dermatologist. Dr. Steinbergh indicated that she would want to make certain that Dr. Cervino isn't reviewing only Dr. Marsico's plastic surgery charts, but also his dermatology charts.

February 10, 2005

DR. GARG MOVED TO APPROVE A. LAWRENCE CERVINO, M.D., TO SERVE AS DR. MARSICO'S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED MONTHLY. 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. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

JAMES M. ROSSELIT, D.O.

Dr. Rosselit's request for approval of a practice plan that would allow him to work at several locations was presented to the Board for consideration at this time.

Dr. Kumar stated that he has some questions about this request. He expressed concern about a drug-dependent anesthesiologist being allowed to practice outside of a hospital. He suggested that before the Board allows Dr. Rosselit to practice in an ambulatory surgery center (ASC), such as the Plastic Surgery Institute of Dayton, Inc., it needs to see a track record for him.

Dr. Davidson stated that if the Plastic Surgery Institute has a license from the Health Department as an ASC, they do have to have certain standards of documentation. They have to fulfill the requirements of the highest credential they have, which would be licensure as an ASC.

Dr. Kumar stated that he has some concern because he knows that this practice is a two-physician plastic surgery practice. He has concerns about how closely Dr. Rosselit will be monitored. He stated that he has no problem allowing Dr. Rosselit to work in a hospital setting or the Beavercreek Surgery Center, which is associated with Greene Memorial Hospital because there are more stringent controls. Dr. Kumar stated that it would be easier for Dr. Rosselit to relapse while working in a two-man physician surgery center.

Dr. Steinbergh stated that she thinks that that is an important piece of information. She commented that the nice thing about having Board members in different areas of the State is that they often have this type of information about a practice. Dr. Steinbergh stated that she thought that Dr. Rosselit's approach to a practice plan was very thorough, but if Dr. Kumar has information that causes concern, the Board should respect that.

February 10, 2005

Dr. Kumar noted that Dr. Rosselit indicates that he won't start working at the Plastic Surgery Institute until Dr. Goldberg has approved him to work there. Dr. Kumar stated that it should come back to the Board for approval after it sees how he does in other places.

Dr. Davidson stated that the Board will never have an absolutely tight compliance setup for anesthesiologists. The Board has done a lot, almost as much as it can at this point, but the Board does count on the physician observers/monitors supervising the contact that they have. That is diluted by multiple settings.

Dr. Kumar stated that there are four anesthesiologists in the group, covering five places. There are only one or two anesthesiologists at each place at a given time.

Ms. Bickers suggested that the Board approve Dr. Rosselit to practice at Greene Memorial Hospital, The Beavercreek Surgery Center and the Dayton Heart Hospital, and require him to come back at a later time to request approval of the Plastic Surgery Institute of Dayton, Inc.

Dr. Kumar stated that that would be his recommendation.

Dr. Steinbergh added that Ms. Bickers can let Dr. Rosselit know the Board's concerns.

Ms. Bickers stated that Dr. Rosselit is also a pharmacist. She added that Dr. Rosselit has often discussed with Mr. Albert his concern about returning to anesthesiology and using those drugs that were his drugs of choice. Dr. Rosselit is pretty clear on the Board's concerns.

Concerning Dr. Rosselit's request to work at the Dayton Heart Hospital, Dr. Davidson stated that, if you're doing hearts, there's enough waste in a vial of Fentanyl that you can supply your addiction for quite a while. She noted that most anesthesiology addicts gravitate to cardiac anesthesia. She suggested that the Board also delay approving his plan to work at the Dayton Heart Hospital.

Mr. Albert stated that Dr. Rosselit's wife is also a pharmacist. He added that Dr. Rosselit has concern for himself.

Dr. Davidson stated that that is very appropriate, and she remarked that Dr. Rosselit said all the right things in his proposal. She stated that she thought this was a very impressive practice plan.

Mr. Albert continued that when he spoke to Dr. Rosselit some months ago, Dr. Rosselit wasn't sure whether he wanted to return to the practice of anesthesiology. Now he wants to try it, but if he gets to the point where he feels uncomfortable, he has indicated that he will quit doing anesthesiology. Mr. Albert stated that Dr. Rosselit knows the consequences of what could happen if he fails again.

DR. KUMAR MOVED TO APPROVE DR. ROSSELIT'S PRACTICE PLAN, ALLOWING HIM TO PROVIDE ANESTHESIA SERVICES AT GREENE MEMORIAL HOSPITAL AND THE BEAVERCREEK SURGERY CENTER. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

February 10, 2005

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

The motion carried.

REINSTATEMENT REQUESTS

ALBERTO LEON, M.D.

Dr. Leon's request for approval of a chronic benign pain assessor was presented to the Board for consideration at this time.

DR. KUMAR MOVED TO APPROVE RICARD M. BUENAVENTURA, M.D., FOR PURPOSES OF PERFORMING THE CHRONIC BENIGN PAIN ASSESSMENT REQUIRED BY PARAGRAPH B.4. OF THE BOARD'S ORDER OF NOVEMBER 10, 2004. 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. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

REPORT OF AAOE SUMMIT MEETING

Dr. Steinbergh reported on the January 8-9, 2005 Annual Summit Meeting of the American Association of Osteopathic Examiners. A copy of the agenda for that meeting shall be maintained in the exhibits section of this Journal.

February 10, 2005

ADMINISTRATIVE REPORT

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

Mr. Dilling at this time referred the Board to an article from a recent issue of *The Plain Dealer*, reporting on the Governor's plan to merge the Medical Board and other health-related boards with the Department of Health, to merge other boards, such as the Barber Board and Cosmetology Board under the Department of Commerce, and other boards under the Department of Safety. He stated that this is being proposed to increase efficiency, better accountability, better management and to save money. Mr. Dilling added that there is supposed to be a group study committee made up of representatives of the Governor's office, the Office of Budget and Management and the Department of Administrative Services. Boards were not represented on the Committee. Mr. Dilling stated that the state's budget was to be released that day, and he will review it. He noted that it is possible that there may have been an adjustment in the budget language itself.

REPORTS OF ASSIGNED COMMITTEES

EXECUTIVE COMMITTEE

Dr. Davidson stated that the Committee discussed the plans for the upcoming Federation meeting. Dr. Davidson stated that, pursuant to the Board's policy, there are five open slots for those who wish to attend. She asked that those interested in attending the meeting contact Ms. Wehrle at their earliest possible convenience. She noted that the list of attendees would be filed following the March 2005 Board meeting.

Mr. Dilling asked that no Board members make reservations at this time. He noted that there may be budgetary constraints as far as attendance.

Dr. Davidson advised that the Committee also reviewed a draft of agency goals for 2005. She referred the Board members to copies of the Committee-approved goals, a copy of which shall be maintained in the exhibits section of this journal.

DR. BHATI MOVED TO APPROVE THE PROPOSED AGENCY GOALS FOR 2005. 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. Kumar	- aye
	Ms. Sloan	- aye

February 10, 2005

Dr. Robbins - aye
Dr. Garg - aye
Dr. Steinbergh - aye

The motion carried.

LICENSURE COMMITTEE

Dr. Robbins advised that the Committee reviewed three licensure applications.

Berna K. Remzi, M.D.

Dr. Robbins advised that the Committee previously tabled Dr. Remzi's request that the Board find her previous training and experience to be equivalent to the required 24 months of approved training through the second year level. The Committee asked Dr. Remzi to provide the Board with information concerning what her duties entailed during her fellowship at the Cleveland Clinic. Dr. Robbins advised that the Committee was able to obtain information from the Clinic which the Committee felt showed equivalency, and it recommends approval of Dr. Remzi's endorsement application.

DR. STEINBERGH MOVED TO FIND THAT DR. REMZI'S PREVIOUS TRAINING AND EXPERIENCE ARE EQUIVALENT TO 24 MONTHS OF APPROVED TRAINING THROUGH THE SECOND YEAR LEVEL, AND TO LICENSE DR. REMZI, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. 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. Kumar - aye
Ms. Sloan - aye
Dr. Robbins - aye
Dr. Garg - aye
Dr. Steinbergh - aye

The motion carried.

Massarat Zutshi, M.D.

Dr. Robbins advised that Dr. Zutshi is a graduate of a non-LCME-approved school, and she has not completed 24 months of approved graduate medical training through the second year level, as required. Dr. Zutshi has requested that the Board deem her previous training and experience in India and the United States as being equivalent to the required training. Dr. Robbins stated that the Committee felt that the

training that Dr. Zutshi underwent at the Cleveland Clinic, which was listed as 100% clinical, was clearly equivalent to the 24 months of training.

DR. ROBBINS MOVED TO FIND DR. ZUTSHI'S TRAINING AND EXPERIENCE AS EQUIVALENT TO THE 24 MONTHS OF AMA-APPROVED TRAINING THROUGH THE SECOND YEAR LEVEL AND TO GRANT DR. ZUTSHI A LICENSE. DR. GARG SECONDED THE MOTION.

Dr. Steinbergh referred to Dr. Zutshi's résumé, noting that it indicates that from November 2000 to March 2004, Dr. Zutshi was the Coordinator of Clinical Research, Colorectal Surgery, which was 100% clinical. She said that she's not sure about that; it looks to her as though it wasn't clinical, but it says that it is.

Dr. Talmage stated that she could be working much as a chief resident, working as a colorectal surgeon as well as coordinating schedules, clinic assignments, etc.

Dr. Kumar stated that he believes that the Cleveland Clinic essentially brings these people who have been trained very well in as research fellows. The programs are more designed to do basic research and have some clinical input, but not that great. They really don't go into the operating room and that kind of thing. They're usually collecting data and going all over the ward, presenting all the information, data and research. The clinical work might be 20% maximum.

Dr. Kumar stated that there was another three or four months listed on the résumé in which Dr. Zutshi worked as a clinical scholar, which is more of a fellowship. Dr. Kumar stated that he's uncomfortable in accepting the research part of her résumé as being part of a clinical practice.

Dr. Steinbergh stated that the letter from Victor W. Fazio of the Department of Colorectal Surgery at the Cleveland Clinic explains what Dr. Zutshi does, and it doesn't impress her as being clinical. She doesn't get the sense from the letter that Dr. Zutshi is actually practicing clinically.

Dr. Kumar stated that the letters from Mr. Fazio and Scott Strong, M.D., say exactly what Dr. Zutshi does, and most of it is research for the first two to three years. For the last nine months she has been in a clinical practice, and that's not a full year yet.

Dr. Davidson asked whether Dr. Zutshi has a training certificate.

No one present knew whether she did or not. It was subsequently determined that she was issued a training certificate on April 15, 2004.

Dr. Buchan stated that the Board has always maintained a standard of requiring graduation from a well-described residency program. Looking at this, he sees that Dr. Zutshi joined the department and worked in research until March 2004, yet she declares it was 100% clinical. Obviously, there's a disconnect there. Dr. Buchan stated that the Board needs to review these very carefully, and he doesn't want to let this run through without a little more dissecting of what she was doing.

February 10, 2005

Dr. Steinbergh agreed, stating that, basically, she shows just nine months of training. That's not 24 months.

Dr. Buchan stated that he doesn't feel this does meet the requirement for equivalency.

Dr. Steinbergh again agreed.

Dr. Robbins suggested that the Board ask Dr. Zutshi to provide the Board with more documentation explaining what the 100% clinical means.

Dr. Garg stated that the Board might even ask such physicians to come explain their case to the Board in person.

Dr. Talmage stated that if the Board is too tight on this, it stands the risk of discouraging accomplished scholars from coming here for research. Ohio has seven medical schools and the Cleveland Clinic, who all use research as a very important base of their activities. The Board doesn't want to discourage these people from coming in. To say that research is not training is a very fine distinction, and he's not sure that the Board wants to make that distinction.

Dr. Garg stated that research is not clinical training. You can be an excellent research scholar with no clinical exposure that you would get in 24 months of residency training.

Dr. Talmage asked whether, if the Board looks at its mission to protect the public of Ohio, it is risking the public in any way by putting somebody with this kind of academic quality under licensure surveillance? If she does something that is improper, the Board has the ability to discipline. That's really what the Board does.

Dr. Garg stated that that's after the fact. The Board is also looking to ensure that they have had appropriate training in this country because the Board has no control over the standards of medical education elsewhere in the world. That's why the requirement to have 24 months of approved training was put into the statutes. He stated that he could do research for 24 months with no clinical exposure and start a practice, but he doesn't think that that would be in the best interests of the public.

Dr. Bhati stated that each case needs to be looked at, and he doesn't see this applicant to be an extraordinary researcher or providing anything extraordinary. This looks like a routine person. The application indicates that she's done 100% clinical research, and Dr. Bhati questioned how that can be without a license.

Dr. Steinbergh stated that the Board should make sure that she has a training certificate, and she can reapply when she finishes her 24 months.

Dr. Bhati stated that she has to have either of the two.

Mr. Dilling stated that part of it is the way that the application is set up, asking for administrative and

February 10, 2005

clinical. When physicians are doing research, they see that as being clinical research. The Board can seek clarification. He stated that that's what the Board often does on these equivalency issues.

DR. STEINBERGH MOVED TO TABLE DR. ZUTSHI'S APPLICATION TO OBTAIN DOCUMENTATION OF WHAT IS MEANT BY "100% CLINICAL RESEARCH," INCLUDING INFORMATION CONCERNING DR. ZUTSHI'S DUTIES. DR. BUCHAN SECONDED THE MOTION. All members voted aye. The motion carried.

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

The motion carried.

Richard Abele, M.T. Applicant

Dr. Robbins advised that the Committee reviewed Mr. Abele's request for special accommodations under the Americans with Disabilities Act of 1990. He stated that the Committee reviewed documentation that indicates that Mr. Abele does show signs of attention/hyperactivity disorder and learning disorder, not otherwise specified, the Committee recommends granting Mr. Abele's request for special accommodations.

DR. BUCHAN MOVED TO GRANT MR. ABELE'S REQUEST FOR SPECIAL ACCOMMODATION FOR THE JUNE 2005 MASSAGE EXAMINATION OF EXTENDED TESTING TIME (TIME AND A HALF), A SEPARATE TESTING ROOM, AND A TAPED EXAMINATION. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

EDUCATION, PUBLIC RELATIONS & RISK MANAGEMENT COMMITTEE

Dr. Davidson advised that Case Western Reserve University is asking for the Board's input regarding its "Intensive Course in Medical Ethics and Professionalism." She noted that Mr. Dilling has presented the Board's perspective as part of the course. Dr. Davidson asked that Board members contact Mr. Dilling if they have any ideas to add to the program.

Dr. Robbins stated that the Committee also spoke of suggesting to the medical school deans that their medical students be required to take a course such as this.

LEGISLATIVE LIAISON AND RULES COMMITTEE

Dr. Davidson stated that the Committee had some discussion on the P.A. Legislation. The Board will be meeting with the Ohio Association of Physician Assistants and the P.A. Policy Committee in March.

Mr. Dilling reviewed the changes in the currently proposed P.A. Legislation from the bill as it was proposed the previous year.

Dr. Davidson suggested that the Board send letters to the various associations, stressing its concerns about this legislation, including its concerns about the P.A. seeing new patients and established patients with new conditions, the prescriptive authority, and specialty oriented P.A.s.

PRESCRIBING COMMITTEE

Dr. Davidson stated that the Committee reviewed the D.E.A.'s response to a letter from the Pharmacy Board concerning the permissibility of physicians preparing multiple prescriptions on the same day with instructions to fill on different dates. The D.E.A. has indicated that the withdrawal of the August 2004 pain FAQs does not represent any change in D.E.A.'s investigative emphasis or approach. The D.E.A. has advised that physicians acting in good faith and in accordance with established medical norms should remain confident that they may continue to dispense appropriate pain medicines.

QUALITY ASSURANCE COMMITTEE

Dr. Egner stated that the Committee would like to resurrect the evaluation of closed cases to see if the Secretary and Supervising Member are doing what they are supposed to be doing. The Committee reviewed the plan, a copy of which shall be maintained in the exhibits section of this journal, to be used in the review.

Dr. Garg commented that this is a good exercise, but he doesn't think that it produces any results.

Dr. Davidson stated that the evaluation will be done in a slightly different way than it was done before.

February 10, 2005

Dr. Garg suggested implementing such a program for a year and then evaluating the need for it at the end of that time.

Dr. Talmage commented that this quality assurance process will reassure those who express concern about the autonomy of the Secretary and Supervising Member. He added that it may not change anything internally.

Dr. Egner stated that the Committee will use the priority codes in its evaluation. It will perform the evaluation on an every-other-month basis. The Committee members will review twenty random charts, based on the priority code of that month. Each member will review about five charts, and fill out a basic form on that, and list any suggestions that they might have. The following month the review will be reported to the Committee and subsequently to the Board.

Dr. Steinbergh asked that the Committee also verify that cautionary or close letters have been sent.

Dr. Egner commented that that should be easy to verify when reviewing the chart because a copy of that letter should be in it.

CONSENT AGREEMENT COMMITTEE

Dr. Davidson referred to materials contained in the agenda, a copy of which shall be maintained in the exhibits section of this journal, that deal with modifying the model language used in Consent Agreements.

DR. BHATI MOVED TO APPROVE THE PROPOSED CHANGES. 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. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan advised that the Committee reviewed the application of the Bryman Institute for a certificate of good standing for their massage therapy program. The Committee recommends approval.

February 10, 2005

DR. BUCHAN MOVED TO GRANT THE BRYMAN INSTITUTE A CERTIFICATE OF GOOD STANDING. 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. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

MINIMAL STANDARDS OF CARE COMMITTEE

Dr. Kumar stated that the Committee did its five-year review of Rule 4731-18-01 (Standards for Surgery). He stated that there seems to be general agreement on necessary language changes. The Committee asked that staff draft a proposed revised rule to be reviewed by the Committee and forwarded to interested parties for input. It will then be brought to the Board for direction to proceed to rules hearing. He asked that Board members who wish to have input into the rule contact either him or Board staff.

SCOPE OF PRACTICE COMMITTEE

Dr. Bhati stated that the Committee again discussed the "Draft Joint Regulatory Statement Regarding the Provision of Esthetic, Cosmetology and Related Services." Some non-substantive language changes were suggested by Committee members. Dr. Bhati stated that the changes will be made, and that the matter will be placed on the Board's March agenda for final approval.

RATIFICATION OF CONSENT AGREEMENTS

At this time Dr. Davidson took the above-captioned topic off the table for consideration of an additional consent agreement.

PATRICK BRIAN CESTONE, JR., M.D.

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. CESTONE. DR. GARG SECONDED THE MOTION. A vote was taken:

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

