

April 13, 2005

MINUTES

THE STATE MEDICAL BOARD OF OHIO

April 13, 2005

Patricia J. Davidson, M.D., President, called the meeting to order at 8:45 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Andrew F. Robbins, Jr., M.D., Vice-President; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; David S. Buchan, D.P.M.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Kamala Saxena, M.D., and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Nandlal Varyani, M.D. The following did not attend the meeting: Lance A. Talmage, M.D., Secretary; Deepak Kumar, M.D.

Also present were: Thomas A. Dilling, Executive Director; Eileen M. Schmidt, Executive Assistant to the Director; Gary J. Holben, Administrator, Fiscal/Human Resources and Information Technology; Lynda Hosken, Chief, Human Resources.

EXECUTIVE SESSION

MR. ALBERT MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION FOR THE PURPOSE OF INTERVIEWING CANDIDATES FOR THE POSITION OF EXECUTIVE DIRECTOR, TO CONSIDER THE EMPLOYMENT OF A PUBLIC EMPLOYEE, AND 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. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.

Pursuant to Section 121.22(G)(1) and (3), Revised Code, the Board went into executive session.

Dr. Varyani joined the meeting during the executive session.

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The following joined the meeting after the executive session at approximately 1:35 p.m.: 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 A. Pastrick, Sallie J. Debolt, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, Kathleen S. Peterson and Charles A. Woodbeck, Enforcement Attorneys; Rebecca J. Albers, Kyle C. Wilcox, and Tara L. Berrien, Assistant Attorneys General; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore and Annette Jones, Disciplinary Information Assistants; Sharon W. Murphy, Hearing Examiner.

MINUTES REVIEW

**DR. BUCHAN MOVED TO APPROVE THE MINUTES OF MARCH 9-10, 2005.
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- 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: Khaled Mohammed Abdel Aziz, M.D., Ph.D.; Ugo Ernesto Gallo, M.D.; and Paul Po-Tsang Yang, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

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Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

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. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- 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.

KHALED MOHAMMED ABDEL AZIZ, M.D., PH.D.

Dr. Davidson directed the Board's attention to the matter of Khaled Mohammed Abdel Aziz, M.D., Ph.D. She advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

Dr. Davidson continued that, although Dr. Aziz did not file a request to address the Board, he is present and has asked to be able to speak. She asked whether the Board wished to allow Dr. Aziz to address it.

DR. ROBBINS MOVED TO ALLOW DR. AZIZ TO ADDRESS THE BOARD. MS. SLOAN SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
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Dr. Egner	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Davidson advised Dr. Aziz that he would have five minutes for his address.

Dr. Aziz thanked the Board for allowing him to speak regarding his case. He stated that it has been reviewed by Mr. Porter and Ms. Albers. Dr. Aziz indicated that Mr. Porter's Report details the case. Dr. Aziz asked the Board to adopt the Report and Recommendation, allowing him an extension of time to ten years to complete the USMLE process. Dr. Aziz stated that he started medical school in 1982. He finished in 1988, and he started in neurosurgery and finished that in 1997. He came to the United States and did a four-year fellowship under the supervision of Jeffrey T. Keller, Ph.D., who is with him today. Dr. Aziz advised that Dr. Keller is the director of the research program. Also supervising the fellowship were Harry Van Loveren, M.D., currently the Chairman of the University of Florida, and John M. Tew, M.D., the Chairman of the Neuroscience Institute. Dr. Aziz stated that he was then asked to join the residency program. His main struggle was in the basic science exam. Dr. Aziz asked the Board to allow him the extra time.

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

Ms. Albers stated that, as Dr. Aziz said, the Report and Recommendation does set forth the evidence that was presented at the time of the hearing. She stated that she doesn't agree that the evidence supports the Report and Recommendation. She doesn't believe that Dr. Aziz has met the conditions required for the extension under the Board's rule.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF KHALED MOHAMMED ABDEL AZIZ, M.D., PH.D. MS. SLOAN SECONDED THE MOTION.

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

Dr. Steinbergh stated that she agrees with the Proposed Order and the Findings of the Hearing Examiner that Dr. Aziz has demonstrated that he is an applicant who, in conjunction with his medical degree, actively pursued a doctoral degree in an institution or program accredited by the LCME. Dr. Steinbergh spoke in support of granting Dr. Aziz a waiver, allowing him ten years to complete the examination process. She

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noted that the waiver would extend until September 27, 2005, the ten-year anniversary of his passing USMLE Step 1.

Dr. Buchan also agreed to support the Report and Recommendation, as written. Based upon the record and Dr. Aziz' credentials the extension of time is appropriate.

Mr. Browning stated that this doctor was not in a Ph.D. program. He added that, having said that, the Board is using its discretion here. As a technical matter, he doesn't find any evidence that Dr. Aziz was in a Ph.D. program, which is required to get an extension to ten years. He stated that the Board has gone around on this subject in multiple cases. While it is a reasonable thing for the Board to exercise its discretion, assuming that it has discretion, he would encourage clarification in the future. He added that, technically, he believes that the Attorney General's Office is exactly right. Dr. Aziz wasn't in a Ph.D. program.

Dr. Steinbergh stated that he was in a doctoral degree program in neurosurgery. Dr. Steinbergh stated that she believes the Board does have the ability to say that such a program is equivalent.

Mr. Browning stated that he believes that that makes his point in a different way.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- abstain
	Dr. Varyani	- abstain
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- abstain
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

UGO ERNESTO GALLO, M.D.

Dr. Davidson directed the Board's attention to the matter of Ugo Ernesto Gallo, M.D. She advised that objections were filed to Hearing Examiner Porter'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. Gallo. Five minutes would be allowed for that address.

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Dr. Gallo was accompanied by his attorney, Kevin P. Byers. Mr. Byers stated that he hopes that the Board has considered his objections as well as the totality of the hearing record.

Dr. Gallo stated that he appreciates the opportunity to speak to the Board. He added that he wishes it wasn't under these circumstances. He stated that he's quite embarrassed to have to sit before the Board because of the matter at hand. Dr. Gallo stated that he's looking forward to the completion of this day to put this chapter of his life behind him, and to put closure to it for reasons that were outlined in his deposition. Dr. Gallo again stated that he is embarrassed to be before the Board, and he apologized for any inconvenience. He added that he appreciates the opportunity to speak to the Board.

Dr. Gallo stated that he will assure the Board that this will never happen again. He has put steps in place to prevent this from ever happening again.

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

Mr. Wilcox spoke in support of the Report and Recommendation. Mr. Wilcox advised that the record shows that Dr. Gallo had numerous opportunities to respond to the Board's inquiries but he failed to do so. He had the letter hand-delivered to him at the hospital and he indicated that he forgot to respond to the Board. Mr. Wilcox stated that, given the circumstances, the suggested penalty is appropriate in this case.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF UGO ERNESTO GALLO, M.D. DR. ROBBINS SECONDED THE MOTION.

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

Dr. Steinbergh agreed with the Proposed Order in this matter. She noted that Dr. Gallo is a physician who simply did not respond to the State Medical Board's audit of his C.M.E. credits. She stated that she believes that she speaks on behalf of most of the Board members when she says that the Board is very sympathetic to the fact that there was illness in Dr. Gallo's family, and so forth, but the Medical Board is a licensing body, and when the Board comes looking for information, physicians do have an obligation to respond. Dr. Gallo did not respond. She noted, however, that he did provide his C.M.E., once confronted at hearing. The Proposed Order calls for a reprimand and audits of his C.M.E. for the next two renewal cycles. Dr. Steinbergh stated that she believes that the Proposed Order is consistent with what the Board has done in the past. She commented that the Board does have fining authority, but the Proposed Order does not impose a fine. Dr. Gallo has produced his C.M.E., but he has not responded appropriately to the Medical Board. Dr. Steinbergh stated that she agrees completely with the Proposed Order.

Dr. Egner stated that she also agrees, although she did wonder why there wasn't a fine.

Dr. Steinbergh suggested that there was not a fine in the Proposed Order because Dr. Gallo did produce his

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C.M.E.

Dr. Egner stated that what she always finds a little contrary in these cases is that Dr. Gallo has these personal issues that kept him from responding to a letter from the Medical Board multiple times, but didn't keep him from working. At no time did Dr. Gallo say that he had cut down on his work. She always finds this excuse a little bit hollow. She indicated that it would be different if the physician had said that he had so many personal problems that not only did he not have time to respond to the Board's letter, but he had to take two months off of work to deal with his family situation. The Board does not have any evidence that that was the case. In fact, Dr. Gallo talked about working 16 and 17-hour shifts. Dr. Egner stated that Dr. Gallo didn't respond to the Board's audit notices, he should have responded, he had plenty of opportunity to respond. To get a reprimand and to have to submit to audits for two more bienniums is not too much to ask.

Dr. Robbins agreed with Dr. Steinbergh and Dr. Egner. He stated that the thing that concerns him more than anything is that Dr. Gallo did do the CME hours. It would be one thing if he didn't and this process developed, but he did them. At the very least, for him not to have responded is really naïve. Dr. Robbins stated that he absolutely supports the Proposed Order, and he expressed hope that Dr. Gallo will have learned from this experience. The only thing he did wrong was to not provide the Board with the information when requested.

Dr. Steinbergh stated that those in practice every day can certainly understand someone who gets so far behind in things. She stated that a simple phone call acknowledging receipt of the letter and explaining the problem and asking for an extension would have been understandable. His not communicating with the Board gives the Board the impression that he is not a compliant physician. Dr. Steinbergh stated that there are certain responsibilities to licensure.

Dr. Buchan agreed, but he did come to this meeting with what is probably a minority opinion. He would have been comfortable with a simple reprimand, but he is fully in favor of the report. He added that he doesn't think that this will be repeated.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

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The motion carried.

PAUL PO-TSANG YANG, M.D.

Dr. Davidson directed the Board's attention to the matter of Paul Po-Tsang Yang, 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. Yang. Five minutes would be allowed for that address.

Dr. Yang was accompanied by his attorney, Kevin P. Byers. Mr. Byers noted that they had filed objections to the Hearing Examiner's Report and Recommendation. He at this time advised that Dr. Yang would make a personal statement to the Board.

Dr. Yang thanked the Board for allowing him to address it. He apologized for misunderstanding the intent of the questions on his licensure application in regard to his previous job with Kaiser. It was not his intention to deceive the Board or to commit fraud. Dr. Yang stated that he understands the gravity of his error and what he did wrong with his application, and he accepts responsibility for any misunderstanding or mistake. It was unintentional and inadvertent. He's learned from this experience to take the Board's forms to heart. He added that he's practiced for nearly five years in the state of Georgia, also with Kaiser, without any sort of anger management or discipline problems. Dr. Yang commented that he would like to think that his work experience with Kaiser in Colorado was an anomaly. His current employers in Wilmington can attest to his interacting well with staff there.

Dr. Yang stated that he returned to Ohio after doing his residency in Cincinnati. He enjoys his job here. It is his home and it is where he would like to raise his family and be with his extended relatives. Dr. Yang stated that Ohio is where he intends to spend the rest of his professional career. He advised that he would like the Board to understand how important his Ohio medical license is to him. Because of that, he's more than willing to abide by any over-sight or probationary period. Dr. Yang stated that his only request of the Board is that the period of suspension be removed from the Proposed Order. Dr. Yang stated that he needs his license in order to earn a living and to support his family.

Dr. Yang again thanked the Board for allowing him to come before the Board today.

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

Ms. Berrien stated that she supports the Proposed Order in this case. Ms. Berrien noted that Dr. Yang came to the Board's attention because he provided false information on his application. The bottom line is that he should have answered, "yes," to two of the questions: one asking whether he'd ever been disciplined, and the other asking if he had ever resigned. A 30-day suspension is reasonable, fair and comparable to other similar cases.

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Ms. Berrien stated that at the hearing it became apparent that the concern should be Dr. Yang's behavior and his psychiatric well-being. His personnel record in Colorado showed some disturbing behavior. He had angry outbursts, he cursed, he secluded himself in his office. Again, at the hearing, Dr. Yang was very forthcoming about his personal problems. He admitted that he had work-related stress. He saw a psychologist; he had anger management issues. Ms. Berrien stated that she feels that, in her Proposed Order, the Hearing Examiner caught the essence of what needs to be addressed here. Knowing Dr. Yang's behavior, the conditions for an ethics course and psychiatric assessment are more than appropriate in this case.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF PAUL PO-TSANG YANG, M.D. . DR. ROBBINS SECONDED THE MOTION.

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

Dr. Steinbergh stated that Dr. Yang has been a disruptive physician, as was evidenced throughout the hearing. She's pleased to know that things are going better for Dr. Yang in Ohio. Dr. Steinbergh stated that Dr. Yang is, in fact, guilty of fraud on the application. Dr. Steinbergh stated that she supports the Proposed Order because she believes that the Hearing Examiner addressed the important issues; i.e., a 30-day suspension is appropriate for the fraud on the application. The probationary conditions and so forth, which will follow for two years, are appropriate. Dr. Steinbergh stated that, concerning the required course on personal ethics, she would probably ask that Dr. Yang take a course on personal/professional ethics, because, clearly, a disruptive physician is someone who, within his profession, not only had these outbursts but clearly does not understand the professional relationship among nurses and physicians and other supporting staff. Dr. Steinbergh stated that, as the Board evaluates Dr. Yang's proposal for the course, it should take into mind what he's being disciplined for and approve or disapprove a course, accordingly.

Dr. Steinbergh continued that she thinks that Dr. Yang does understand the need for psychiatric assessment. Dr. Yang has had the Colorado assessment, which the Board knows is appropriate. Dr. Steinbergh stated that it sounds as though Dr. Yang is working through some of the previous disruptive behavior. She stated that the Colorado physician who spoke on Dr. Yang's behalf made a very interesting point. Dr. Redfield's opinion was that, because Dr. Yang apparently was efficient in his medical practice, he, perhaps, was given extra work that he saw wasn't being given to others, and this might have been the stimulus for some of Dr. Yang's behavior. Dr. Steinbergh stated that this is not an excuse for that type of behavior because all physicians have to accept responsibilities and workloads that may not seem appropriate at the time.

Dr. Davidson asked whether Dr. Steinbergh was proposing an amendment to the Proposed Order.

Dr. Steinbergh stated that she was not. If the Board agrees, she would simply change the language to say: personal/professional ethics in terms of the course, the intent being that, when the Board takes a look at a

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course, the Board will know whether it is the right course for Dr. Yang. She added that she always tries to look at the disciplinary action and why it's come about and make sure that the Board is addressing the issue appropriately. It goes beyond what the Board sometimes considers to be personal ethics outside of the practice. This clearly involved his practice, and she thinks that there are some professional issues here.

Dr. Buchan stated that he's also pleased with Dr. Yang's current status here in the State of Ohio. He's obviously functioning much better than he did in Colorado, and the coursework, interventions and personal review of his behavior seems to have been effective in simply making him a better physician. Dr. Buchan added that he's disappointed that Dr. Yang comes before the Board today and suggests that he didn't quite understand the application. Dr. Buchan stated that he doesn't find that truthful. He thinks that the application is fairly clear, and he thinks that Dr. Yang, having been counseled, knew how to answer that question more appropriately. Dr. Buchan stated that the Proposed Order is appropriate and should be adopted as written.

Dr. Robbins advised that he also agrees with the Proposed Order, and is also disappointed with Dr. Yang's comments. If, indeed, after what he went through, Dr. Yang did misunderstand the questions, he should have, at least, called staff at the Board, explained his situation and asked for guidance in completing the application. Dr. Robbins stated that he got the sense that there was a feeling that this wouldn't be picked up, and that this was water under the bridge that could never be found out, and that he'd start anew. Dr. Robbins stated that that is disappointing. What Dr. Yang went through will follow him, and Dr. Yang needs to be forthcoming. If there's any question, even if the question isn't asked on the form, he should add an addendum to the form to explain what happened. Dr. Robbins stated that he agrees with the Proposed Order.

Mr. Browning stated that he would concur with what has been said. He had the same independent reaction. Mr. Browning added that he hopes that Dr. Yang is telling the truth, because if he isn't, he's still on the wrong path. Mr. Browning stated that he does agree with the Proposed Order, and is happy that Dr. Yang is improving.

Dr. Egner stated that she thinks that the disruptive physician is a difficult thing with which to deal. Personally, she thinks that physicians in general are given a lot of leeway. She has been guilty of this herself. Physicians are allowed to vent and express dismay at how things go sometimes, and behavior is tolerated that may not be tolerated in another workplace. By the time a hospital or health care agency takes action on a disruptive physician, she considers that that physician's behavior has been way over the top, because the baseline acceptance has a wide latitude. Dr. Egner stated that she hopes that Dr. Yang has learned from this, and she added that he needs to get some control of this or he'll be back before the Board.

Dr. Steinbergh asked whether the Board agreed to the personal/professional ethics proposal she made earlier. All Board members indicated that they do.

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

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Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.

REMAND IN THE MATTER OF MARK L. ALLEN, M.D.

Dr. Davidson directed the Board's attention to the matter of Mark L. Allen, M.D. She advised that this matter was previously considered by the Board at its meeting of January 14, 2004. The Franklin County Court of Common Pleas remanded this matter to the Board for reconsideration of the original Order in light of the Court's decision of March 19, 2004. In that decision, the Court held that the testimony of Roy Nichols, Certified Chemical Dependency Counselor at Glenbeigh Health Services, should not be given weight and should be disregarded as unreliable. Further, the Court held that the Board should reconsider the sanction it imposed and enter an Order without regard for Mr. Nichols' testimony. The Board's Order issued January 14, 2004 suspended Dr. Allen's license for an indefinite period, but not less than ninety days and established conditions for interim monitoring, reinstatement, and probation.

Dr. Robbins stated that, even after disregarding Mr. Nichols' testimony at hearing, the Order adopted on January 14, 2004 is appropriate in this case.

DR. ROBBINS MOVED TO REAFFIRM THE ORDER OF JANUARY 14, 2004, IN THE MATTER OF MARK L. ALLEN, M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Steinbergh agreed with Dr. Robbins. She stated that she has read the hearing record and has disregarding Mr. Nichols' testimony. She noted that the testimony of both Chester J. Prusinski, D.O., and Gregory B. Collins, M.D., state that Dr. Allen is an impaired physician. The original Proposed Order in this case is appropriate for an impaired physician.

A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- abstain
	Dr. Buchan	- aye
	Mr. Browning	- aye

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Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- abstain
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDER

STEPHEN RANDALL PORTER, M.D.

Dr. Davidson directed the Board's attention to the matter of Stephen Randall Porter, M.D. She advised that, by Notice of Summary Suspension and Opportunity for Hearing, dated October 13, 2004, the Board notified Dr. Porter that the Secretary and the Supervising Member of the Board had determined that there is clear and convincing evidence that Dr. Porter had violated Section 4731.22(B)(26), Ohio Revised Code, and that his continued practice presents a danger of immediate and serious harm to the public. The Board advised Dr. Porter that, pursuant to Section 4731.22(G), Ohio Revised Code, it had adopted an Order of Summary Suspension of his certificate to practice medicine and surgery in Ohio. The Board further advised Dr. Porter that continued practice would be considered practicing without a certificate, in violation of Section 4731.41, Ohio Revised Code.

Dr. Davidson advised that the Board notified Dr. Porter that it proposed to take disciplinary action against his license to practice medicine and surgery in the State of Ohio based on allegations contained in the letter. The Notice was mailed to Dr. Porter's address of record and proper service was documented. No hearing request has been received from Dr. Porter and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Porter, who prepared a Proposed Findings and Proposed Order, and 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 AS SET FORTH IN THE OCTOBER 13, 2004 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF STEPHEN RANDALL PORTER, M.D., AND TO ADOPT THE PROPOSD FINDINGS AND PROPOSED ORDER. DR. BUCHAN SECONDED THE MOTION.

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

Dr. Steinbergh stated that she fully agrees with Mr. Porter's Proposed Order in the case of Dr. Porter. She noted that Dr. Porter's license has been suspended since October 2004. She also noted that he has violated two previous consent agreements. The Board has received information from Dr. Porter's attorney, Eric Plinke, indicating that Dr. Porter was not interested in practicing medicine in Ohio at this time, and, therefore, a hearing, and that he was not interested in being monitored by the Board. Dr. Steinbergh stated

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that she agrees that Dr. Porter is not someone who can continue any type of regulatory relationship with the Board. She agreed that the Board should revoke Dr. Porter's license, and she suggested that he should not reapply until he can document at least two years of sobriety.

Dr. Buchan agreed, stating that Dr. Porter is not amenable to any regulatory oversight by this agency. He spoke in favor of the Proposed Order being adopted, as written.

Mr. Browning commented that, in his judgment, the Board is being more than kind in revoking Dr. Porter's license rather than permanently revoking his license, and giving Dr. Porter the opportunity to come back to Ohio to practice.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.

FINDINGS, ORDERS AND JOURNAL ENTRIES

BRUCE DOUGLAS FERTAL, D.P.M.

Dr. Davidson advised that, by letter of February 9, 2005, the Board notified Dr. Fertal that it proposed to consider disciplinary action regarding his license to practice podiatric medicine and surgery in the State of Ohio based upon the allegations contained in the letter. Said notice was mailed via certified mail, return receipt requested, to Dr. Fertal's address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. However, no hearing request has been received from Dr. Fertal and more than 30 days have elapsed since the mailing of the notice. This matter was presented to 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 FEBRUARY 9, 2005 NOTICE AND TO ENTER AN ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY.

