

May 14, 2003

MINUTES

THE STATE MEDICAL BOARD OF OHIO

May 14, 2003

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

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; Mark Wayda, Chief of Executive Staff; Lauren Lubow, Senior Executive Staff Attorney; Shannon K. Freed, Executive Staff Attorney; Lori S. Gilbert, Chief Enforcement Coordinator; Marcie P. Burrow, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, Kathleen S. Peterson, and Charles A. Woodbeck, Enforcement Coordinators; Rebecca J. Albers, Mark A. Michael, and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore and Annette Jones, Disciplinary Information Assistants.

EXECUTIVE SESSION

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

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

The motion carried.

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

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

MINUTES REVIEW

MR. ALBERT MOVED TO APPROVE THE MINUTES OF APRIL 1-2, 2003. DR. GARG SECONDED THE MOTION. A vote was taken

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Mr. Browning announced that the Board would now consider the findings and orders appearing on the Board's agenda. He noted that the matters of Ashfaq Taj Ahmed, M.D., and Ryan Hanson, M.D., have been postponed and will be considered at the Board's June 11, 2003 meeting. Also, the Board has been unable to obtain verification of service of the Report and Recommendation in the Matter of Rezso Spruch, M.D., so that matter is also postponed this month. He asked that Board members retain their hearing materials until such time as these matters are considered by the Board.

Mr. Browning asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Raleigh Shipp Callion, M.D.; Claude B. Guidi, M.D.; Sam Hill, D.O.; Venu G. Menon, M.D.; John P. Moore, III, M.D.; and Ned E. Weiner, M.D. A roll call was taken:

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

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

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

Mr. Browning noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

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

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

RALEIGH SHIPP CALLION, M.D.

Mr. Browning directed the Board's attention to the matter of Raleigh Shipp Callion, M.D. He advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

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

Dr. Callion was accompanied to the meeting by his attorney, C. Michael Wise.

Mr. Wise expressed appreciation that, with Mr. Wilcox' agreement, Ms. Murphy left the record open to allow him and Dr. Callion to present documentation that was not available at the time of the hearing. He indicated that he and Dr. Callion have no objections to Ms. Murphy's Findings of Fact or Report and Recommendation. They are present to answer any questions Board members may have.

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

Mr. Wilcox stated that he does not believe that Dr. Callion accepts full responsibility for his actions at this

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time. He's been before the Board before and made excuses or blamed others for his relapses. In 2002, Dr. Callion blamed his physician for a relapse because he had had knee surgery. In this instance he relapsed and said that he mistakenly took medication that contained barbiturates when he thought he was taking his wife's Ativan.

Mr. Wilcox stated that Dr. Callion has a long history of impairment, going back to 1994. He relapsed in 2001 and in 2003. Mr. Wilcox stated that he doesn't believe Dr. Callion's story about reporting his latest relapse is credible. Dr. Callion claimed that he was going to immediately report his relapse, but he did not affix the proper postage to his letter reporting it to the Board.

Mr. Wilcox stated that he doesn't believe that the recommended penalty is appropriate in this matter. Dr. Callion has been warned by this Board to follow his Step 2 Agreement to the letter of the law or his license would be "on the line." Dr. Callion has failed to take advantage of this opportunity, and at the minimum, he should be suspended for three years, if not permanently revoked.

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

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

Dr. Buchan stated that he had difficulties with Dr. Callion's accepting and owning this impairment issue. As he reviewed the record and read it carefully, he felt that Dr. Callion had been before the Board too often. Dr. Buchan stated that, although he is in favor of rehabilitation for this physician, and he does believe there is hope for his future because he believes there were mitigating circumstances in his situation, he feels that the Board needs to order a more severe sanction.

DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF RALEIGH SHIPP CALLION, M.D., BY SUBSTITUTING THE FOLLOWING FOR PARAGRAPH A:

PERMANENT REVOCATION, STAYED; SUSPENSION: The certificate of Raleigh Shipp Callion, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Callion's certificate shall be SUSPENDED for an indefinite period of time, but not less than one (1) year from the date of the summary suspension of his certificate, February 12, 2003.

DR. TALMAGE SECONDED THE MOTION.

Dr. Steinbergh stated that she would support the proposed amendment, but asked whether Dr. Buchan would, pursuant to paragraph 3.C.a. of the Proposed Order, add a requirement to complete a 28-day inpatient program. She noted that Dr. Callion has failed to maintain sobriety for a year from the time of his last 28-day program.

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Dr. Buchan stated that he considered adding that stipulation, but he feels that Dr. Callion is an intelligent individual who understands the risk. He added that he is not opposed to Dr. Steinbergh's suggestion, but he's not convinced that Dr. Callion needs another 28-day inpatient treatment program.

Dr. Steinbergh noted that the Board's rules require individuals who relapse within one year of completing a program to complete an additional 28 days. With the egregiousness and the severity of this individual's conduct, he should be required to complete another 28-days.

Dr. Egner stated that she thinks that she read this case a little differently than others on the Board. She stated that she felt that this was more of a psychiatric problem than an impairment episode, and she added that she doesn't think that another 28 days in treatment is necessary; however, if that is true, she's not sure that Dr. Callion shouldn't be on probation for his lifetime. Can the Board ever say that he shouldn't be under some kind of supervision? Is this an impairment case and relapse, or is it a psychiatric problem leading to a relapse. Dr. Egner stated that, in general, she thinks that there is a distinction to be made.

Dr. Steinbergh commented that, when an individual has a dual diagnosis, the chances of recovery are very poor. She stated that she thinks a 28-day program will give Dr. Callion psychiatric care at the same time.

Dr. Talmage noted that the Hearing Examiner has recommended that the Board consider whether another 28-day inpatient treatment program was appropriate in this case.

Dr. Bhati stated that most cases of impairment have some type of psychiatric problem. That goes hand in hand with impairment. With this doctor's diagnosis, it might be heavier on one side than the other. He added that he thinks an additional twenty-eight days in treatment is important, but he's not sure that the one-year suspension is adequate. The Board has suspended Dr. Callion's license for a year in the past, and it didn't work. He asked the Board to consider a longer suspension.

Ms. Sloan agreed with Dr. Bhati, again stressing that Dr. Callion already served a one-year suspension. It obviously hasn't been enough time out of practice for him.

Dr. Talmage stated that the issue of the appropriate amount of time for suspensions has been discussed before. In this case, the Board would already be raising the stakes by making this case a stayed permanent revocation. If Dr. Callion fails again, the revocation becomes a fact. If the Board suspends Dr. Callion's license for two years and he's been suspended for some time, will he be able to get back into practice? Dr. Talmage stated that he favors a shorter suspension time with the heavier penalty.

DR. BUCHAN AGREED TO ACCEPT DR. STEINBERGH'S PROPOSAL TO INCLUDE COMPLETION OF A 28-DAY INPATIENT TREATMENT PROGRAM AS PART OF HIS AMENDMENT. DR. TALMAGE, AS SECOND, AGREED.

A vote was taken:

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF RALEIGH SHIPP CALLION, M.D. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion failed.

DR. STEINBERGH MOVED TO AMEND THE SUSPENSION PERIOD OF THE AMENDED PROPOSED ORDER TO 18 MONTHS. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF RALEIGH SHIPP CALLION, M.D. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

CLAUDE B. GUIDI, M.D.

Mr. Browning directed the Board's attention to the matter of Claude B. Guidi, M.D. He advised that no objections were filed to Hearing Examiner Roberts' Report and Recommendation.

DR. TALMAGE MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF CLAUDE B. GUIDI, M.D. DR. STEINBERGH SECONDED THE MOTION.

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

Dr. Steinbergh stated that she agreed with this particular Proposed Order for that with which Dr. Guidi was charged, and added that she found this case to be disgusting. She stated that she hopes that the Order will be a wakeup call for this particular physician.

Dr. Buchan stated that this case presented some difficulty for him. He added that he agrees completely with the Hearing Examiner's review and Conclusions of Law. Dr. Buchan remarked that there is no room in the practice of medicine for a physician who exhibits this kind of conduct in a public place. Dr. Buchan stated that he would entertain a discussion on permanent revocation.

Dr. Talmage stated that, although Dr. Guidi's actions in 2000 were disgusting, he reminded the Board members that Dr. Guidi was only cited for providing incorrect answers to questions on his renewal applications in Ohio and Florida. As bad as his misdemeanor actions were, they are not within the Board's purview to discuss and decide. The Board's discussion and decision must be based on the omissions and acts in the completion of his renewal application. Based on the charges in the cite, the Proposed Order is

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adequate punishment. If the other acts come before the Board, it can consider them.

Dr. Steinbergh agreed that the morality issue was not something for which Dr. Guidi was cited, but added that she believes that the lack of morality creeps into the soul of a person.

Dr. Buchan stated that he understands what Dr. Talmage is saying, but he also understands what fraud, misrepresentation and deception means. In his view, the Board has the ability to impose any sanction from dismissal to permanent revocation based upon that one conclusion of law. He doesn't feel that the Board's hands are tied based upon his review of the record.

Dr. Bhati asked Mr. Dilling for his opinion.

Mr. Dilling referred the Board to the Hearing Examiner's Findings of Fact and Conclusions of Law. He repeated Dr. Buchan's statement that the Board can impose any order from dismissal to revocation.

Dr. Bhati stated that the issue before the Board is Dr. Guidi's falsification of his renewal application. He asked whether the Board can take into account the underlying acts of Dr. Guidi's misdemeanor.

Dr. Egner stated that they can if the Board wants to consider Dr. Guidi's misdemeanor involving moral turpitude. She believes that that is part of the issue, it goes into the facts of this case. Should the Board consider them? Dr. Egner stated that she doesn't know. This wasn't just one incident, it was two. Dr. Guidi totally lied in the application process with both Ohio and Florida, and he never took responsibility for it. She added that she believes that there are serious problems with this physician.

Dr. Buchan stated that the Board has denied licensure and revoked licenses based upon issues of fraud and misrepresentation, and deception. He believes it is entirely within the Board's purview, based upon the facts of the case, to permanently revoke this license.

DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF CLAUDE B. GUIDI, M.D. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

SAM HILL, D.O.

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

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

Dr. Hill was accompanied by his attorney, John P. Carney.

Dr. Hill stated that this relapse is about the worst thing that has ever happened to him. It was a terrible experience. This came about because he refused to take action, or ignored warning signs that he was getting into trouble. He's let a lot of people down, including his patients, his colleagues, the Board and himself. He feels miserable about that. It's difficult to live with.

Dr. Hill stated that he did go through some stressful episodes throughout the past year, but he doesn't want to bring them into the picture again. He doesn't want to give the impression that he's looking for justifications or excuses or anything, but those things should have been a warning sign that he should have done something. Things are now going much better than they did two or three months ago. His depression and anxiety are improving. He's on a good medication regime right now, and is coping with stress better. He's also relating to people better. He realizes that he still has a way to go on that, but he's a lot further than he thought he'd be.

Dr. Hill stated that he's very grateful to be sober again. It's a difficult experience to explain to someone who is not an alcoholic, but that's life. His involvement in A.A. continues to be vital, and that continues to help. He's aggressively going about the steps and pursuing the program. He's starting to feel more confident that he can return to practice than he did a few months ago. He's feeling more sure of himself,

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and he's concentrating better. Dr. Hill stated that he realizes that he needs to find an appropriate environment, not one like he was in before where he was responsible for everything without control over anything. Dr. Hill stated that he needs to be in a situation where he can set some guidelines and set some boundaries. That's going to take some work. Hopefully, he can make those kinds of arrangements. He thinks he's learned a lot from this. He's learned how quickly he can get into trouble if he's not careful. When that happens, one needs to get help; he can't ignore it. His last episode of drinking was a miserable experience, and he doesn't ever want to go there again.

Mr. Browning asked Dr. Hill to conclude his statement.

Dr. Hill stated that he appreciates any confidence the Board may have in his ability to return to the privilege of practicing medicine.

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

Ms. Albers stated that it's important that the Board consider that Dr. Hill was not only charged with impairment pursuant to RC 4731.22(B)(26), but also pursuant to (B)(19). In the objections that were filed, the Board was directed to the impairment rules, which would allow much less suspension than was recommended by the Hearing Examiner in this case. The Report and Recommendation does a great job in outlining the evidence that was educed at this hearing, and also points out that Dr. Hill does have a long history before this Board.

Ms. Albers stated that she does agree with the Proposed Order and Recommendation.

DR. BHATI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF SAM HILL, D.O. DR. STEINBERGH SECONDED THE MOTION.

Dr. Steinbergh stated that this is another very serious case of impairment. She added that she basically agrees with the Proposed Order, but she feels that Dr. Hill needs a longer suspension period. Dr. Steinbergh suggested a two-year suspension period, after which he will need to demonstrate the appropriateness of his return to practice by taking and passing the SPEX.

Dr. Egner stated that she agrees with Dr. Talmage's earlier statements about the question of suspension time of over a year. She stated that Dr. Hill will either make it or he won't, no matter how long the suspension period.

Dr. Egner noted that Dr. Hill has indicated that he appreciates the Board's confidence in him. She stated that she has no confidence in Dr. Hill, and added that she doesn't believe that he will make it. She added that she is willing to not amend the Order to permanent revocation this time, but she believes that a stayed permanent revocation is in order so that Dr. Hill knows that this is his last chance. Concerning whether Dr. Hill harmed patients when he drank a pint of vodka a day, Dr. Egner stated that he did, and added that she doesn't think that the Board can afford to take an additional chance. She added that she could vote for

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permanent revocation today. However, as far as a suspension goes, she doesn't have strong feelings one way or the other about the amount of time he is out of practice.

Dr. Talmage suggested that, to be consistent, the Board suspend Dr. Hill for 18 months, as it did Dr. Callion who suffered three relapses. He noted that Dr. Hill has eight years of sobriety, and therefore a one-year suspension is enough. Dr. Talmage also agreed that a stayed revocation is appropriate. However, he spoke against a two-year suspension.

DR. BHATI MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF SAM HILL, D.O., BY SUBSTITUTING THE FOLLOWING FOR PARAGRAPH A.

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Sam Hill, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Hill's certificate shall be SUSPENDED for an indefinite period of time, but not less than eighteen (18) months.

DR. BUCHAN SECONDED THE MOTION.

Dr. Buchan stated that he thinks Dr. Hill understands that he has a little hope for him, and if he didn't he would vote to revoke Dr. Hill's license today.

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

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

The motion carried.

DR. TALMAGE MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF SAM HILL, D.O. DR. EGNER SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

VENU G. MENON, M.D.

Mr. Browning directed the Board's attention to the matter of Venu G. Menon, M.D. He advised that objections were filed to Hearing Examiner Roberts' Report and Recommendation and were previously distributed to Board members.

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

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

Ms. Collis reminded the Board that this case involved a bootstrap action from an Oklahoma State Medical Board decision. She added that this Board has seen many cases in the past where errors, omissions or falsifications have been made on renewal applications or applications for reinstatement. She believes that the record is clear in this case from Dr. Menon's testimony that he certainly did not intend to mislead the Oklahoma Board. He clearly made some mistakes on his renewal application, but he did not try to mislead them as to what had happened in Ohio.

Ms. Collis stated that she and Dr. Menon are supportive of Mr. Roberts' Report and Recommendation in this case. She added that Dr. Menon has concern about getting back to Ohio to do to the quarterly reporting, and also about being able to find a monitor in some of these very small towns in which he is working. Ms. Collis asked that the Board allow Dr. Menon to continue to practice in Ohio and formulate a final determination that will allow him to continue to practice under whatever recommendations the Board puts in place.

Dr. Menon thanked the Board for the opportunity to speak. He stated that he is here today because of a mistake he made on his Oklahoma reinstatement application. He incorrectly answered two questions regarding his loss of hospital privileges in Ohio. He never intended to mislead or provide false information. In fact, he answered "yes," to the question that asked if any information had ever been provided to the National Practitioner Data Bank, as he knew that Oklahoma would learn that he lost hospital privileges at two hospitals in Ohio.

Dr. Menon stated that he would like to explain his loss of hospital privileges in Troy, Ohio. He advised that in 1994 he asked for privileges at Piqua and Stouder Hospitals in Troy, Ohio. It was alleged at Stouder Hospital that his handwriting was hard to read and could compromise patient care. It was also alleged that on occasion he was not available for epidural anesthesia.

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Concerning his handwriting, Dr. Menon admitted that it is hard to read, but added that no patient care was ever compromised because of his handwriting. The hospital initially ordered that he have a scribe write all of his patient notes. He agreed to the scribe. The hospital discontinued the scribe after 50 patients. He currently writes in block letters so that his handwriting is legible.

Dr. Menon continued that the only reason he might not have been available for epidural anesthesia at one hospital was that he was put on call at both Piqua and Stouder hospitals at the same time. If he's working in one hospital, he's not available for the other hospital.

Dr. Menon stated that, after his loss of privileges at Stouder, he focused his attention on Piqua Hospital, which was later renamed Upper Valley Medical Center. Many of his colleagues and patients supported him, and he had many referrals to his practice in Piqua. Although Piqua was run by the same administrative staff as Stouder, and he had the same chief of anesthesia, Dr. Thomas, he was allowed to continue to practice in Piqua for four years. In 1998 he lost his hospital privileges in Piqua, again under the assertion that his handwriting was illegible and patient care could be jeopardized. His loss of privileges at Upper Valley is still on appeal in the courts.

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

Dr. Menon stated that the Ohio Board was interested in his loss of privileges at Upper Valley, and sent him a letter in April 2002 stating that the Board had investigated the loss of privileges and decided that it would take no disciplinary action.

Dr. Menon stated that he's a good anesthesiologist, and enjoys the support of many patients and colleagues when he worked at both Piqua and Upper Valley Medical Center. The loss of privileges at both hospitals and the denial of a license to practice in Oklahoma has had a devastating effect on his practice, and he had a very difficult securing a permanent position. Since 1998 he has worked a variety of locum tenens jobs throughout the country. He has lost hundreds of thousands dollars over the past few years in income and legal fees. He is currently working in Ohio and would like to work in Ohio. He's willing to comply with any condition of the Ohio Board that would allow him to continue practice.

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

Ms. Albers stated that she is a little troubled by Dr. Menon's insistence that his answer on the Oklahoma application was a mistake, considering that the record in this case shows that Dr. Menon filed two lawsuits concerning this loss of privileges action. Based upon how obviously important those actions were to him, she finds his statement that the way he answered that question was a mistake to be incredible.

Ms. Albers stated that the issue before this Board is that Oklahoma denied Dr. Menon's reinstatement application. The Report and Recommendation does not provide for any suspension, but it does provide for probation. Ms. Albers suggested that a short suspension would be in order in this case.

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DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF VENU G. MENON, M.D. MS. SLOAN SECONDED THE MOTION.

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

Dr. Talmage stated that it is rather ingenuous of Dr. Menon to say that bad handwriting doesn't compromise patient care. There's considerable difference between Celebrex, Celexa and a number of other drugs. That has happened time and time again, and it's been proven that prescriptions or orders in the hospital can not only compromise, but kill. Dr. Menon says now that his handwriting is good.

Dr. Talmage stated that the probationary terms are perfectly appropriate, and the Order is adequate. He added that he doesn't think that suspension would do a lot of good. Dr. Menon needs to get the message that he did fill out an application improperly in another state. Dr. Talmage stated that Dr. Menon is fortunate that he didn't fill an Ohio application out wrong, because if he had suspension would be probable.

Dr. Steinbergh agreed with Dr. Talmage, and added that the Proposed Order is appropriate. She noted that the objections to the Report and Recommendation indicate that, because Dr. Menon will be doing locum tenens, the Board should not require monitoring of his records. She stated that locum tenens work is exactly why the Board does need monitoring of his records. Locum tenens puts patients at risk. You have a new physician in a new situation, not in tune with the hospital to which he goes, and so forth and so on. In order to protect the citizens of Ohio, the Board absolutely must put this monitoring requirement in place. If this means that Dr. Menon won't get certain positions, it is unfortunate, but the hearing record is sound and the Proposed Order is sound. She personally doesn't see the need for a suspension period.

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

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

The motion carried.

JOHN P. MOORE, III, M.D.

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

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

Dr. Moore was accompanied by his attorneys, Thomas W. Hess and Douglas E. Graff.

Mr. Hess stated that they disagree with the assertion in the Hearing Examiner's report that Dr. Moore is not amenable to rehabilitation. During the mid 1990s there was a new concept in the delivery of health care services, where physicians and chiropractors would both practice underneath the same roof. Dr. Moore was recruited to be part of this new concept and worked for Med-First, which was located in Dayton, Ohio. He was a salaried employee, and not an owner, shareholder or officer. Dr. Moore had no influence over the direction of the company or its policies and procedures. A national billing company came in and advised the owners of Med-First as to how they were to do what they did, and what was found to be illegal. Dr. Moore pled guilty to one count of a felony. He fully cooperated with the Federal Government during the entire investigation.

Mr. Hess continued that, in the Government's motion for departure from the sentencing guidelines, the Assistant U.S. Attorney General wrote that Dr. Moore timely provided full and complete information concerning his involvement in the billing scheme created by Med-First, M.D., Inc., Knoderer Chiropractic and Needmore Chiropractic. Dr. Moore also supplied information concerning other individuals involved in the scheme. The information was reliable, probative and of substantial benefit to the government, greatly reduced the number of investigative hours, and was critical in the signing of plea agreements by others. Mr. Hess stated that the motion continues to state that the Government believes that the timely information provided by Dr. Moore was instrumental in the signing of a plea agreement by his former employer, Gregory Knoderer. Mr. Hess advised that the motion indicates that the information supplied by Dr. Moore was complete, and he was believed to be truthful and straightforward in his cooperation. It did not appear that Dr. Moore was holding anything back, nor did it appear that he was trying to protect anyone. The statement advises that Dr. Moore participated in multiple debriefings, and was prepared, if necessary, to testify before the federal grand jury and at trial.

Mr. Hess asked that the recommendation in the Hearing Examiner's Proposed Order be amended, and that Dr. Moore's certificate to practice medicine not be permanently revoked.

Dr. Moore stated that he appreciates the opportunity to address the Board. He stated that he is truly sorry and mortified that his actions have brought him before the Board. He has come to see clearly the error that he has made and he fully accepts responsibility for the error. He pled guilty to a felony charge and will have to live with that for the rest of his life. When he was confronted with what he was doing wrong, he assisted the U.S. Attorney in streamlining and shortening his prosecution. The company he worked for has paid restitution in full. He has diligently attempted to rehabilitate himself and his practice. He opened his own practice and has been solely responsible for all clinic protocols. He's enlisted the most reputable and well-established outside billing service, and accounting, banking and legal services in the area to be a management team to help him stay out of trouble. His staff and his billing service constantly stay in touch with third party billers to monitor the appropriateness of his billing practice. Not once has an audit been triggered in five years, nor has any serious concern been brought up by them or any government agency.

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He has steadily and appropriately pursued continuing education in pain management, pain medicine and preventive medicine through frequent attendance at O.S.M.A.-sponsored C.M.E. courses. He's affiliated with the local pain society and has been very active. He's been to multiple preventive medicine conferences. He has developed a mature referral network in and out of his practice, and he's viewed as providing a unique and valuable service in north Dayton.

Dr. Moore asked, on behalf of his patients, referring physicians, his staff, their families, the two physicians that have been hired on, and his wife and kids, that the Board assist him in continuing his career in medicine. He stated that he understands that this might mean additional course work, Board monitoring and possible time away from practice.

Dr. Moore thanked the Board for its time and consideration.

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

Mr. Michael commented that his first thoughts in hearing Mr. Hess' statement is that it's an easy decision to make to cooperate with prosecutors when you are presented with unequivocal evidence of your guilt and you're trying to avoid a prison term. Mr. Michael stated that he doesn't believe Dr. Moore's cooperation should mitigate in any way in this Board's consideration of the case. Dr. Moore did plead guilty to one felony count of false statements related to health care. In pleading guilty, the court found that Dr. Moore unlawfully, willfully and knowingly made false writings and documents in connection with the delivery and payment of health care benefits, items and services to increase reimbursements being paid for his services.

Mr. Michael continued that, in a criminal case, evidence of guilt is beyond a reasonable doubt. It's beyond a reasonable doubt that Dr. Moore's conduct was willfully and knowingly undertaken by him. He was sentenced to probation, restitution, which was paid by his employer, a fine and community service. Mr. Michael stated that what was occurring was upcoding. Chiropractors were performing services that were being billed as medical procedures being performed by Dr. Moore. Dr. Moore was signing these documents, sometimes well in advance of ever seeing these patients. That is particularly egregious in the State's mind.

Mr. Michael stated that, despite the restitution figure assigned to Dr. Moore, in signing the plea agreement, Dr. Moore acknowledged that the restitution directly attributable to his conduct was between \$200,000 and \$350,000. Mr. Michael advised that the State agrees with Ms. Murphy's conclusion that the egregious nature of the misconduct and Dr. Moore's failure to appreciate the significance of his transgressions suggests that he's not amenable to rehabilitation. Mr. Michael stated that it's not comprehensible that a physician would try to justify compromising the practice of medicine in a criminal way by claiming that he was only trying to be a good employee. A permanent revocation in this case would be consistent with the way this Board has treated similar physicians committing egregious felonies such as this that were entirely committed inside the scope of their practice.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED

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FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JOHN P. MOORE, III, M.D. DR. BHATI SECONDED THE MOTION.

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

Dr. Steinbergh stated that this has been a difficult case. Dr. Moore was convicted of a felony. Her consideration of the record is either permanent revocation or a very serious Board Order. Dr. Steinbergh stated that Dr. Moore's objections, in her mind, were extremely legitimate. He was both naïve and stupid to do what he did. He was residency trained in 1995 and 1996, went out before he was fully residency trained, and got caught up, unfortunately, in a scheme. The naiveté and the stupidity is that he did this. There is no question that he compromised patient care. He signed things, and he didn't even know what he was signing. There were procedures that were being done that he really never understood. He wasn't licensed to practice chiropractic in the state. There's no question of his guilt. In her mind, the question was whether or not he is amenable to rehabilitation, and can she expect that Dr. Moore will be an appropriate physician in the future.

Dr. Steinbergh stated that she was pleased to hear what Dr. Moore had to say today about his re-education. The second concern she really had is that Dr. Moore does step outside the boundaries of what the Board considers to be traditional care in the state. He is not residency trained in pain management, anesthesiology, neurology or neurosurgery, and yet he has used the background that he learned from and moves on in this direction. Hopefully he understands the Board's direction in terms of chronic pain management. Dr. Moore tells the Board that he is, in fact, continuing to educate himself. Dr. Steinbergh stated that Dr. Moore needs to go a long way to do that to make sure that the procedures are being done by people who are certified to do them. Dr. Steinbergh stated that she believes that Dr. Moore has a place in medicine.

DR. STEINBERGH MOVED THAT THE CONCLUSIONS IN THE MATTER OF JOHN P. MOORE, III, M.D., BE AMENDED BY DELETING THE PARAGAPH FOLLOWING THE FIVE ASTERISKS IN ITS ENTIRETY.

DR. STEINBERGH FURTHER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF JOHN P. MOORE, III, M.D., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of John P. Moore, III, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Moore's certificate shall be SUSPENDED for an indefinite period of time, but not less than eighteen months.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Moore's certificate until all of

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the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Moore shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Demonstration of Compliance with Terms Imposed by the Court:** Dr. Moore shall demonstrate to the satisfaction of the Board that he is in full compliance with all terms imposed by the United States District Court for the Southern District of Ohio.
 3. **Professional Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Moore shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
 4. **CPT Coding & Billing Course:** At the time he submits his application for reinstatement or restoration, Dr. Moore shall provide acceptable documentation of successful completion of a course or courses dealing with CPT coding and billing. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
 5. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Moore has not been engaged in active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- C. **PROBATION:** Upon reinstatement or restoration, Dr. Moore's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
1. **Requests for Modification:** Dr. Moore shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.

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2. **Laws in Ohio and Terms of Criminal Probation:** Dr. Moore shall obey all federal, state and local laws, all rules governing the practice of medicine and surgery in Ohio; and all terms imposed by the United States District Court for the Southern District of Ohio.
3. **Personal Appearances:** Dr. Moore shall appear in person for an interview before the full Board or its designated representative during the third month following the reinstatement or restoration of Dr. Moore's certificate. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Quarterly Declarations:** Dr. Moore shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the reinstatement or restoration of Dr. Moore's certificate. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
5. **Practice Plan:** Prior to Dr. Moore's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Moore shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Moore's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Moore shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Moore submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Moore and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Moore and his medical practice, and shall review Dr. Moore's patient charts and billing records. The charts and billing records review may be done on a random basis, with the frequency and number of charts and billing records reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the

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monitoring of Dr. Moore and his medical practice, and on the review of Dr. Moore's patient charts and billing records. Dr. Moore shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Moore's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Moore must immediately so notify the Board in writing. In addition, Dr. Moore shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Moore shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

6. **Tolling of Probationary Period While Out of State:** In the event that Dr. Moore should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Moore must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
 7. **Violation of Terms of Probation:** If Dr. Moore violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Moore's certificate will be fully restored.
- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Moore shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Moore shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Moore

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shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Moore shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Moore shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

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

DR. EGNER SECONDED THE MOTION.

Dr. Talmage stated that the alternative is well crafted, but questioned whether an 18-month suspension as opposed to a one-year suspension is necessary.

Dr. Steinbergh stated that the reason for the length of time she proposes is that this was a felony conviction and Dr. Moore needs time out of practice. This was a very serious offense. She added that, if the Board chose to vote for permanent revocation in this matter, she would vote for that. She added that 18 months out of practice is a significant time period.

Dr. Bhati stated that this is a criminal case where it was proved that Dr. Moore's actions were willful, intentional and committed in the course of practice. Dr. Bhati stated that the Board should not allow Dr. Moore to continue to practice, and he favored permanent revocation.

Dr. Egner agreed with Dr. Steinbergh, adding that she would feel differently if Dr. Moore was the owner of this company and got a financial reward from his actions, but Dr. Moore did not make practice management decisions and he wasn't financially rewarded by those decisions. He was told by a consultant and his boss that this is the way they do things. Dr. Moore was young in experience and extremely naïve. She stated that what this says is that, even when you're not the decision maker, you must be held accountable for your actions. She doesn't know that he needs to be held accountable as much as the person who was really making those decisions. She doesn't believe that Dr. Moore has the same accountability as those involved in other fraud cases the Board has seen. She believes there is a distinction to be made.

Dr. Talmage stated that Dr. Moore's practice in the past five years has swayed him. Had the Board seen this case four years ago, he probably would have voted for permanent revocation. At this point, Dr. Moore has shown that he is capable of remediation. Dr. Talmage stated that he thinks that Dr. Moore needs to be punished, and that Dr. Steinbergh's Proposed Order is appropriate.

Dr. Buchan stated that he agrees with Dr. Steinbergh and the others. He commented that the Board has seen dozens and dozens of fraud cases, and this one deserves leniency to some degree. He added that, to say that Dr. Moore is naïve is the understatement of the year. Dr. Moore took an extremely passive role as

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a new physician. Dr. Buchan added that he agrees with Dr. Talmage that a one-year suspension would be appropriate.

Dr. Bhati asked whether, if someone was convicted of murder five years ago, and then became a priest for five years, that means that he should go free? He stated that it doesn't. Dr. Moore, in his practice, was convicted of fraud. He shouldn't be able to practice in Ohio.

Dr. Steinbergh stated that, ordinarily, she would agree with Dr. Bhati. She added that she appreciates the severity of this conviction, but she does believe that Dr. Moore played a passive role in this particular case. She added that permanently revoking in this case would be taking away the license of a physician who deserves a second chance. She does not believe a one-year suspension would be appropriate because of the felony conviction. The Proposed Order does call for a stayed permanent revocation, and she believes that Dr. Moore understands that he won't have a license if he comes before this Board again. He could come before the Board again if he doesn't follow very strict guidelines on pain management. There are procedures that shouldn't be performed by someone not certified to do them. It's one thing to participate in the practice and to manage the practice and to do a primary care approach to pain management and to bring in other specialists to enhance that practice by doing injections and so forth, but he would get in serious trouble with the Board if he didn't realize that responsibility.

Dr. Bhati stated that he thinks the proposed amendment sends the wrong message.

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

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

The motion failed.

Dr. Buchan stated that, based strictly upon the record and the discussions the Board has had, and understanding the severity of this case, and because Dr. Moore did not have personal gain here, and didn't have a prescription mill or a financially self-serving mill, he believes that Dr. Moore does need a second chance.

DR. BUCHAN MOVED THAT THE CONCLUSIONS IN THE MATTER OF JOHN P. MOORE, III, M.D., BE AMENDED BY DELETING THE PARAGAPH FOLLOWING THE FIVE ASTERISKS IN ITS ENTIRETY.

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DR. BUCHAN FURTHER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF JOHN P. MOORE, III, M.D., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of John P. Moore, III, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Moore's certificate shall be SUSPENDED for an indefinite period of time, but not less than twelve (12) months.

- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Moore's certificate until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Moore shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

 2. **Demonstration of Compliance with Terms Imposed by the Court:** Dr. Moore shall demonstrate to the satisfaction of the Board that he is in full compliance with all terms imposed by the United States District Court for the Southern District of Ohio.

 3. **Professional Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Moore shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

 4. **CPT Coding & Billing Course:** At the time he submits his application for reinstatement or restoration, Dr. Moore shall provide acceptable documentation of successful completion of a course or courses dealing with CPT coding and billing. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.

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5. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Moore has not been engaged in active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- C. **PROBATION**: Upon reinstatement or restoration, Dr. Moore's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
1. **Requests for Modification**: Dr. Moore shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 2. **Laws in Ohio and Terms of Criminal Probation**: Dr. Moore shall obey all federal, state and local laws, all rules governing the practice of medicine and surgery in Ohio; and all terms imposed by the United States District Court for the Southern District of Ohio.
 3. **Personal Appearances**: Dr. Moore shall appear in person for an interview before the full Board or its designated representative during the third month following the reinstatement or restoration of Dr. Moore's certificate. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 4. **Quarterly Declarations**: Dr. Moore shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the reinstatement or restoration of Dr. Moore's certificate. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 5. **Practice Plan**: Prior to Dr. Moore's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Moore shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Moore's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Moore shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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At the time Dr. Moore submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Moore and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Moore and his medical practice, and shall review Dr. Moore's patient charts and billing records. The charts and billing records review may be done on a random basis, with the frequency and number of charts and billing records reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Moore and his medical practice, and on the review of Dr. Moore's patient charts and billing records. Dr. Moore shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Moore's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Moore must immediately so notify the Board in writing. In addition, Dr. Moore shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Moore shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

6. **Tolling of Probationary Period While Out of State:** In the event that Dr. Moore should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Moore must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
7. **Violation of Terms of Probation:** If Dr. Moore violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as

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evidenced by a written release from the Board, Dr. Moore's certificate will be fully restored.

- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Moore shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Moore shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Moore shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Moore shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Moore shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

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

DR. EGNER SECONDED THE MOTION.

Dr. Talmage asked if Ms. Sloan would tell the Board why she voted against the previous motion to amend.

Ms. Sloan stated that she agreed with Dr. Bhati. She does understand the points that have been made, but when she looks at this case and thinks about what the Board must decide here, Dr. Moore did make a choice to go along with what was happening in that office. It was not right, and she doesn't feel that the Board should change the Proposed Order, based upon the fact that he came into a practice that was already doing things that were incorrect. He went along with that.

Dr. Talmage expressed concern that the Board is at an impasse.

Dr. Egner stated that she thinks that the criminal court also looked at this case differently. She doesn't think that they gave Dr. Moore the same kind of sentence the Board has seen in other cases like this. She stated that she would conclude that the court also saw mitigating circumstances here. Dr. Moore got no jail time, he's on probation and must perform 100 hours of community service, and had to pay restitution of \$67,000, which was paid by his employer. In other cases the Board has seen, that's a pretty small

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restitution. She stated that these are factors that have to come into play. She doesn't justify what Dr. Moore has done. She noted that Dr. Moore did choose an unorthodox job. There aren't very many physicians who decide to work for a chiropractor, but when physicians finish their residencies and go out and join someone's private practice, they do pretty much work by the standard of what the established physician already has in that practice. That's the way it works. She believes that Dr. Moore went into a practice and was told, "this is how we do things," not just by the person who owned the practice, but also by a medical consultant. She does question whether Dr. Moore realized how wrong the upcoding was. Certainly, he should have known that signing for other things is wrong. Dr. Egner stated that she's not saying that he shouldn't be held accountable at all. He will have an action on his license for the rest of his life. This will follow him in a lot of ways.

Ms. Sloan stated that Dr. Moore could have chosen to go to another practice. He didn't necessarily have to choose to stay in that practice.

Dr. Steinbergh stated that she doesn't feel that Dr. Moore knew the difference between right and wrong. He was in a residency, and he left his residency too early, has never been on a hospital staff, and has not been well acquainted with the traditional medical decision making in this realm. There are, unfortunately, times when physicians get involved in practices, and they think this is the way to do it. Why didn't he get out? Dr. Steinbergh stated that she had an experience where she went to work in a clinic and realized immediately that it wasn't going to be her practice style; but she had a one-year contract and lived up to it, doing everything she could to be appropriate. There were other physicians who simply accepted this as an appropriate way to practice. Some of them never changed, and some of them carry on the same way years after they've been taught this way. She believes that Dr. Moore learned an inappropriate way to practice. She stated that she could say that she would have made a different decision, but she can also say that there is a possibility that Dr. Moore did not know the difference between right and wrong. She feels that that is a legitimate way of looking at this case.

Dr. Talmage stated that, to use Dr. Bhati's analogy about someone committing murder and then becoming a priest, that individual still has to go to trial for that murder. However, in such cases, the courts have been lenient because of the good life the individual has lived since committing the crime. Dr. Moore was guilty, but the Board can forgive what he did if he remains clean.

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

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

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The motion failed.

DR. TALMAGE MOVED TO RECONSIDER DR. STEINBERGH'S MOTION TO AMEND. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF JOHN P. MOORE, III, M.D. DR. EGNER SECONDED THE MOTION.

Dr. Buchan stated that the Board has had a lengthy discussion on this matter, and all have had an opportunity to state their opinions. He encouraged the Board to vote for the amended Proposed Order.

A vote was taken on Dr. Buchan's motion to approve and confirm the amended Order:

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

The motion failed.

DR. STEINBERGH MOVED TO AMEND THE LENGTH OF MINIMUM SUSPENSION TIME IN PARAGRAPH A OF THE AMENDED PROPOSED ORDER TO THREE YEARS. DR. BHATI SECONDED THE MOTION.

Dr. Egner asked why a longer suspension would make Board members feel better.

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Dr. Bhati stated that it serves the purpose of making the physician think about what he's done.

Ms. Sloan stated that it does not make any difference to her, and she would vote only for permanent revocation.

Dr. Steinbergh stated that she believes that the Board has an order before it that it needs to pass today. There are Board members absent from this meeting. Two members present want to permanently revoke and the rest are willing to give this physician another chance. She's amending the suspension period. With that being said, the Board will absolutely require Dr. Moore to take the SPEX, but she does believe that a physician who is intent upon coming back will come back.

Dr. Buchan commented on the harshness of the amended order. He thinks that a two-year suspension is a votable length of time. Three years is extraordinary for a situation such as this. It's too strong a message on a guy who had no personal gain.

Dr. Bhati indicated that he would vote for a two-year suspension.

DR. STEINBERGH AMENDED HER MOTION TO REQUIRE A MINIMUM SUSPENSION PERIOD OF TWO YEARS RATHER THAN THREE YEARS. DR. BHATI, AS SECOND, AGREED.

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

The motion carried.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF JOHN P. MOORE, III, M.D. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

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Ms. Sloan	- nay
Dr. Garg	- abstain
Dr. Steinbergh	- aye
Mr. Browning	- aye

The motion carried.

NED ELTON WEINER, M.D.

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

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

Dr. Weiner was represented by John P. Carney, appearing for Eric J. Plinke.

Mr. Carney stated that Dr. Weiner apologizes for being unable to appear before the Board today. He has law school final exams.

Mr. Carney stated that Dr. Weiner is an impaired physician. His license is currently suspended as a result of that impairment. This Proposed Order is also based upon impairment. Mr. Carney requested that the Board reduce the Proposed Order and continue the suspension. He also suggested that mitigating factors the Board considers in cases not involving impairment, a disease recognized by the medical profession, should be considered more heavily than they are for someone who is guilty of fraud but not currently under a disease. Mr. Carney asked that the Board strongly consider continuing the term of suspension.

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

Mr. Wilcox stated that he is in complete agreement with the Report and Recommendation in this matter. Dr. Weiner has a long history of impairment and hasn't come to terms with his addiction. Mr. Wilcox stated that that is quite evident from the facts in this latest case. Dr. Weiner's denial of a positive screen for Darvon is simply not credible. His story about the incident at Good Samaritan Hospital is so unbelievable that it is laughable. There is no question, after hearing the testimony of the nurse in the neurosurgery unit, as well as the security official, that Dr. Weiner was at Good Samaritan Hospital on August 3, seeking drugs for his addiction. Given this behavior and Dr. Weiner's lack of acceptance of his addiction, Mr. Wilcox stated that the Proposed Order of permanent revocation is very appropriate in this case.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF NED ELTON WEINER, M.D. DR. BUCHAN SECONDED THE MOTION.

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

Dr. Egner stated that there are three points she would like to make regarding Dr. Weiner. One is that Dr. Weiner has an extremely serious addiction. He has a Board Order with a stayed permanent revocation. In keeping with previous discussions the Board has had, the Board doesn't impose a stayed permanent revocation unless the Board feels that the case is very serious and that the physician understands how serious it is. Secondly, she believes that the actions reported at Good Samaritan Hospital did take place. That nurse who gave testimony to this did not know Dr. Weiner. She did not know that Dr. Weiner had a previous history of taking drugs from a sharps container. Dr. Egner stated that she doesn't know of anyone who could come up with that story without actually seeing it, because she's still appalled just by the thought of taking drugs from a sharps container.

Dr. Egner stated that, lastly, she finds it a little incredible that the objections filed in this matter indicate that the Board does not have the authority to discipline Dr. Weiner again for being impaired because he was under an Order of Summary Suspension. Dr. Egner stated that she does not believe that that is true. She believes the Board does have authority to do this, that Dr. Weiner has violated the Medical Practice Act again, and that Dr. Weiner's impairment is really beyond the line of looking for rehabilitation. Dr. Egner stated that she is very much in favor of a permanent revocation in this case.

Dr. Bhati agreed with Dr. Egner.

Dr. Buchan stated that the Proposed Order stands on its own and was very well written. He would support it as written.

Dr. Steinbergh also agreed with the Proposed Order, stating that this is a very ill man, and he simply cannot continue to be a physician.

Dr. Talmage stated that Dr. Weiner's drug-seeking behavior is absolutely abominable. Anyone who would risk AIDS by reaching into a sharps container has got to be desperate. Anybody who desperately needs drugs that badly, after all of the rehabilitation that has been attempted for him, is very sick person. Dr. Talmage stated that he doesn't think the Board can afford to be lenient. As Dr. Egner pointed out, the natural consequence of going against his previous suspension and probation is that permanent revocation becomes operable. This is a perfectly legitimate order.

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

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

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Dr. Garg	- abstain
Dr. Steinbergh	- aye
Mr. Browning	- aye

The motion carried.

FINDINGS, ORDERS AND JOURNAL ENTRIES

MOHAMMAD ASIM KHAN, M.D.

By letter of January 31, 2003, the Board notified Dr. Khan that it proposed to deny his application for a certificate to practice medicine and surgery in Ohio based upon the fact that Dr. Khan has not passed an examination sequence that would, pursuant to Section 4731.14, O.R.C., and Rule 4731-6-14, O.A.C., permit the Board to grant a license. Further, Dr. Khan does not hold a license from another state or hold other status that would, pursuant to Section 4731.29, O.R.C., and Rule 4731-6-16, O.A.C., permit the Board to grant a license without examination. The Board further advised Dr. Khan that its action was also based upon the fact that Dr. Khan had not completed two years of graduate medical education through the second year level or its equivalent as determined by the Board as required by Section 4731.14(B)(2), O.R.C., and Rule 4731-6-14(A), O.A.C., and/or Rule 4731-6-16(A), O.A.C. Said notice was mailed via certified mail, return receipt requested, to Dr. Khan's address of record. On March 17, 2003, a second mailing of the notice was sent. A signed certified mail receipt was returned to the Medical Board from that second mailing, documenting proper service of the notice. However, no hearing request has been received from Dr. Khan and more than 30 days have elapsed since the mailing of the second notice. The matter was presented to the Board at this time for final disposition.

DR. STEINBERGH MOVED TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. KHAN'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DEIRDRE BETH, M.T.

By letter of February 7, 2003, the Board notified Ms. Beth that it proposed to approve her application for

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the restoration of her certificate to practice massage therapy provided that she take and pass the limited branch portion of the Massage Therapy examination due to the fact that Ms. Beth has not engaged in the active practice of massage therapy for more than two (2) years. Said notice was mailed via certified mail, return receipt requested, to Ms. Beth's address of record. Ms. Beth submitted a request for a hearing, however she subsequently withdrew that request. The matter was presented to the Board at this time for final disposition.

DR. STEINBERGH MOVED TO ENTER AN ORDER, APPROVING MS. BETH'S APPLICATION FOR THE RESTORATION OF HER CERTIFICATE TO PRACTICE MASSAGE THERAPY IN THE STATE OF OHIO, SUBJECT TO HER TAKING AND PASSING THE LIMITED BRANCH PORTION OF THE MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF FEBRUARY 7, 2003. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MARK A. MITCHELL, M.T.

By letter dated February 19, 2003, the Board notified Mr. Mitchell of its determination that it had reason to believe that he was in violation of Section 4731.22(B)(26), Ohio Revised Code, and ordered him to undergo an examination. Mr. Mitchell failed to appear for this scheduled examination. At no time did Mr. Mitchell inform the Board that his failure to appear was due to circumstances beyond his control.

Section 4731.22(B)(26), Ohio Revised Code, provides that the failure to submit to an examination, ordered by the Board, to determine whether the habitual or excessive use or abuse of drugs, alcohol, or other substances has impaired the ability to practice "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." The matter was presented to the Board at this time for final disposition.

DR. STEINBERGH MOVED TO ENTER THE FOLLOWING ORDER, EFFECTIVE IMMEDIATELY, IN THE MATTER OF MARK A. MITCHELL, M.T.:

WHEREFORE, it is hereby ORDERED that:

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1. The certificate of Mark A. Mitchell, M.T., to practice massage therapy in the State of Ohio shall be SUSPENDED for an indefinite period of time.
2. The Board shall not consider reinstatement of Mr. Mitchell's certificate to practice massage therapy unless and until all of the following conditions are met:
 - a. Mr. Mitchell shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Mr. Mitchell shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of such a certificate. Such demonstration shall include but shall not be limited to the following:
 - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Mitchell has successfully completed any required inpatient treatment.
 - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - iii. Two written reports indicating that Mr. Mitchell's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the Board for making such assessments. Prior to the evaluations, Mr. Mitchell shall provide the evaluators with a copy of this Order and any other information that the Board deems may be appropriate to the evaluator. The reports shall describe the basis for this determination and a detailed recommended plan of any care, counseling, and/or treatment that may be required for Mr. Mitchell. All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.
 - c. Mr. Mitchell shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Mr. Mitchell are unable to agree on the terms of a written consent agreement, then Mr. Mitchell further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

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Further, upon reinstatement of Mr. Mitchell's certificate to practice massage therapy in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code and, upon termination of the consent agreement or Board Order, submission to the Board for at least two years of annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Mr. Mitchell has maintained sobriety.

3. In the event that Mr. Mitchell has not been engaged in the active practice of massage therapy for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Mr. Mitchell's fitness to resume practice.
4. Within thirty days of the effective date of this Order, Mr. Mitchell shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Further, Mr. Mitchell shall provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Mr. Mitchell shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

Within thirty days of the effective date of this Order, Mr. Mitchell shall provide a copy of this Order to all employers or entities with which he is under contract to provide massage therapy services or where he is receiving training.

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

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

The motion carried.

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CITATIONS, LETTERS OF PROPOSED DENIAL & ORDERS OF SUMMARY SUSPENSIONDAVID B. COVERDALE, 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. COVERDALE.
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

TIMOTHY A. GOODEN, M.D. - CITATION LETTER

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

**DR. TALMAGE MOVED TO SEND THE CITATION LETTER TO DR. GOODEN.
DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

WILLIE L. JOSEY, M.D. - CITATION LETTER

At this time the Board read and considered the proposed citation letter in the above matter, a copy of which

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shall be maintained in the exhibits section of this Journal.

DR. BHATI MOVED TO SEND THE CITATION LETTER TO DR. JOSEY. MS. SLOAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JEANNE M. KIRKLAND, 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. KIRKLAND. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

BENTON MATTHEW MASLYK, M.T. - LETTER OF PROPOSED DENIAL

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

DR. TALMAGE MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MR. MASLYK. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

CONWAY THOREAU MCLEAN, D.P.M. - LETTER OF PROPOSED DENIAL

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

DR. BUCHAN MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. MCLEAN. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LYNN YE MILLER, M.D. - CITATION LETTER

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

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

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

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

The motion carried.

MICHAEL PAUL PARKER, M.D. - CITATION LETTER

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

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

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

The motion carried.

ALDINO LOUIS PIEROTT, III, M.D. - LETTER OF PROPOSED DENIAL

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

**DR. TALMAGE MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. PIEROTT.
DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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JOHN MICHAEL SCHECHTER, 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. SCHECHTER. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

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

The motion carried.

VIRGINIA K. WINTER, M.D. - NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

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

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

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

The motion carried.

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CHRISTIAN T. FELTER, 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. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. FELTER. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LYON L. GLEICH, 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. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. GLEICH. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

GEORGE H. ILODI, D.P.M. - CITATION LETTER

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

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

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

The motion carried.

GHASSAN HAJ-HAMED, 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. HAJ-HAMED. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

RATIFICATION OF CONSENT AGREEMENTS

ROBERT S. REEVES, JR., M.D.

The Board considered the proposed consent agreement signed by Dr. Reeves, which was identified for the Board as RSR. Dr. Steinbergh indicated that she has great concerns about this consent agreement, adding that the next time this physician relapses, he should have his license revoked. She noted that there was no discussion at the time of ratification of the physician's previous consent agreement. He's had previous consent agreements in 1982 and 1984, he relapsed in 1998, entered into another step 1 agreement in 1999, a step 2 in 2000, another step 1 in 2000 and now another step 2. She has concerns.

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Dr. Talmage agreed with Dr. Steinbergh's concern.

Dr. Steinbergh asked whether the Board can discuss this.

Ms. Gilbert advised that when the Board ratified this physician's step 1 agreement in May 2002, it set forth conditions for reinstatement. The physician has satisfied those conditions, resulting in the step 2 agreement presently before the Board. The step 1 was the time for the Board to decide how long the physician needed to be out of practice.

Dr. Steinbergh stated that she has not seen the minutes of the Board's discussion when they ratified that step 1 agreement.

Mr. Dilling stated that he can assure the Board that it did ratify the step 1, at which time it set the standard for his return to practice.

Dr. Bhati stated that the physician has fulfilled the requirements set forth in his step 1 agreement. The Board doesn't have a leg to stand on to refuse to ratify the step 2.

Dr. Steinbergh stated that she wants this conversation to be part of the record.

Ms. Schmidt advised that it will be, and added that there wasn't any conversation when the Board ratified the step 1 agreement.

Mr. Dilling assured the Board that each month the Secretary and Supervising Member and staff discuss what occurred at the previous Board meeting.

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

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

The motion carried.

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MICHAEL J. VJECHA, M.D.

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

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

The motion carried.

HAZEL GREEN YOUNG, M.D.

Dr. Steinbergh stated that she believes the proposed consent agreement is a bit harsh for someone who is short 1.75 hours of C.M.E. The agreement includes a reprimand and three biennial audits. She stated that she would prefer to do the audits without the reprimand.

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

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

The motion carried.

JEFFREY ALLEN BRIGGS, M.D.

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

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

The motion carried.

DALE PRATT-HARRINGTON, D.O.

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. PRATT-HARRINGTON. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ADAM SAMUEL MARTIN, M.D.

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

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

The motion carried.

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PROBATIONARY REPORTS

Mr. Browning referred the Board to the Compliance Staff's reports of conferences with probationers on March 10-11, 2003. The reports indicate that all probationers are in compliance.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH: GREGORY X. BOEHM, M.D.; ROBERT E. EXTEN, JR., M.D.; BENJAMIN P. FIEDLER, M.D.; JOHN D. FREED, M.D.; RICHARD M. GARWOOD, D.O.; MAHER H. HELMY, M.D.; W. ANDREW HIGHBERGER, M.D.; SIDDARTH M. KHOSLA, M.D.; GUANG LIANG, ACUPUNCTURIST; MARK S. MCALLISTER, M.D.; WILLIAM H. NOBLE, III, D.O.; ASHOK V. PADHIAR, M.D.; STEPHEN J. ROLFE, M.D.; WILLIAM A. ROMER, M.D.; SARAVANA E. SIVASHANKER, M.D.; ROBERT R. SUMMERS, D.O.; KATHLEEN TALBOT, M.D.; EUGENE F. TARESHAWTY, JR., M.D.; JOSEPH A. TORE, M.D.; MICHAEL J. VJECHA, M.D.; KELLI D. WAHL, M.T.; SAMUEL Z. WESTERFIELD, M.D.; LAWRENCE YOUNG, III, M.D.; AND MARY MEI-LING YUN, M.D. 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
	Ms. Sloan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

RULES: ADOPTION OF CHAPTER 24, ANESTHESIOLOGIST ASSISTANTS RULES

Mr. Wayda informed the Board that there was no testimony offered to JCARR on the refiled rules, as modified at the Board meeting on April 1, and JCARR jurisdiction has now expired. He asked for a motion to adopt the proposed rules.

DR. BHATI MOVED THAT THE "FINDINGS AND ORDER IN THE MATTER OF THE ADOPTION OF NEW RULES 4731-24-01, 4731-24-02, 4731-24-03, 4731-24-04 OF THE OHIO ADMINISTRATIVE CODE," PERTAINING TO ANESTHESIOLOGIST ASSISTANTS, AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 14TH DAY OF MAY, 2003, BE ADOPTED AS THE FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE PROPOSED RULES CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULES IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER. DR. BUCHAN SECONDED THE

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MOTION. A vote was taken:

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

The motion carried.

LICENSURE

GREGORY ADKINS, P.A. APPLICANT

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

DR. EGNER MOVED TO APPROVE MR. ADKINS' REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

SARAH BUCHERT, P.A. APPLICANT

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

DR. STEINBERGH MOVED TO GRANT MS. BUCHERT'S REQUEST FOR FULL REGISTRATION AS A PHYSICIAN ASSISTANT. DR. BUCHAN SECONDED THE MOTION.

A vote was taken:

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

The motion carried.

JONATHAN GILLMAN, P.A. APPLICANT

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

DR. STEINBERGH MOVED TO APPROVE MR. GILLMAN'S REQUEST FOR TEMPORARY REGISTRATION AS A PHYSICIAN ASSISTANT. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

CLEVELAND CLINIC BEACHWOOD AMBULATORY SURGERY CENTER - P.A. UTILIZATION PLAN

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

DR. STEINBERGH MOVED TO APPROVE CLEVELAND CLINIC BEACHWOOD AMBULATORY SURGERY CENTER'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

Vote: Mr. Albert - aye

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

The motion carried.

SUMMIT PAIN SPECIALISTS - P.A. UTILIZATION PLAN

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

DR. BUCHAN MOVED TO APPROVE SUMMIT PAIN SPECIALISTS' P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

WETHERINGTON FAMILY MEDICINE - P.A. UTILIZATION PLAN

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

DR. TALMAGE MOVED TO APPROVE WETHERINGTON FAMILY MEDICINE'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. 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

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

The motion carried.

MARK S. VOSLER, D.O. - P.A. UTILIZATION PLAN

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

DR. STEINBERGH MOVED TO APPROVE DR. VOSLER'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. 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
Ms. Sloan - aye
Dr. Garg - aye
Dr. Steinbergh - aye

The motion carried.

SCOTT VOSLER, D.O. - P.A. UTILIZATION PLAN

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

DR. GARG MOVED TO APPROVE DR. VOSLER'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. MS. SLOAN SECONDED THE MOTION. A vote was taken:

Vote:

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

The motion carried.

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UNIVERSITY SURGEONS, INC. - P.A. UTILIZATION PLAN

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

DR. STEINBERGH MOVED TO APPROVE UNIVERSITY SURGEONS, INC.'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. DR. GARG SECONDED THE MOTION. A vote was taken:

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

The motion carried.

KATHY SHORT, D.O. - P.A. UTILIZATION PLAN

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

DR. GARG MOVED TO APPROVE DR. SHORT'S P.A. UTILIZATION PLAN, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION. 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
	Ms. Sloan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

PHYSICIANS INSTITUTE OF COMPREHENSIVE HEALTH - P.A. UTILIZATION PLAN

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

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

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

The motion carried.

ACUPUNCTURIST APPLICANTS

DR. BUCHAN MOVED TO APPROVE THE FOLLOWING APPLICANTS FOR LICENSURE AS ACUPUNCTURISTS, SUBJECT TO RECEIPT AND APPROPRIATENESS OF ALL NECESSARY DOCUMENTATION: NING YANG AND PING CHEN. 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
	Ms. Sloan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

PHYSICIAN LICENSURE APPLICANTS

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

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

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Vote:

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

The motion carried.

DRO, M.D. – RESTORATION APPLICATION

Dr. DRO's application for restoration of his license was presented to the Board at this time. His/Her name was withheld from the Board due to enforcement issues that will require additional investigation and review. However, as this applicant has not actively practiced medicine since March 2001, the Secretary and Supervising Member believe that requiring Dr. DRO to pass the SPEX would be appropriate prior to further consideration of his pending application.

DR. STEINBERGH MOVED THAT DR. DRO BE REQUIRED TO SUCCESSFULLY PASS THE SPEX BEFORE RECEIVING FURTHER CONSIDERATION OF HIS/HER PENDING APPLICATION FOR RESTORATION OF HIS/HER CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO, AND THAT THEREAFTER THE BOARD'S DETERMINATION REGARDING WHETHER TO DENY, GRANT, OR GRANT RESTORATION SUBJECT TO CERTAIN LICENSURE RESTRICTIONS BE FURTHER SUBJECT TO CONSIDERATION OF ADDITIONAL INFORMATION TO BE RECEIVED BY THE BOARD. 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
Ms. Sloan	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

TRS, D.O. APPLICATION

Dr. TRS' application for licensure was presented to the Board at this time. His/Her name was withheld

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from the Board due to enforcement issues that will require additional investigation and review. However, as this applicant has not actively practiced medicine since August 1999, the Secretary and Supervising Member believe that requiring Dr. TRS to pass the SPEX would be appropriate prior to further consideration of his/her pending application.

DR. STEINBERGH MOVED THAT DR. TRS BE REQUIRED TO SUCCESSFUL PASS THE SPEX BEFORE RECEIVING FURTHER CONSIDERATION OF HIS/HER PENDING APPLICATION FOR A CERTIFICATE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY IN OHIO, AND THAT THEREAFTER THE BOARD'S DETERMINATION REGARDING WHETHER TO DENY, GRANT, OR GRANT RESTORATION SUBJECT TO CERTAIN LICENSURE RESTRICTIONS BE FURTHER SUBJECT TO CONSIDERATION OF ADDITIONAL INFORMATION TO BE RECEIVED BY THE BOARD. 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
	Ms. Sloan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

JENNIFER GANTT – P.A. APPLICANT

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

DR. GARG MOVED TO APPROVE MS. GANTT'S REQUEST FOR TEMPORARY REGISTRATION AS A PHYSICIAN ASSISTANT. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

P.A. APPLICANTS

The Board at this time considered applications for both temporary and full registration as physician assistants.

DR. STEINBERGH MOVED, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, TO GRANT FULL REGISTRATION AS A PHYSICIAN ASSISTANT TO PHILLIP RON FERRELL, JR., ANGELA MARIE KOGUT, JAMES ROE, HEATHER LYNN WYKA, SAMUEL CLINTON LOFTON, III, TABITHA SUE MELVIN, CELESTE EDWARDS-BREWER, AND TAMMY HANKINS; AND TO GRANT TEMPORARY REGISTRATION AS A PHYSICIAN ASSISTANT TO VALERIE A. DIAZ, GREGORY G. MADDOX; DEBRA OKTAVEK; DEANN OSTERMAN, AMY RAMEY, STEFANIE PORTER, AIMEE KASPERSKI, JACOB LUTHMAN, MARILYN PALCIC, AND KEVIN MCNEELEY. 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
	Ms. Sloan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

PROBATIONARY REPORTS AND REQUESTS

DOUGLAS BOSACK, M.D.

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

DR. STEINBERGH MOVED TO GRANT DR. BOSACK'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO ONCE EVERY SIX MONTHS. DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCES WITH DR. BOSACK ON APRIL 7, 2003. DR. GARG SECONDED THE MOTION. A vote was taken:

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

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Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Ms. Sloan	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Mr. Browning	- aye

The motion carried.

VICTOR BYKOV, M.D.

Dr. Bykov’s requests for changes to the terms of his August 14, 2002 Consent Agreement were presented to the Board for consideration at this time.

DR. GARG MOVED TO: CONTINUE DR. BYKOV UNDER THE TERMS OF HIS CONSENT AGREEMENT WHILE HE IS IN PENNSYLVANIA; APPROVE ANAND S. JAGANNATH, M.D., AS DR. BYKOV’S NEW MONITORING PHYSICIAN; AND APPROVE PHYSICIAN’S HEALTH PROGRAMS OF THE PENNSYLVANIA MEDICAL SOCIETY AS DR. BYKOV’S NEW SUPERVISING PHYSICIAN. 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
	Ms. Sloan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

ALLAN W. CLARK, M.D.

Dr. Clark’s request for approval of a new supervising physician was presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO APPROVE THE PHYSICIAN’S HEALTH PROGRAM OF THE PENNSYLVANIA MEDICAL SOCIETY AS DR. CLARK’S SUPERVISING PHYSICIAN. MS. SLOAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Bhati left the meeting at this time.

DAVID C. HANES, D.O.

Dr. Hanes' request for changes in his probationary terms was presented to the Board for consideration at this time.

Dr. Steinbergh noted that the CV attached with the request indicates that the physician Dr. Hanes has nominated is still a resident.

DR. STEINBERGH MOVED TO APPROVE DR. HANES' REQUESTS TO REDUCE HIS DRUG SCREEN REQUIREMENT TO TWICE PER MONTH AND TO CHANGE HIS MONITORING PHYSICIAN TO STANLEY J. ORLOP, D.O., SUBJECT TO RECEIVING AN UPDATED CURRICULUM VITAE FROM DR. ORLOP, INDICATING THAT HE IS NO LONGER A RESIDENT. DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCES WITH DR. HANES ON APRIL 7, 2003. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

THOMAS A. HUNTER, P.A.

Mr. Hunter's request for permission to teach was presented to the Board for consideration at this time.

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DR. STEINBERGH MOVED TO GRANT MR. HUNTER PERMISSION TO TEACH PHYSICIAN ASSISTANTS AT THE UNIVERSITY OF ST. FRANCIS IN FORT WAYNE, INDIANA. DR. TALMAGE SECONDED THE MOTION.

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

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

The motion carried.

MICHAEL W. KESSLER, M.D.

Dr. Kessler's request for changes in his probationary terms was presented to the Board for consideration at this time.

Dr. Steinbergh expressed concern that Dr. Kessler asked that, if he goes to Maine, Dr. Kessler's supervising physician would also be his monitoring physician. Dr. Steinbergh stated that she believes this individual would be wearing too many hats, but added that Dr. Kessler is not currently in practice. She suggested approving the request, but requiring him to nominate an orthopedic surgeon to review his charts when he does return to work.

Ms. Sloan left the meeting at this time.

DR. STEINBERGH MOVED TO CONTINUE DR. KESSLER'S PROBATIONARY TERMS WHILE HE RESIDES IN MAINE AND TO APPROVE THE MAINE PHYSICIAN HEALTH PROGRAM AS DR. KESSLER'S SUPERVISING PHYSICIAN. DR. STEINBERGH FURTHER MOVED TO APPROVE DAVID SIMMONS, M.D., TO SERVE AS DR. KESSLER'S MONITORING PHYSICIAN UNTIL DR. KESSLER RETURNS TO WORK, AT WHICH TIME HE WILL NEED TO NOMINATE AN ORTHOPEDIST AS MONITORING PHYSICIAN. DR. GARG SECONDED THE MOTION. A vote was taken:

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

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Dr. Garg	- aye
Dr. Steinbergh	- aye
Mr. Browning	- aye

The motion carried.

ANTHONY W. KITCHEN, M.D.

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

DR. STEINBERGH MOVED TO APPROVE DR. KITCHEN'S PROPOSED PRACTICE PLAN, WHICH WOULD ALLOW HIM TO SUPERVISE PHYSICIAN ASSISTANTS. DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCES WITH DR. KITCHEN ON APRIL 7, 2003. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

LAURENCE I. KLEINER, M.D.

Dr. Kleiner's request for changes in his probationary terms was presented to the Board for consideration at this time.

DR. STEINBERGH MOVED: TO ELIMINATE DR. KLEINER'S GROUP THERAPY REQUIREMENT; TO REDUCE HIS PSYCHIATRIC SESSION REQUIREMENT TO TWICE PER MONTH; TO DISCONTINUE THE CHART REVIEW REQUIREMENT; AND TO LIFT THE RESTRICTIONS FROM SOLO PRACTICE AND NON-PEDIATRIC BACK SURGERIES. DR. GARG SECONDED THE MOTION. A vote was taken:

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

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Dr. Steinbergh - aye
Mr. Browning - aye

The motion carried.

MARK S. MCALLISTER, M.D.

Dr. McAllister's request for changes in his probationary terms was presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO REDUCE DR. MCALLISTER'S APPEARANCE SCHEDULE TO EVERY SIX MONTHS, AND TO REDUCE HIS DRUG SCREEN REQUIREMENT TO TWICE A MONTH. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Mr. Browning	- aye

The motion carried.

JEFFREY D. NEIDHART, M.D.

Dr. Neidhart's request for changes to his probationary terms was presented to the Board for consideration at this time.

DR. TALMAGE MOVED TO GRANT DR. NEIDHART'S REQUEST FOR A REDUCTION IN HIS PSYCHIATRIC SESSIONS TO ONCE EVERY TWO MONTHS. DR. TALMAGE FURTHER MOVED TO DENY DR. NEIDHART'S REQUEST FOR A REDUCTION IN HIS ALCOHOL AND DRUG REHABILITATION MEETINGS. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Mr. Browning	- aye

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The motion carried.

AKI S. PURYEAR, M.D.

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

DR. STEINBERGH MOVED TO APPROVE HENRY T. GOITZ, M.D., TO SERVE AS DR. PURYEAR'S MONITORING PHYSICIAN, WITH TEN (10) CHARTS REVIEWED ON A MONTHLY BASIS. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

WILLIAM A. ROMER, M.D.

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

DR. TALMAGE MOVED TO APPROVE JEFFREY J. MATRE, M.D., TO SERVE AS DR. ROMER'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED ON A MONTHLY BASIS. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

JESSICA A. ROSS, M.D.

Dr. Ross' request for approval of an ethics course and a medical record keeping course was presented to

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the Board for consideration at this time.

DR. STEINBERGH MOVED TO APPROVE THE ETHICS GROUP, LLC'S COURSE *ProBE (PROFESSIONAL/PROBLEM BASED ETHICS)*, AND CASE WESTERN RESERVE UNIVERSITY'S COURSE, *INTENSIVE COURSE IN MEDICAL RECORD KEEPING TO FULFILL THE REQUIREMENTS OF BOTH PARAGRAPHS NUMBERED "B.2." OF THE BOARD'S ORDER OF SEPTEMBER 11, 2002.* DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

ROBERT D. SMARSCH, D.O.

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

DR. STEINBERGH MOVED TO APPROVE DARRELL GILL, D.O., TO SERVE AS DR. SMARSCH'S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED ON A MONTHLY BASIS. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

JAMES E. STURMI, M.D.

Dr. Sturmi's request for a change in his probationary terms was presented to the Board for consideration at this time.

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DR. BUCHAN MOVED TO GRANT DR. STURMI'S REQUEST TO ELIMINATE THE LIMITATION THAT HE WORK NO MORE THAN 40 HOURS PER WEEK. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

PAUL W. WILSON, D.O.

Dr. Wilson's request for approval of a revised practice plan was presented to the Board for consideration at this time. Dr. Wilson has requested permission to work for four hours, one Saturday per month, for Christian Health Ministries.

DR. STEINBERGH MOVED TO PERMIT DR. WILSON'S REQUEST TO REVISE HIS PRACTICE PLAN TO ALLOW HIM TO WORK FOUR HOURS, ONE SATURDAY PER MONTH, FOR CHRISTIAN HEALTH MINISTRIES. DR. GARG SECONDED THE MOTION. A vote was taken on Dr. Steinbergh's motion:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

Mr. Dilling asked for a motion to approve the reports of conferences for those individuals who appeared at conferences in April.

DR. TALMAGE MOVED TO APPROVE THE PROBATIONARY REPORTS FOR THOSE WHO APPEARED FOR PROBATIONARY CONFERENCES IN APRIL. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

PERSONAL APPEARANCES

MAHER H. HELMY, M.D.

Dr. Helmy appeared before the Board pursuant to his request for release from the terms of the Board's Order of December 9, 1998.

In response to Dr. Steinbergh's questions, Dr. Helmy stated that he has learned from this experience. The most important thing he's learned is to look at things before he signs them.

MR. ALBERT MOVED TO RELEASE DR. HELMY FROM THE TERMS OF THE BOARD'S ORDER OF DECEMBER 9, 1998. DR. TALMAGE SECONDED THE MOTION.

In response to further questions by Dr. Steinbergh, Dr. Helmy stated that he is in a solo orthopedic surgery practice, but he does have individuals who cover his practice for him when he's away. He added that they cover for each other.

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

THOMAS A. ZOLDOWSKI, D.P.M.

Dr. Zoldowski appeared before the Board pursuant to his request for release from the terms of the Board's Order of May 13, 1998.

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In response to Dr. Buchan's questions, Dr. Zoldowski stated that he's learned not to prescribe for himself or family members, and if he does, to keep appropriate patient records.

In response to Dr. Steinbergh's questions, Dr. Zoldowski stated that his practice is in Toledo, and it's doing fairly well.

DR. BUCHAN MOVED TO RELEASE DR. ZOLDOWSKI, EFFECTIVE MAY 19, 2003, FROM THE TERMS OF THE BOARD'S ORDER OF MAY 13, 1998. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

GEORGE V. HASSINK, M.D.

Dr. Hassink made his initial appearance before the Board, pursuant to the terms of his February 12, 2003 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Hassink stated that he was released from Talbot Recovery Campus the previous Saturday and is currently residing in Van Buren, Ohio. He's attending daily A.A. meetings, and he has a local sponsor with his home group at St. Michael's Catholic Church. He attends at least one of the two meetings held there each day. Dr. Hassink stated that he is completing the twelve-step program that was started with him in the rehabilitation center, and is currently working on steps eight and nine, reading the material and pursuing the spirituality part of the program. Dr. Hassink stated that he has a return visit scheduled with Talbot in August. He hasn't done any medical practice since his release.

Dr. Steinbergh asked Dr. Hassink how long he's been an alcoholic.

Dr. Hassink stated that he's been an alcoholic all of his life. He disease activated in the mid 1990s, he believes. He thinks that he has the genetic disease of alcoholism and activated his disease sometime due to "who knows what" a few years ago.

In response to Dr. Garg's questions, Dr. Hassink stated that he's in a group practice that allows him to do GYN almost exclusively. Three or four years ago he tried to drop out of the obstetrics part. He's not taking weekend call and he's trying to limit his hours, but he does take an occasional weekend.

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Dr. Hassink stated that what happens to him in the field of medicine from now on is really not up to him. He's going through a lot of changes in his life, and he's waiting for word from his higher power, the Talbot Recovery Campus. They haven't indicated what they are going to do with him with respect to his professional responsibilities. What he would choose to do would be to not take night call or weekend call.

In response to Mr. Albert's questions, Dr. Hassink stated that he was at Talbot for twelve weeks. He stated that when individuals return to Talbot, they do so on the first Monday and Tuesday of every third month. His return will be the first Monday and Tuesday of August. He'll arrive Sunday evening, when there will be a reception. Then there's an all-day program Monday and Tuesday, where he'll actually meet in process groups, group sessions, lectures, and self-help type sessions. He'll meet with current patients that are housed at Talbot and hopefully run into some of his old friends from his stay. He'll meet the staff with whom he's dealt. It's a close-knit group, quite a family.

There was a brief discussion about the cost of the Talbot program.

Dr. Egner noted that Dr. Hassink was in Shepherd Hill for ten weeks, he was home for five to six weeks, during which time he drank twice. Then he went to Talbot, and spent twelve weeks there. She asked him what time he arrived today. Dr. Egner stated that had Dr. Hassink been present during the discussion of the Reports and Recommendations on the day's agenda, he would have heard discussion about people who have been before the Board a couple of times. They relapse and have very severe problems. She stated that Dr. Hassink is at very high risk of relapse, which also puts him at a very high risk of losing his license. She stated that Dr. Hassink needs to understand that. She stated that many times, at these personal appearances, the Board comes across as very supportive, and that's true; but if he doesn't do well, his license is at stake, and he can lose it. People lost their licenses today. She noted that he is currently under a 90-day suspension, dating from February 12. She commented that that is a minimum period of suspension, and that Dr. Hassink may need to take more time off.

In response to Dr. Talmage's questions, Dr. Hassink stated that his family support system is excellent; he's very lucky.

Dr. Steinbergh asked whether Dr. Hassink is taking any medication.

Dr. Hassink stated that he takes Lexapro 10 mg, QD.

In response to Mr. Albert's questions, Dr. Hassink stated that he relapsed after leaving Shepherd Hill because he continued to be an alcoholic and he didn't completely surrender. He simply submitted. Only by redoing step 1 was he able to surrender to the problem.

DR. BUCHAN MOVED TO CONTINUE DR. HASSINK UNDER THE TERMS OF HIS FEBRUARY 12, 2003 CONSENT AGREEMENT AND THE BOARD'S POLICY OF DECEMBER 9, 1998, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Mr. Browning	- aye

The motion carried.

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

Thereupon at 4:15 p.m. the May 14, 2003 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on May 14, 2003, as approved on June 11, 2003.



R. Gregory Browning, President



Anand G. Garg, M.D., Secretary

(SEAL)



May 15, 2003

MINUTES

THE STATE MEDICAL BOARD OF OHIO

May 15, 2003

R. Gregory Browning, Ph.D., President, called the meeting to order at 8:00 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Lance A. Talmage, Sr., M.D., Vice-President; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Anant R. Bhati, M.D.; David S. Buchan, D.P.M.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: The following joined the meeting at a later time: Anand G. Garg, M.D., Secretary. The following did not attend the meeting: Patricia J. Davidson, M.D.; Deepak Kumar, M.D., Anquetette Sloan and Andrew F. Robbins, Jr., M.D.

Also present were: Thomas A. Dilling, Executive Director; William J. Schmidt, Assistant Executive Director, Compliance and Investigations; Diann K. Thompson, Assistant Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Mark Wayda, Chief of Executive Staff; Lauren Lubow, Senior Executive Staff Attorney; Shannon K. Freed, Executive Staff Attorney; Kathleen S. Peterson, Enforcement Coordinators; Rebecca J. Albers, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; and Joan K. Wehrle, Coordinator for Assessment and Development.

GOVERNOR’S MODEL ETHICS POLICY

Mr. Dilling referred the Board to his memorandum of May 1, 2003 and its attachments, copies of which shall be maintained in the exhibits section of this Journal.

Mr. Browning noted that this is not a new policy. The Governor is simply sending a message to Ohio’s Boards and Commissions with a concise restatement of Ohio’s ethics law.

Mr. Albert commented that most of this is common sense.

DR. STEINBERGH MOVED TO ADOPT THE PROPOSED ETHICS POLICY AND VENDOR LETTER. MR. ALBERT SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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Dr. Garg joined the meeting at this time.

REPORTS OF ASSIGNED COMMITTEES

EXECUTIVE COMMITTEE

Mr. Browning asked Mr. Dilling to report to the Board.

Mr. Dilling stated that the Committee met and went over his administrative report. The Committee briefly discussed the Board's budget, and staff testimony at the budget hearing before the Senate Finance and Financial Institutions Committee (SFFIC). Mr. Dilling stated that the hearing couldn't have gone better, but there is still a long process to go before the budget bill is signed.

Mr. Albert stated that Mr. Dilling did an excellent job presenting the Board's case, noting that the SFFIC was amazed at the number of people this Board regulates and supervises.

Mr. Dilling stated that the Executive Committee met with representatives of the Ohio Osteopathic Association (OOA) to discuss a number of issues, including the budget, COMLEX, and the osteopaths integration of their version of the Clinical Skills Assessment (CSA) Examination.

Dr. Steinbergh stated that the osteopathic CSA will be called COMLEX PE. She added that Ohio University has been in the forefront of the development of this examination, and has been doing clinical skills examinations for many years. The Osteopathic Board will officially implement COMLEX PE in 2005. It will cost \$1,000, the same as it does for M.D.s, to take the examination. Dr. Steinbergh added that the students don't mind having to take the examination. She stated that it is the cost of the examination that bothers them.

Mr. Dilling stated that the Committee and OOA also discussed health care workforce issues. There was a direct, frank discussion about the need for the profession to take some type of leadership in taking on these workforce issues.

Mr. Dilling stated that the office-based surgery rules were also discussed, as was investigatory terms and priorities. Concerning the latter issue, Mr. Dilling advised the OOA representatives to notify the Board if they have concerns about any individual case.

LICENSURE COMMITTEE

Dr. Steinbergh advised that the Committee reviewed requests for examination accommodations under the Americans with Disabilities Act from a number of individuals.

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Carroll Grant, M.D.

Dr. Grant has requested an accommodation for double testing time for USMLE Step 3. It was noted that he had been allowed extra testing time of time and a half for Steps 1 and 2. Dr. Steinbergh stated that the Committee recommends allowing Dr. Grant time and a half for Step 3.

**DR. BHATI MOVED TO ALLOW DR. GRANT TIME AND A HALF FOR USMLE STEP 3.
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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Christine (Bae) Hai, M.D.

Dr. Steinbergh stated that Dr. Hai also requested extended testing time of double time for the USMLE Step 3. She has been granted time and a half for Steps 1 and 2, and for Step 3 in Pennsylvania.

**DR. BHATI MOVED TO ALLOW DR. HAI TIME AND A HALF FOR USMLE STEP 3.
DR. EGNER SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

S. Kelley Welindt, M.D.

Dr. Welindt's request for endorsement of her National board of Osteopathic Medical Examiners Diplomate status was considered by the Committee, as Dr. Welindt has not been engaged in the active practice of medicine since December 1999. The Committee recommends that the Board approve her application, subject to her passing the SPEX.

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DR. BHATI MOVED TO APPROVE DR. WELINDT'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO RECEIPT AND APPROPRIATENESS OF NECESSARY DOCUMENTATION, AND SUBJECT TO HER PASSING THE SPEX. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Sandra Crane, M.T. Applicant

Dr. Steinbergh stated that Ms. Crane has requested special accommodations under the ADA. She requested a reader, someone to record her answers on the answer sheet, extended testing time of time and a half, and a separate testing area. The Committee recommended granting her request.

DR. BHATI MOVED TO GRANT MS. CRANE'S REQUESTS FOR A READER, SOMEONE TO RECORD HER ANSWERS ON THE ANSWER SHEET, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Susan K. Troff, M.T.

Dr. Steinbergh stated that the Committee reviewed the above-captioned's request for restoration of her massage license. She has not actively practiced since August 1999. The Committee recommended approval, subject to Ms. Troff passing the Limited Branch portion of the Board's massage examination.

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DR. BUCHAN MOVED TO GRANT MS. TROFF'S REQUEST FOR RESTORATION OF HER MASSAGE THERAPY LICENSE, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LEGISLATIVE LIAISON COMMITTEE

Mr. Browning advised that the Committee's focus is on the budget. Most of the activity at the State House related to the Board has slowed down and been taken over by the budget. He added that it appears that the Board's budget request will be approved.

LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Academy and Clinic of Massotherapy, LLC

Dr. Buchan advised that the Committee reviewed an application for a certificate of good standing for the above-captioned school, and recommends approval.

DR. BHATI MOVED TO GRANT THE ACADEMY AND CLINIC OF MASSOTHERAPY, LLC, A CERTIFICATE OF GOOD STANDING. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Buchan stated that the Committee also talked about, and believes that there are merits in developing,

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the development of an Acupuncture Advisory Committee. The Committee will continue to study the issue.

P.A. COMMITTEE

Dr. Talmage stated that the Committee reconsidered the supplemental request of the Crystal Clinic, and reviewed a new supplemental request from Michalski Orthopedic Center. Both requests were for the same functions; i.e., injection of the knee, utilizing 100% onsite supervision. Dr. Talmage stated that Dr. Michalski wanted to be present during the Committee's discussion, but he has since learned that Dr. Michalski was given the wrong date to appear by Board staff. At its meeting, the Committee voted to deny both requests based upon the fact that this is a medical procedure requiring a physician's training and expertise. Dr. Talmage asked that the Board allow Dr. Michalski to address the Board. He added that he feels Dr. Michalski's testimony will have bearing on both applications.

Dr. Michalski thanked the Board for the opportunity to address it. He advised that he practices in Martins Ferry. His wife, Lisa, is a P.A. with a masters degree in health administration and is working on her doctorate in health science. One of her projects is going to be the use of P.A.s in practice. Dr. Michalski stated that about ten percent of all P.A.s are working in orthopedic settings. He's requesting that the Board approve the use of injection and aspiration of the knee by a P.A.

Dr. Michalski stated that he has about 15 years of experience working with P.A.s both through the U.S. Navy as well as various other settings in Pennsylvania and West Virginia. During the past three years they've moved their setting solely to the State of Ohio. His wife is the P.A. in his practice, and, as such, she's done hundreds of injections into the knee, aspirations and arthrocenteses of the knee, all without any problems or complications. He personally has done thousands of injections, aspirations and arthrocenteses of the knee without complications.

Dr. Michalski stated that, as far as what he would recommend for his practice, Lisa is well qualified to do these procedures, and has done them in other states. He would like to have the P.A. do those procedures. He personally teaches medical students, nurse practitioners and P.A.s these procedures. He's on staff at three medical schools and has access to internal medicine, family practice, orthopedic surgery, general surgery, medical students and residents, and he's been very favorably impressed with the ability of the P.A.s, who are well trained and who do these procedures during their educational process. He requires that P.A.s in his practice have a masters degree. They do have a sufficient course in anatomy and physiology, and they do have sufficient training in injections of the knee and shoulder. Dr. Michalski stated that he knows that the State of Ohio has different parameters, but the request today would be that his P.A.s be permitted to do injection of the knee as well as arthrocentesis.

Dr. Michalski stated that one question the Board staff has posed concerned the complication rate of a P.A. performing the procedure as opposed to the complication rate of a physician doing the same procedure. He stated that his practice is in an very under-served area, where he is the only orthopedic doctor in this region. If they don't make the injections through their practice, the family practice physicians will do it, and they don't feel comfortable doing that. The family practice physicians prefer to

send the patient to him for the most part, but they have to turn patients away because of the volume. The patient may have to travel to Columbus, Pittsburgh or Morgantown for the procedure. In addition, as far as quality of life, burnout, etc., he's enjoying what he's doing, but if he's going to have to keep pushing, he wants to be in a setting that is congenial. He could have a P.A., who is very well-qualified, with experience and a masters degree from a qualified program, working with him. He would be the supervising physician for his wife, or if someone else came in, they would have to go through the same credentialing he requires. That credentialing includes ten hours of an ongoing didactic objective program. Dr. Michalski stated that he has the program delineated as far as methods used to assess the successful completion, as well as ongoing 100 percent review by himself, documentation each time the procedure would be performed, documenting the outcome, the quality of the material that would be aspirated. He would also meet with the P.A., at least weekly, for technique critique, etc., on these two particular procedures. All patients would be informed that a P.A. would be performing the arthrocentesis, and all of the patients would consent to having the P.A. perform the procedure, prior to the procedure. He, personally, would see and evaluate the need for the procedure, prior to and after each injection.

Dr. Garg asked how much training Dr. Michalski thinks is necessary for somebody to learn to do this. How do you train a person to inject? He also asked why, if Dr. Michalski is present when the procedure is being performed, why it would save him time to have the P.A. do it rather than himself. He noted that there will be patients who are referred to him by a family physician because Dr. Michalski's expertise is needed. Will the patient have the choice of who will perform the procedure?

Dr. Michalski stated that, in his practice, he has signs throughout the office stating that there is a P.A. employed there. Any patient is given the opportunity to see the physician if he or she chooses not to see the P.A. They are never told that the doctor is too busy. They can choose who they want to see when they make the appointment. They can also choose at the time of the appointment.

Dr. Garg asked whether the patient's treatment would be delayed should he want to see the physician.

Dr. Michalski stated that it is quicker to see the P.A. In the realm of an under-served area, having to make that patient wait that extra time is not fair. It is more beneficial for the patient to have a quicker follow-up of care.

Dr. Talmage stated that if the P.A. wasn't doing any of the injections, the delay in treatment would be even greater.

Dr. Garg asked how many cases it would take to train a P.A. who has never done the procedure, and what are the complications that could occur.

Dr. Michalski stated that it's almost impossible to make a mistake in making a knee injection. There are really only two or three main large areas to make the injection. Part of his protocol requires at least ten hours of didactic training, going over models and pictures. Within the P.A. training in the masters program, they have an anatomy session and they do injections during their training on patients. They all come having done some injections and aspirations, so he's not getting someone fresh.

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Dr. Garg advised that Dr. Michalski is not the only physician wanting to hire P.A.s to do these procedures. Once the Board approves the procedure for one physician, there will be other physicians who request the same thing. What kind of training should the Board be looking for?

Dr. Michalski stated that he would require a masters degree program. There are several orthopedic PA. programs that really don't have the training. He would discount those. He would also discount those with bachelor degrees. He would stick with the masters program as rudimentary credentialing. He would also state that the P.A. would have to show some documentation of an anatomy training program, and perhaps show completion of a didactic site, where they've worked with someone doing injections. Within the office they will have ten hours of working with various models, to have a sign-off sheet for the supervising physician. After that is done, they should observe 25 injections by the physician. The next 25 would be with the physician there being ready to hold the hand, point the needle, getting approval from the patient.

Dr. Garg asked what the complications might be.

Dr. Michalski stated that one complication would be bleeding. He stated that the only significant vessel in any area is going to be the popliteal artery, which is directly behind the capsule. He stated that you'd have to get an 18 gauge spinal needle, which they don't have in their office, and go directly posterior in a very thin person through the anterior cruciate ligament, through the posterior cruciate ligament, through the posterior capsule into the popliteal artery.

Dr. Garg asked whether there would be any difference between a knee that is not all that deranged as compared to a very arthritic knee where there's not much space for injection, as far as discomfort, bleeding and other complications are concerned.

Dr. Michalski stated that sometimes patients are a little more sensitive with an arthritic knee, but knowing that the rejection can give them relief, they're the ones that benefit most from the injection.

Dr. Garg stated that in an arthritic knee there is no cartilage and there's hardly any space. They are more difficult to do as compared with another knee that has good space. He asked whether Dr. Michalski would choose to do the bad knee rather than have the P.A. do it. He asked whether it is necessary to make that kind of differentiation.

Dr. Michalski stated that the more arthritic knee would actually be more beneficial because there is less cartilage to potentially injure. There are clearly defined landmarks.

Dr. Steinbergh asked Dr. Michalski how long it has been since his P.A. has done the procedure.

Dr. Michalski stated that they had two offices, one in West Virginia and one in Ohio. Since they combined the offices in Ohio, it's been one year.

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Dr. Steinbergh commented that he would have to re-educate his P.A.

Dr. Michalski acknowledged that.

Dr. Steinbergh continued that when the Board sets rules, it does it for all physicians. Those individuals who come before the Board should understand that when the Board sets a standard, it's not a personal thing. It's a decision for the care and protection of all of the patients in the state.

Mr. Dilling stated that, while there may be some precedent in terms of permitting a certain procedure, the Board does have some leeway based upon the individual facts.

Dr. Steinbergh stated that she understands, but added that when the Board does set standards, everyone must meet them. If the Board approves a procedure, everyone needs to meet the same standards for approval.

Dr. Steinbergh stated that she does have concern about the medical decision making that goes on, the decision to inject the joint. The Board requires Dr. Michalski to see the patient the first time the patient presents in the office. The Board's concerns are in the decision making that arthrocentesis or an injection is to be done. If the physician is there, making the decision that the patient should have the injection, why wouldn't the physician just do the injection? She asked whether Dr. Michalski would allow the P.A. to make the determination that on that day that's an appropriate procedure to do for that patient.

Dr. Michalski stated that he's always there in the office. The decision is ultimately his. If the P.A. questions whether the patient needs an injection, they will sit and review the case and then decide.

Dr. Steinbergh asked what happens if the P.A. doesn't ask that question.

Dr. Michalski stated that he sees 100 percent of the patients that the P.A. sees.

Dr. Steinbergh asked for clarification that when the patient comes into the doctor's office, the physician will see the patient and make the decision that the patient will get an injection, but the P.A. will do it.

Dr. Michalski stated that he would see the patient.

Dr. Steinbergh asked whether he would make the decision to give the injection 100 percent of the time.

Dr. Michalski stated that he would.

Dr. Talmage stated that Dr. Michalski's application is subtly different from the Crystal Clinic's application, which states that the physician will see and evaluate the knee prior to the first procedure. Dr. Michalski's application indicates that the physician will see and evaluate the knee prior to each procedure. He has committed to more supervision than has the Crystal Clinic. If the Board was to approve it, it could require that the Crystal Clinic physicians see and evaluate the knee prior to each procedure.

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Dr. Buchan stated that he voted to deny this during the Committee meeting for three basic reasons. This is not a benign procedure where you just stick needles in joints. If it were that simple, the family practitioners would have no hesitancy in doing the same. Many of them have had seven years of training, and obviously they have some trepidation.

Dr. Buchan stated that his second objection is that there are complications from fat atrophy, to cartilage damage, to intravascular injections, to infection. Those are important issues to discuss. He stated that Dr. Michalski may not have engaged those complications, but the Board understands that those can be issues.

Dr. Buchan stated that lastly, and perhaps the most important reason for him, is that the consequences of a failed injection are significant. For instance, if three injections are tried and don't work, the consequence is most likely surgical intervention.

Dr. Michalski stated that he doesn't see a definite result in surgery. There are several issues. He agreed with Dr. Buchan's list of possible complications from an injection. If the P.A. or physician doesn't get into the joint, the medication can shrink some of the tissues, be it fat or whatever, but there is a definite feel to when you're in the joint, and that is part of the training program. Anything other than joint fluid you would expect to see when aspirating.

Dr. Michalski stated that, as far as the family practitioners in his area, they're just too busy. They're working so hard and they don't have the time to do the aspirations.

Dr. Buchan stated that he thought he heard Dr. Michalski state that family practitioners weren't comfortable giving the injection. He didn't understand it as an issue of time, but of expertise.

Dr. Michalski stated that, in general, they don't have the time. One particular doctor he referred to earlier is the Workers Compensation doctor, who doesn't feel comfortable making the injections.

Dr. Buchan reiterated that the consequences of a poor technique or poor injection can be surgery, which has larger implications to patients.

Mrs. Michalski stated that what Dr. Buchan is saying is that if three injections failed, the person needs surgery. That is not the case. The person will need surgery because the knee is so far gone that it's bone on bone. The injection doesn't cause that.

Dr. Buchan stated that he understands that. What he is suggesting is that if conservative treatment fails, the consequences of that failed procedure can lead to surgery.

Dr. Michalski stated that it can lead to surgery but not all the time. They have patients that come back that, because of the medical condition, are unable to undergo surgery.

Dr. Buchan stated that he understands, but he personally feels that it's reasonable that the expert be the one delivering that medicine.

Dr. Talmage stated that there's a subtle difference there. The three failed injections don't lead to surgery. The next step in that patient's therapy may be surgery because the injections failed. The procedure didn't cause the surgery, the patient just didn't get the benefit.

Dr. Buchan stated that he understands that.

Dr. Bhati stated that he believes Dr. Buchan is making a different point. If the procedure is not done properly or adequately, there's an issue.

Dr. Talmage stated that if the injection fails because of poor technique, surgery will be next. There is a subtle difference.

Dr. Bhati stated that this is a blind procedure, like an epidural; it's not like you're watching it going through the scope or something.

Dr. Michalski disagreed, stating that the epidural is definitely a blind procedure, but the knee is such an open exposed joint.

Dr. Garg stated that he also voted against approval of this procedure in Committee. He's a neurosurgeon and sees a lot of people with problems in shoulders and knees, and he never does injections, but sends the patient to his orthopedic colleague because he feels the orthopedist can do a better job for the patient. He expressed concern that physicians are sending patients to physicians for care, and the patient is getting someone other than the physician. That is a concern to him.

Dr. Garg stated that performing the procedure takes such a short time, and he doesn't think it will save the physician that much time to have the P.A. do it. If someone goes to an orthopedist, he expects that he will get the best treatment from the physician.

Mr. Dilling asked whether Dr. Michalski would consider amending his application to include informed consent for the physician who is referring patients to him.

Dr. Michalski stated that he has no problems whatsoever with that. He added that doctors give the impression of being busy, and the P.A. give the impression of being able to spend time. That's definitely the case. The P.A. spends more time with that patient than he does. A lot of time there's a relationship built up there, and the patient comes in and requests to see the P.A. There is a provider/patient bond that is sought after. He believes this helps to care for an under-served population when the patient may have to travel 100 or so miles to get that same injection.

Dr. Steinbergh stated that she doesn't disagree with Dr. Michalski on that issue, but he could utilize that very effectively in his practice without exposing the patient to a procedure done. The P.A. could do a great

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percentage of the care, and then the physician's expertise comes in in examining the joint, making the decision, and giving the injection. So much can be done prior to the physician's coming into the room to do the technical procedure. The bond between the patient and P.A. isn't disrupted by that.

Dr. Michalski stated that a P.A. is well-trained through a masters program with adequate anatomy, didactic and review by an orthopedic surgeon. He believes that a well-trained P.A. is a very vital and necessary link in delivering comprehensive orthopedic care to a patient, specifically for knee care in his practice.

Dr. Talmage asked how much time it takes to give the injection, once the decision is made that the injection is appropriate.

Dr. Michalski stated that, once the decision is made, it's a matter of drawing up the medication, reaching in the drawers and getting the alcohol pads, it doesn't seem like much, but it's several minutes time. The arthrocentesis adds another couple of minutes of time because you can't just put the needle in and suck up the fluid. It's a slow process of milking the fluid out. Even when they did arthrocenteses together in other states, he would typically be there anyway to help to press the tissue together, or one of the other medical assistants would be there. Dr. Michalski stated that he doesn't think that he has to be there during the arthrocentesis or injection. A well-trained individual can do this, but it does take several minutes' time, and that is something that can be well spent with other patients.

Dr. Garg stated that Dr. Michalski stated that he has to be there. If he has to be there anyway, and is going to be there, why not do the procedure himself. It's not saving him time.

Mrs. Michalski stated that a P.A. is trained as a medical student. They have 35 less credit hours than do medical students. They are trained to evaluate and consider treatment for the patient. She does see first-time patients, and then Dr. Michalski will walk in. They discuss the treatment plan, which may go for two or three appointments. She knows when the patient is coming next that the patient may or may not need an injection. If Dr. Michalski is there or not, she may make the decision to give the injection without Dr. Michalski coming in and evaluating the patient. It is just a matter of whether the patient requires an injection or not. If the patient is not having pain, and they say they don't need an injection, or if they only have three injections scheduled and they'd rather wait until later, they hold off on it. She doesn't just give an injection without giving it thought. She is trained in the medical model to evaluate the patient. She does a history and physical and makes a diagnosis and treats. If she's unsure of a treatment, and after three years of having supervised training with a resident, she thinks she can determine whether a patient needs an injection without being foolish about it. She is trained. She's not a nurse. She's not a physician. She's a physician assistant, and she is trained to do what a physician does under supervision. It's not always direct supervision. That is what a P.A. does. She's not meant to have someone hold her hand for every procedure. The whole idea behind the P.A. is to have an extender of the physician. If she runs into problems or has a question, the physician is there. She doesn't believe that a lot of P.A.s would do something without questioning, if they were not sure. She knows that she has the training. She has two master degrees, she's working on a PhD, she intends to go for her M.D., but the point of the matter is that right here and right now, she is capable of giving an injection, she is capable of making a judgment of when to give an injection. The State of West Virginia required that she have ten supervised injections that

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were signed off by her supervising physician for each site before she was able to make those injections. It's not just about going physically and making the injection, but making the determination of when to give an injection. She's fully qualified to make that decision with her supervising physician in the area.

Mr. Dilling stated that what Mrs. Michalski has described is not the plan before the Board today.

Mrs. Michalski stated that Dr. Michalski has ideals higher than that in order to appease the Medical Board.

Mr. Dilling stated that the Board's P.A. Policy Committee will meet at 10:30, and it will talk about the bigger issues. He added that it seems like the train is moving out of the station toward that type of practice in Ohio.

Mrs. Michalski stated that the State of Ohio is really behind what a P.A. can do.

Mr. Dilling stated that the Ohio statutes require that new patients and patients with new condition be seen and evaluated by the physician. It also requires this type of supplemental plan. The Board has the plan before it and a lot of questions are being asked. He believes that the discussion is focused on a more conservative plan than West Virginia, or Ohio in the future, but today the Board is here for the physician seeing each patient, personally evaluating the patient, working with the P.A., but the physician making the determination that the injection is needed.

Mr. Browning asked Dr. Talmage to continue.

Crystal Clinic

DR. TALMAGE MOVED TO APPROVE THE CRYSTAL CLINIC'S APPLICATION WITH THE AMENDMENT THAT THE ALL PATIENTS ARE INFORMED THAT THE P.A. WOULD BE PERFORMING THE PROCEDURE, THAT THEY CONSENT TO A P.A. PERFORMING THE PROCEDURE, THAT THE PHYSICIAN WILL SEE AND EVALUATE THE NEED PRIOR TO EACH PROCEDURE, AND THAT THE REFERRING PHYSICIAN IS ALSO INFORMED THAT THE P.A. WILL PROVIDE THE PROCEDURE. HE ADDED THAT THE COMMITTEE DID NOT APPROVE THE PLAN AS WRITTEN. DR. GARG SECONDED THE MOTION.

Mr. Albert reminded the Board that once this procedure is approved for one group, it is open for all other groups.

Dr. Egner stated that it is if the other groups comply with the specifics of these cases.

Mr. Dilling commented that this is not an unique request.

Dr. Garg stated that he feels that the presentation was very good, providing the Board with a lot of information.

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

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

The motion failed.

Dr. Talmage advised that, concerning the Crystal Clinic's request for the P.A. to perform arthrocentesis, the Committee recommends denying.

DR. BHATI MOVED TO PROPOSE TO DENY THE CRYSTAL CLINIC'S REQUEST FOR THE P.A. TO PERFORM ARTHROCENTESIS ON THE BASIS THAT IT IS A MEDICAL PROCEDURE, WHICH COULD RESULT IN COMPLICATIONS RESULTING IN FURTHER DAMAGE TO THE KNEE AND THE NECESSITY FOR SURGERY, AND WHICH REQUIRES THE EXPERTISE OF A PHYSICIAN. DR. BUCHAN SECONDED THE MOTION.

Dr. Garg noted that arthrocentesis and injection are two separate issues.

Dr. Steinbergh stated that one of her concerns after today's discussion is that the P.A. was describing the practice of medicine. In general, this Board feels that when one makes the decision to practice medicine, one needs to go to medical school and be licensed to practice medicine. She listened and wasn't able to differentiate between the extender and the physician.

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

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

The motion carried.

Michalski Orthopedic Center

Dr. Talmage stated that the difference between this application and the Crystal Clinic's is that the physician

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will see each patient each visit, rather than just the first visit. The P.A. Committee voted to deny the application.

DR. BHATI MOVED TO PROPOSE TO DENY THE MICHALSKI ORTHOPEDIC CENTER'S REQUEST FOR THE P.A. TO PERFORM INJECTIONS OF THE KNEE ON THE BASIS THAT IT IS A MEDICAL PROCEDURE, WHICH COULD RESULT IN COMPLICATIONS RESULTING IN FURTHER DAMAGE TO THE KNEE AND THE NECESSITY FOR SURGERY, AND WHICH REQUIRES THE EXPERTISE OF A PHYSICIAN. MR. ALBERT SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Referring to Dr. Michalski's request for the P.A. to perform arthrocentesis of the knee, Dr. Garg stated that the Board has learned a lot of things today. He does feel there is a difference between giving injections and performing arthrocentesis. Dr. Garg added that, until the last part of the presentation, he was very impressed with the kind of training being done in Dr. Michalski's establishment.

DR. BHATI MOVED TO PROPOSE TO DENY THE MICHALSKI ORTHOPEDIC CENTER'S REQUEST FOR THE P.A. TO PERFORM ARTHROCENTESIS ON THE BASIS THAT IT IS A MEDICAL PROCEDURE, WHICH COULD RESULT IN COMPLICATIONS RESULTING IN FURTHER DAMAGE TO THE KNEE, AND WHICH REQUIRES THE EXPERTISE OF A PHYSICIAN. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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OFFICE BASED SURGERY RULES

At this time Dr. Bhati thanked the Committee and staff for its work through the last two and a half years. He stated that this has been a very difficult process to go through, but finally the Scope of Practice Committee is ready to present its final work to the Board.

Dr. Bhati referred to Mr. Wayda's written report, a copy of which shall be maintained in the exhibits section of this journal, of that day's Committee meeting. He stated that the purpose of the rules is to make office-based surgery safer for the patient. The rules contain definitions, general provisions, standards for surgery using moderate sedation and anesthesia, and standard for surgery using anesthesia services, liposuction in the office setting, required reporting of adverse events, accreditation of the office setting, and requirements for supervising physicians..

Dr. Bhati advised that the reporting of adverse events will be regarded as a complaint and would be a confidential document.

Dr. Bhati stated that the two main controversial issues is a C.M.E. requirement for the physician who will be supervising a person giving anesthesia. There was some difficulty because, as the statute stands today, a C.R.N.A. can give anesthesia under the supervision of "a physician." The Committee recommends that the Board require those physicians to obtain 5 hours of C.M.E. training each biennium for moderate sedation and 20 hours of C.M.E. for general anesthesia. This requirement has been put into a separate rule so it does not conflict with the statute. The O.S.M.A. has been opposed to any focused C.M.E. The Committee was unanimous in its decision to include the C.M.E. requirement. Dr. Bhati stated that there was a question as to whether or not five hours of C.M.E. is adequate. The question was posed to the President of O.S.A., who indicated that they don't know what an adequate C.M.E. requirement would be, but the five hours would be a good start. Dr. Bhati stated that the reason for the C.M.E. requirement is so that the physician supervising the C.R.N.A. can know what to do, should something go wrong. This is a very specialized situation. There is a tremendous amount of new drugs and new technology. Dr. Bhati stated that he doesn't believe most surgeons would know what to do to assist.

Dr. Garg asked for an explanation of the 5 hours vs. 20 hours.

Mr. Wayda stated that in an office where you're only using moderate sedation analgesia and you are supervising a C.R.N.A., you need to have 5 hours of C.M.E. specific to moderate sedation. In an office where you are using anesthesia services, which is deep sedation and general anesthesia, and you're working with a C.R.N.A., you have to have 20 hours of C.M.E. specific t anesthesia services.

Dr. Garg asked whether that second part also include tumescent anesthesia.

Dr. Bhati stated that the tumescent liposuction situation is considered as an exception. That's a separate subject that will be discussed later.

Dr. Steinbergh stated that she supports the C.M.E. issue, and she does not think of this as limiting the

practice of a C.R.N.A., but of increasing the education of the physician in charge of the surgery. She believes this will enhance public protection, which is why the Board is developing these rules in the first place.

Dr. Talmage stated that there are three ways the Board can approach this issue: 1. decide that C.M.E. for the surgeon is not necessary at all; 2. that C.M.E. is required only of the operating physician who is supervising a non-anesthesiologist; and 3. whether the Board wants C.M.E. for every operating physician, regardless of who the anesthesia provider is.

Dr. Talmage stated that the Committee discussed that third option at some length. The concern was that the Board would be disenfranchising the C.R.N.A. if it required only those supervising C.R.N.A.s to get the C.M.E., because then it would be easier for the operating surgeon to say that he or she only wants to work with an anesthesiologist. It would be more consistent to require the C.M.E. for any operating surgeon, regardless of the anesthesia provider. He stated that his feeling of concern or responsibility is different if he is the M.D. operating surgeon and there is a C.R.N.A. providing anesthesia than there is if there's an M.D. anesthesiologist providing the anesthesia. He saw no reason for the C.M.E. to be required in the anesthesiologist situation. He stated that it seems fairly clear from the Committee discussion that requiring no C.M.E. is not an option. The other two options would be C.M.E. if you supervise anybody but an anesthesiologist, or C.M.E. even if you are working with an anesthesiologist and not supervising him..

Dr. Garg stated that he has gone through this and his concern with C.M.E. is that you don't need C.M.E. if an anesthesiologist is there, but when it comes to C.R.N.A.s, and you require 5 or 20 hours for a surgeon to supervise, it seems ridiculous. There is no way that a surgeon with 5 hours or 20 hours of C.M.E. could supervise a C.R.N.A. The C.R.N.A. knows a lot more about any kind of anesthesia than the surgeon would ever know because he's a surgeon who never did anesthesia. Dr. Garg stated that, in his judgment, the only one who can help a C.R.N.A. should he or she run into trouble is an anesthesiologist, and not the surgeon. That's his concern. The Legislature, however, requires supervision by "a physician," so the Board's hands are tied. That's why he feels that some C.M.E. is better than not having any.

Dr. Steinbergh stated that her feeling about the C.M.E. is that the physician will have exposed him or herself to those anesthetic agents and will be more informed and more educated as a physician when the C.R.N.A. asks for help. The physician has been exposed to those medications. Dr. Steinbergh stated that the surgeon, having been exposed to anesthesia in the surgical setting, is already advanced in knowledge, and she believes that refreshers on current anesthesia and so forth stimulates the physician to think more about those agents, and allows him to participate a little bit more in controlling the situation.

Dr. Garg stated that he agrees with Dr. Steinbergh, but he doesn't think that it will solve entire safety problem. He added that there's nothing the Board can do about it under the current statute.

Dr. Egner asked whether the C.M.E. would be one-time.

Dr. Bhati stated that it would be required every two years.

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Dr. Egner stated that she doesn't think that the C.M.E. makes one more knowledgeable or an expert.

Dr. Garg stated that he's not looking for more expertise or more knowledgeable. He doesn't feel that he could comfortably supervise a C.R.N.A. after only a 5-hour course.

Dr. Egner stated that she wants to talk about the reporting. When she reads the rule, it's the reporting requirement that makes the rule work. She asked the Committee to address this issue. How does she know that people really are going to report? Every report will be handled as a complaint. What assurances does the Board have?

Dr. Bhati stated that he will address Dr. Egner's concerns after the Board is finished with the C.M.E. issue.

Dr. Buchan stated that he shares Dr. Garg's concern about the efficacy of 5 or 20 hours of C.M.E. The Board is not able to make mini-anesthesiologists in that brief period of time. However, he also shares the notion that some training is better is nothing. He also feels, in fairness, that if C.M.E. is required for surgeons supervising C.R.N.A.s, it should also be required for surgeons working with anesthesiologists, as well. Essentially, if you're in a situation where the patient crashes, the surgeon should be able to assist the anesthesiologist or C.R.N.A., if necessary.

Dr. Garg agreed with Dr. Buchan.

Dr. Steinbergh disagreed, stating that the statutory requirements are that C.R.N.A.s are supervised by a physician. Anesthesiologists are physicians and do not need to be supervised by the surgeon. She stated that Dr. Buchan is equating the anesthesiologist to the C.R.N.A. in regard to the fact that he wants the physician to get the C.M.E., regardless. She supports C.M.E. because, statutorily, the C.R.N.A. may work under the supervision of "a physician." She thinks that that "physician" ought to avail him or herself of this particular type of C.M.E. in order to allow a safer situation. She understands who's delivering the anesthesia; but as far as the anesthesiologist is concerned, and the surgeon at the same time, the anesthesiologist in the room with the surgeon is fully licensed as a physician. She does not believe that in that particular scenario, the 5 hours or 20 hours is going to afford any increased safety when it has to do with the anesthesiologist delivering the anesthesia.

Dr. Buchan stated that he's talking strictly about patient safety. In the event of a bad event, the surgeon may need to be called upon to help. The surgeon wouldn't be supervising the anesthesiologist, but he should be able to assist the anesthesiologist if there is a problem and the anesthesiologist calls for help. The Board needs to make sure that those who help are minimally trained. He stated that the Board should require it for all surgeons in an office setting or for none.

Mr. Albert stated that, what he thinks Dr. Buchan is saying is that, irregardless of who is doing the anesthesia, the surgeon should have the C.M.E.

Dr. Egner stated that the number of hours is based upon the level of anesthesia and not on who is providing the anesthesia.

Dr. Bhati and Dr. Garg stated that that is correct.

Dr. Garg continued that the reasoning he is giving is that, if the anesthesiologist in a hospital feels that he needs help and he asks for help another anesthesiologist probably comes and helps. In an office, there's nobody to help, so at least the surgeon will have a little knowledge from his C.M.E. to help the anesthesiologist. He's not supervising the anesthesiologist, he's only helping.

Mr. Albert stated that when you're looking at surgeons, you're not exactly working with a blank screen.

Dr. Garg stated that after the physician is out of training for a year or two, he or she is already behind when it comes to anesthesia. You really don't have much current knowledge.

Mr. Browning asked what is being accomplished with 5 hours of C.M.E., other than a good start. It seems to him that something better nothing ought to be built on a little bit. Was 5 hours just picked out of the air, or is the Board trying to accomplish something? What level is the Board trying to reach? What is the Board trying to accomplish? What does the Board get at the end of the day. What can the Board tell the public such an individual knows?

Dr. Talmage stated that 5 hours is a one-day course.

Dr. Bhati stated that the 5 hour course is only for those doing moderate sedation. For deep sedation or general anesthesia, 20 hours is being required.

Mr. Browning stated that he knows, but he thinks that the Board should say what it's trying to accomplish. Otherwise, all the Board is doing is saying something's better than nothing, which sounds okay, but the Board is dealing with fairly significant stuff.

Dr. Bhati stated that the Committee asked the president of OSA what the appropriate number of hours would be, and he could not come up with a response.

Mr. Browning stated that there has to be some functionality to this it seems. The Board has to be able to say that it's requiring 5 hours or 20 hours of C.M.E. in order to do "X," whatever "X" is.

Dr. Bhati stated that "X" is to support the C.R.N.A. if the C.R.N.A. runs into problems.

Mr. Browning asked how, functionally speaking, the physician will be able to do that in a way after 5 or 20 hours that they can't do today.

Dr. Bhati stated that the physician will be more familiar with drugs used or equipment handled.

Mr. Browning asked whether the Board should say that in the rule.

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Dr. Talmage stated that there are some precedents. The statutes require 30 hours of training for an APN to be able to prescribe, so that the APN has sufficient knowledge of pharmacology to prescribe. If it takes 30 hours for someone to learn all drugs, something in the neighborhood of 20 hours, along with the requirement of learning intubation techniques, and already having had pharmacology in medical school would seem to be an adequate number of hours to focus on a small group of drugs that would be used.

Mr. Browning stated that common sense suggests that there ought to be some clarity about what the Board is trying to accomplish. If it's not written down, people may not understand why the Board is doing what it's doing.

Mr. Wayda stated that the language is general in part because these courses are not currently available. As the Committee has gone through the process, OSA has informed it that as the requirements are promulgated, there will then be a generation of courses made available for people.

Mr. Browning stated that that's even more of a reason to have some functional statement.

Dr. Garg remarked that Mr. Browning's suggestion might help those who are developing the courses.

Dr. Bhati asked whether the Board could incorporate the language.

Dr. Steinbergh suggested saying that the language could say the number of C.M.E. hours "to include training and such and such."

Mr. Wayda stated that the current proposed language just says relating to the delivery of moderate sedation analgesia and relating to general anesthesia.

Dr. Steinbergh stated that it would include pharmacologic agents, resuscitation.

Mr. Wayda stated that they have to be ACLS certified.

Mr. Dilling asked whether the other states who have this requirement have any specificity towards the C.M.E.

Mr. Wayda stated that they are not any more specific than the proposed rules. Illinois and New Jersey require a certain number of hours of C.M.E. The proposed numbers were derived in consultation with people in Illinois. The numbers are comparable.

Dr. Egner spoke against being more specific about the C.M.E. for two reasons: 1. There will be many aspects that the physician will learn about. They're going to take these courses every two years. One course may be very focused on untoward events that can happen with moderate anesthesia. another course might deal with pre-operative kind of evaluating things. If you're very specific, you've limited the physician to take the same course every two years, and not really expand. The Board has never really gone into the area of focused C.M.E., and she thinks a general category is appropriate now. If the Board finds

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that more specificity is needed, the Board has the opportunity to change the rules later on. She's more in favor of something more general, but definitely related to anesthesia.

Dr. Garg stated that he doesn't think it would hurt to add language requiring the C.M.E. to include at least knowledge of anesthetic therapeutics, some equipment, some this and that. You're not saying exactly what courses to take, but the Board wants to make sure that these surgeons are knowledgeable about those two or three key factors involved here. He stated that he thinks that Mr. Browning has made a very valid point, and takes the Board one step ahead in the process.

Dr. Bhati stated that he believes that the current language in the proposed bill is appropriate, and he asked Mr. Wayda to read the language of the proposed rules.

Mr. Wayda read the paragraphs in proposed rule 4731-25-08 relating to the C.M.E. requirement.

Dr. Garg stated that that language is sufficient.

Dr. Bhati stated that he agrees with Dr. Egner that the language shouldn't be more specific. The Board needs to leave a door open for those who are preparing the conferences and lectures.

DR. BUCHAN MOVED TO MODIFY PROPOSED RULE 4731-25-08(B) AND (C) TO READ AS FOLLOWS:

(B) A physician or podiatric physician performing surgery under moderate sedation/analgesia in the office setting shall:

AND

(C) A physician or podiatric physician performing surgery in the office setting shall:

Dr. Buchan stated that his motion will simply remove the supervision language and will require all physicians or podiatric physicians doing office-based surgery to have these minimal levels of C.M.E.

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

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

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The motion carried.

Mr. Dilling stated that the Board is pushing the profession to do something. That is part of what these rules are. What he heard today is that there has to be C.M.E. out there for anesthesiologists, etc., but people are working toward gearing this type of C.M.E. toward the office-based provider. He asked the Board for direction about the implementation date of these rules. He asked that the Board set the implementation for this specific rule back six months to allow time for development of these courses.

Dr. Bhati stated that that is reasonable, and should be done.

Dr. Garg suggested an implementation date of January 1, 2004.

Dr. Buchan stated that he would be comfortable with a year.

Dr. Egner stated that that kind of defeats the purpose of being knowledgeable. They'll be allowed to do office-based surgery for a year, giving moderate or general anesthesia without the required C.M.E.

Dr. Buchan stated that the physicians already have two years to get them, based upon the renewal.

Dr. Egner asked whether they have to have the C.M.E. before the begin doing it.

Dr. Buchan stated that they don't.

Mr. Dilling stated that that actually argues for a shorter period of time.

DR. BHATI MOVED FOR AN IMPLEMENTATION DATE OF THIS RULE OF SIX MONTHS FROM THE DATE OF THE INITIAL IMPLEMENTATION OF THE RULES. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Bhati stated that, concerning accreditation for the offices, the Committee recommends that it be required for facilities utilizing moderate and deep sedation.

DR. GARG MOVED THAT FACILITIES UTILIZING MODERATE AND DEEP SEDATION BE

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REQUIRED TO OBTAIN ACCREDITATION. 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. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Bhati stated that the next big issue the Committee addressed is a requirement for accreditation for those offices providing tumescent liposuction under anesthesia. There was some conflict and a great degree of discussion about this issue. The majority agreed that they should also be accredited. The minority felt it was unnecessary since the procedure is done under a local anesthetic.

Dr. Bhati stated that the other side of the argument is that you're not talking about work under a small amount of local anesthetic. You're talking about extensive liposuction work, where several thousand cc of local anesthetic is injected. Then on top of that, you're sucking out as much as 4500 cc of fat. Dr. Bhati stated that, although this is done under a local anesthetic, it's done under large doses. He believes that the citizens of this state would be better served by having the facility accredited.

Dr. Garg stated that one point made is that these procedures aren't just for a few minutes. They may extend for hours. Dr. Garg added that there is no other safety net to let people know that the facility is proper to provide that kind of service. If there is accreditation, at least someone is checking it every once in a while to verify that the facility is capable of providing safe services for that kind of procedure. For that reason, he supported the accreditation requirement.

Dr. Bhati asked Dr. Buchan and Dr. Talmage to explain their arguments to the Board.

Dr. Buchan stated that he believes it is reasonable based upon levels of anesthesia services. He spoke against accreditation for facilities using local anesthetic, the Board is opening up a very difficult and complicated process of credentialing different procedures. There are a lot of procedures done under local anesthetic, and the Board hasn't been given evidence to suggest that it should pull this procedure out and treat it differently from any other procedure done under local anesthetic. The evidence doesn't support a complication rate based upon the procedure of tumescent anesthesia. His reading was that it was based upon the level of anesthetic care. Based upon the levels of anesthetic care, he voted to except out or non include tumescent anesthesia as a procedure. He doesn't think the Board should be in the business of pulling out or adding in procedures based upon anything other the evidence reviewed and the level of anesthetic care, which seems to be the trigger for complication.

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Dr. Talmage stated that he basically agrees with Dr. Buchan. It's credentialing "a procedure" that has been perceived as a more dangerous procedure, even under local anesthesia, when, in fact, the IQI study, which the Committee provided, does not verify that. The Board has defined tumescent anesthesia as local anesthesia in the definition rule. To except it out means that the Board is looking at procedural specific rules. That is a can of worms that he doesn't think the Board could or should open. Accreditation is desirable if it is voluntary. The Board has to be careful that if it is not adding to patient safety, and there is no evidence that it would be, requiring accreditation is an unnecessary hassle factor for a practice. If it was necessary to have that hassle factor in order to make it safer, and there were evidence that it is not a safe procedure, he would have no objection to it at all. Dr. Talmage added that, basically, he very much approves of accreditation. If they choose to do it voluntarily, it's an excellent addition to their office practice. It is unnecessary to require it, based upon the evidence the Board has.

Dr. Egner asked whether, practically speaking, offices that do tumescent liposuction or anesthesia generally do just that procedure. Or do they do more? Because if they generally do more, then they would be falling under the moderate sedation.

Dr. Talmage stated that if they do moderate sedation, they are required to be accredited by the rule that the Board just voted on and passed. The Board was told by two physicians, Dr. Coldiron and Dr. Christman, who said that all they did was tumescent anesthesia for liposuction. If that, in fact, is true, then the Board has defined what they can do by cannula size, maximum volume, and injection medication levels. As the rule stands now, the Board has not required that they be accredited. If they choose to expand to moderate analgesia, they would have to be accredited anyway. The reporting requirement the Board discussed would be a fail-safe in that, if they did have a complication, it is reported and the Board can revisit the rule later if it starts to see complications occur, or if nationally the Board begins to see other states are having problems. He doesn't see the hassle factor as being necessary, given the lack of identifiable complications.

Dr. Garg stated that his concern involved the fact that it's a local anesthetic and the extent of the service being provided. He does not have a problem with local anesthetics. It's the extent of the service that bothers him. This is talking about thousands of cc, although much diluted, of local anesthetics and it's for an extended period of time. The extent becomes an issue for him on this kind of procedure. It is an extensive procedure, even if it is done under a local. Not every local is local is local.

Dr. Garg stated that he doesn't want to open Pandora's box, but local anesthetics can cause complications. Even a small amount can cause complications, although extremely rarely. Complications from the use of local anesthetics are usually cardio. That happens if it is injected into the IV by mistake, not subcutaneously. But when you are injection that amount of local anesthetic subcutaneously over a period of time, a lot of this is going to be absorbed in the system and will act as an anesthetic, although it may have a diluted effect. Dr. Garg stated that he has a slight concern, and he doesn't see any problem. He doesn't see any problems with expecting a bit more safety measure of these facilities on which there is no control.

Mr. Dilling stated that there are a lot of other rules that go to the control of that type of situation.

Dr. Garg stated that he knows all of that. He was on the Committee. He knows that they have to report if there are complications, if there is morbidity, mortality, and that's the main thing. But he just thought accreditation would provide more safety.

Dr. Talmage stated that rule 4731-25-05, the rule on liposuction, defines the dose. The Committee had good testimony on the maximum allowable dose. As far as the cardiac effect, the maximum allowable dose should account for that. The Board has defined what is safe. The Committee has demonized a procedure in which it does not have good evidence of problems. He finds it difficult to clamp down on somebody who hasn't done anything wrong.

Dr. Bhati stated that the Board isn't clamping down, just trying to make the place safer.

Dr. Talmage asked how, if it's safe already, he can make it safer.

Dr. Bhati stated that you can make it safer by having accreditation and making the sure that the citizens of this state are going to a place which is being checked and has a safety factor. Just because the Committee heard testimony from two doctors that the procedure is safe, the Board doesn't know that. The Board is making rules for everyone, not just those two physicians.

Dr. Garg stated that accreditation is not going to tie their hands. All it is going to do is ensure that the facility can provide a service and take care of a problem if the problem develops.

Dr. Steinbergh stated that she does agree that a local is not a local is not a local. However, from her review of this, and the IQI study, she does see it as a bit of an unnecessary regulation for this particular procedure. She's not a surgeon and doesn't do this, nor does she have exposure to these kinds of procedures. She's heard from patients who have been harmed in a situation like this, but she's heard from patients who have been harmed in a lot of situations. She sees it as an unnecessary regulation for this particular procedure. She agrees with the concept that most of the outpatient surgical facilities will be doing other procedures that require them to have accreditation, but she does hate to impose a regulation on someone who may be doing a lot of different procedures in their office under local anesthesia, and may include this in their procedures and may not be doing this in an unsafe situation. She stated that she is somewhat opposed to requiring accreditation for this particular procedure.

Dr. Bhati stated that the reason for making an exception under local anesthetic is as Dr. Steinbergh said: a local is not a local is not a local. The Board is talking about a very large volume.

Dr. Steinbergh stated that she does understand the volume, but she also tries to appreciate the concentration of the medication.

Dr. Bhati stated that, knowing something about liposuction before the dermatologists knew the word, this is a large volume procedure that takes hours to do. He has a hard time believing that there are no complications. He's seen complications. One problem out of a thousand is too many. This is large volume local anesthetic situation. The accreditation requirement will provide added safety for the public.

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He doesn't believe the study that shows that there are no complications because he's seen complications himself.

Mr. Albert stated that, as a consumer member and as a business man, he doesn't like regulations; but this is what he considers to be major surgery, with the possibility of a lot of complications. He's in favor of imposing accreditation. It's a good thing and he doesn't think it will inconvenience anybody.

Dr. Steinbergh stated that it's important that the Board have consumer representation on the record, and asked Mr. Browning for his opinion.

Mr. Browning stated that he agrees with Mr. Albert.

Dr. Garg commented that Ms. Sloan, who is on the Committee, also felt that accreditation is necessary.

Mr. Dilling stated that he appreciates the Board and the pressures it feels, and how it takes its mission to protect the public to heart and weighs these issues; but when Board members say that they know that this is a really serious procedure and it has serious complications and so forth despite studies that are saying that they aren't seeing complications, and the Board's Secretary and Supervising Member are saying that they haven't seen any complaints, and put forth a rule like this, based on its "gut feel," that detracts from all of the other decisions the Board makes. People are arguing at the State House that the Board is way too conservative on these things, and is not with the real world on these studies and the basis of medicine. They should be basing the rules on some evidence base. Mr. Dilling stated that there is evidence base on all of the other rules, but he doesn't think accreditation for this procedure is going to make it. Mr. Dilling added that he believes that there are some deleterious effects to doing this type of rule that the Board isn't seeing up front.

Dr. Garg stated that Mr. Dilling is right. He has been Secretary for five and a half years, and Mr. Albert has been Supervising Member for a number of years, and they haven't seen any complaint about tumescent liposuction. However, they also have not seen any complaints about many things that do harm. The argument is valid, but just because it is not here doesn't mean that it doesn't happen.

Mr. Albert stated that this Board did have a case about ten years ago involving two deaths that occurred as a result of liposuction.

Mr. Dilling stated that that case was not tumescent liposuction. It was not done with a local anesthetic. It was done with moderate sedation. It was a different type than is being talked about in this rule.

Dr. Bhati stated that the argument is being made that bad outcomes from the procedures were not caused by the local anesthetic. Nevertheless, it's not always a clear-cut situation.

Mr. Dilling stated that the case to which Mr. Albert referred was one relating to anesthesia. The physician had the wrong equipment and it malfunctioned. It was not because of the liposuction itself.

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Dr. Buchan stated that the Committee worked very hard to understand what tumescent really meant. He believes that, with that in mind, the Board has safeguards placed in the rules that describe the cannula size, the amount of anesthesia that can be administered, the amount of aspirate that can be removed, and the concentrations of the medicines. The Board already has placed a fairly significant restriction or tightness to the feeling of what is safety. The reporting issue is the secondary safety net. Dr. Buchan stated that he believes accreditation is a good thing, but if the Board starts opting out or excepting out local anesthetic cases, it's going down a slipper slope. The Board understands this procedure, has studied it carefully and put in place safeguards. If the Board isn't comfortable with those safeguards, it should go back and review them. Under the rule, as written, he feels he can move forward with a rule that requires accreditation based upon anesthesia risk and strictly anesthesia risk. That's credible information.

Mr. Wayda reminded the Board that one safeguard that hasn't been mentioned and is really very specific to some of Dr. Bhati's concerns is the monitoring. For liposuction procedures, the Committee has identified a specific category of people who have to be in the room in addition to the person performing the procedure. They've outlined a minimum of specific kinds of monitoring that has to be done that would still be in place even if the facilities doing tumescent liposuction are not accredited.

Dr. Garg stated that that changes the picture.

DR. GARG MOVED TO NOT REQUIRE ACCREDITATION FOR TUMESCENT LOCAL ANESTHETIC, SO LONG AS ALL OF THE OTHER SAFETY MEASURES ARE DELINEATED. DR. EGNER SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DR. TALMAGE MOVED TO ACCEPT RULES 4731-25-01 THROUGH 4731-25-08, AS AMENDED, AND TO AUTHORIZE STAFF TO REFILE THE RULES WITH JCARR. DR. GARG SECONDED THE MOTION.

Dr. Egner expressed concern about how physicians are going to report.

Dr. Bhati stated that the reporting requirements are outlined in 4731-25-06.

Mr. Wayda stated that a meeting was held with the Ohio Chapter of the American College of Surgeons, and this rule specifically came up. They actually liked the rule, but suggested a few modifications in terms

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of the process, which were incorporated. The Ohio Chapter of the American College of Surgeons is supportive of the rule as it appears before the Board. He added that when Ms. Thompson drafted this rule, she was very careful to include paragraph D, which makes not reporting an independent violation. That puts some teeth into the reporting requirement.

Dr. Talmage stated that if this came up as a complaint, and the physician hadn't reported, it would be a disciplinary matter.

Dr. Egner asked whether, if the patient is admitted into the hospital, the hospital would be required to report to the Board.

Dr. Steinbergh stated that it's not the hospital's responsibility to report. It's the responsibility of the physician who performed the surgery.

A vote was taken:

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

The motion carried.

FSMB ANNUAL MEETING REPORT/ REPORT ON MIDWEST REGIONAL BOARDS MEETING

Mr. Browning stated that, because of the time issue, this topic will be placed on the June agenda.

ADMINISTRATIVE REPORT

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

MR. ALBERT MOVED TO ADJOURN. DR. EGNER SECONDED THE MOTION. All members voted aye. The motion carried.

Thereupon at 10:35 a.m. on May 15, 2003, the May 14-15, 2003 meeting of the State Medical Board of Ohio was duly adjourned.

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We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on May 14-25, 2003, as approved on June 11, 2003.



R. Gregory Browning, President



Anand G. Garg, M.D., Secretary

(SEAL)

