

May 18, 2005

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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**May 18, 2005**

Patricia J. Davidson, M.D., President, called the meeting to order at 1:00 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: Andrew F. Robbins, Jr., M.D., Vice-President; Secretary; Raymond J. Albert, Supervising Member; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Kamala Saxena, M.D., and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Lance A. Talmage, M.D. The following did not attend the meeting: Carol L. Egner, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Thomas A. Dilling, Executive Director, Emeritus; William J. Schmidt, Assistant Executive Director; Diann K. Thompson, Assistant Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Lauren Lubow, Senior Executive Staff Attorney; Lori S. Gilbert, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, Sallie J. Debolt, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, Kathleen S. Peterson and Charles A. Woodbeck, Enforcement Attorneys; Rebecca J. Albers, Kyle C. Wilcox, and Tara L. Berrien, Assistant Attorneys General; 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; and Jacqueline A. Moore, Disciplinary Information Assistant.

EXECUTIVE SESSION

**MR. ALBERT MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONFER WITH THE ATTORNEY GENERAL'S REPRESENTATIVES ON MATTERS OF PENDING OR IMMINENT COURT ACTION AND/OR ATTORNEY/CLIENT PRIVILEGE. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

Dr. Talmage joined the meeting during the executive session.

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

#### MINUTES REVIEW

**DR. SAXENA MOVED TO APPROVE THE MINUTES OF APRIL 13-14, 2005. MS. SLOAN SECONDED THE MOTION.** A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Timothy J. Heyd, M.D., and Kolli Mohan Prasad, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

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

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

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

TIMOTHY J. HEYD, M.D.

Dr. Davidson directed the Board's attention to the matter of Timothy J. Heyd, M.D. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Heyd was accompanied by his attorney, Paul J. Coval. Mr. Coval stated that he prepared the objections that were submitted to the Board. Dr. Heyd will address the Board on his own behalf.

Dr. Heyd thanked the Board for allowing him to speak with the Board. He stated that he is very deeply sorry for all of this, but especially for the pain it has brought to the patient and her family, to all others involved and, certainly, to his family. It was a horrible lapse of judgment that happened a long time ago.

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Dr. Heyd stated that he never dreamed that so much damage could come from his self-centeredness. He would do anything if he could take it all back. He would reverse the pain this has brought to everyone involved, if he could; but he can't. What he can do is try to learn some valuable lessons. Among several things, he's learned to more fully respect others, to adhere to the necessary boundaries, and to more fully devote himself to honoring others and honoring God. Dr. Heyd stated that he's always tried to do what's right. He's painfully aware of his mistakes, and he promised that it would never happen again.

Dr. Heyd stated that he has earnestly worked to pick up the pieces of his broken life and to get back on his feet again. Never again does he want to be before the Board. Dr. Heyd stated that he is very, very sorry. He again thanked the Board for its time and consideration.

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

Ms. Berrien stated that the proposed sanction in this case is appropriate. She stated that there are two major focuses for the Board to consider: Dr. Heyd's sexual misconduct and the aggravating factors, as well as the time that it has taken for Dr. Heyd to come before the Board today.

Ms. Berrien stated that she would first address the sexual misconduct. She noted that, in Dr. Heyd's written objections, he made a comment that the affair with Patient 1 didn't occur in the course of his treatment of her. She stated that this is a disingenuous statement because Patient 1 certainly was still a patient. That Patient 1 was not presenting in his office every single month during the time that they were having the affair doesn't make this any less of a violation. The Code of Ethics prohibits sex with patients for several reasons, including that it may exploit the patient and it may obscure the physician's objectivity. Ms. Berrien stated that she thinks that this came to fruition in this case. Patient 1 was certainly vulnerable, and she was dependent upon Dr. Heyd. When she thought she was pregnant, she went to Dr. Heyd's office. After Dr. Heyd told her that a child would ruin his life, it was decided that she would have an abortion. Patient 1 had Dr. Heyd refer her to the clinic. She talked to Dr. Heyd about her options; she did not talk to her OB/GYN. Dr. Heyd paid for the abortion. He even went into the procedure room, even though that was against the clinic's standard policy. Ms. Berrien stated that Dr. Heyd obviously lost his objectivity with Patient 1. When he received confirmation from the lab that Patient 1 was pregnant, he told her that a child would ruin his life. He didn't want her to have a baby. This wasn't a valued relationship; it was just sex in secretive places. They were both married. Dr. Heyd admitted that his wife didn't know about the affair, and he wanted to keep his marriage and his two small children.

Ms. Berrien continued that, in his objections, Dr. Heyd indicates that, after the affair, he only provided services in a supportive capacity. Ms. Berrien stated that she, again, thinks that this is disingenuous. Dr. Heyd was obviously acting as Patient 1's physician. He represented himself at the clinic as her physician; he was listed on the registration form as the physician to contact; the clinic sent him the post-op report; he read it, initialed it, and placed it in her active patient file; and he wrote a short-term disability excuse for her and signed it, "Dr. Heyd," and he directed the reader to contact him for any further information about her condition. Ms. Berrien stated that Dr. Heyd crossed back and forth over the lines of being her lover and being her physician, and his objectivity was gone.

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Ms. Berrien stated that there are aggravating circumstances here, as well, including the adverse impact of Dr. Heyd's misconduct on others. He talked about his family. This obviously impacted Patient 1's life, but it also impacted his partners and his patients. She reminded the Board that when Dr. Heyd's employer found out about the affair, Dr. Heyd was dismissed immediately. He couldn't continue for the rest of the day. Ms. Berrien commented that she's already mentioned the vulnerability of Patient 1, but there is also Dr. Heyd's willful misconduct. Dr. Heyd engaged in a sexual affair with Patient 1, knowing that it was wrong; it was a clear violation as a physician.

Ms. Berrien at this time addressed the lapse of time between the event and the Board's action. She stated that it took about five years for this case to work its way through the priority system and to come to formal action. Ms. Berrien noted that Dr. Heyd was issued the notice in 2004. The reason why the Board is here today in 2005 is because the hearing was continued a number of times, both at the request of Dr. Heyd's counsel and of herself. The lapse of time doesn't make this sexual misconduct any less of a violation. The lapse of time also does not outweigh the aggravating circumstances that she talked about. If the Board considers the aggravating circumstances, this is a serious violation. As such, there's a responsibility to impose a sanction. To lessen the proposed sanction or to excuse Dr. Heyd's misconduct because of the length of time would not be appropriate. In fact, she believes that it would set a dangerous precedent indicating that, after a certain period of time, the Board cannot take action and violations and misconduct would be excused. She stated that the General Assembly didn't find it fit to impose a statute of limitations, so for the Board to impose one upon itself would strip some of the Board's responsibility and some of its authority, based just on a length of time.

Ms. Berrien stated that the Hearing Examiner mentioned in the Report and Recommendation that, in the past, the Board has permanently revoked physicians' licenses for sexual misconduct. She stated that, with all due respect to the Hearing Examiner, she must disagree. She stated that she hasn't represented the Board long, but she did do a little informal research, and there have been no cases where a physician's license was permanently revoked for sexual misconduct. There have been significant suspensions, but not a revocation. Around the same time as Dr. Heyd's misconduct, this Board suspended Dr. Gladieux for two years for having relationships with a number of women who were the mothers of his pediatric patients. Ms. Berrien noted that Dr. Heyd's case is more comparable to that of Dr. Pons. Dr. Pons had a sexual affair with one of his patients, who eventually gave birth to Dr. Pons' child. The Board suspended Dr. Pons' license for one year. Ms. Berrien stated that it doesn't appear that there have been cases of permanent revocations based upon such facts. A 90-day suspension is clearly appropriate in this case, considering that the aggravating circumstances clearly outweigh the length of time that it has taken to work this case through the priority codes and to come to formal action. Ms. Berrien asked the Board to accept this proposed action.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF TIMOTHY J. HEYD, M.D. DR. STEINBERGH SECONDED THE MOTION.**

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

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Dr. Steinbergh stated that Dr. Heyd's case is somewhat similar to other cases the Board has seen, and somewhat different. When she read this case and then read Mr. Coval's objections, she did feel that Mr. Coval made some appropriate points, and some of his objections are, quite frankly, in line with Mr. Porter's Findings. Dr. Steinbergh stated that she finds a great number of mitigating circumstances. She noted that Dr. Heyd had an affair with an R.N., and she doesn't find that this particular patient was particularly vulnerable. The Board has seen sexual boundary cases where there are a number of patients or a patient who truly had no understanding of physician/patient boundaries. Dr. Steinbergh stated that she's not excusing this physician/patient boundary violation because there is no question that this should always be in the mind of the physician. She just doesn't happen to find this patient as vulnerable as some other patients.

Dr. Steinbergh continued that, nevertheless, Dr. Heyd has clearly paid the price for his misconduct. He lost his original practice, he's lost his ability to be respected by many of his peers, but he has attempted to get his life back in order. She would compare this to a case that the Board did about a year ago where it found some mitigating circumstances in the fact that the doctor was definitely extremely remorseful. The Board felt very comfortable that this was not going to happen again. In that case, the Board did enter an Order that stayed a permanent revocation and suspended the physician, after discussion, for 60 days.

Dr. Steinbergh stated that she does feel that the language in this case must be harsh. It should include a stayed permanent revocation and a suspension. She finds that the probationary period would be appropriate. Dr. Steinbergh stated that she would like to reduce the 90-day suspension to a 60-day suspension, and move the professional ethics course requirement from the reinstatement conditions to Paragraph 3 of the probationary terms, requiring him to complete the course within the first year of his probation. The rest of the Proposed Order would be appropriate.

Dr. Steinbergh stated that this is a very difficult thing that this physician did, and the Board has handled many cases like this before. She stated that she feels very badly for any physician who makes this mistake, but she does believe that Dr. Heyd has paid tremendously for his mistake and it's time to get on with it.

Dr. Steinbergh commented that she doesn't think that the time lapse has anything to do with her decision. Certainly this Board needs to take action on physicians, and it can't always do it immediately. The Board does have an appropriate triage system. The Board has seen cases of sexual boundary issues where 20 years later the Board took a physician out of practice. There should be no time limitation, but when the Board takes a look at these cases, it does have to take a look at them in toto and see how the physician has responded to the mistake.

Dr. Robbins stated that he feels somewhat similar, but he has a few differences. Dr. Robbins stated that he thinks that Dr. Heyd did well today in his presentation to the Board. That goes a long way with some of his thinking. Initially, he agrees wholeheartedly with the Assistant Attorney General regarding the objections that were filed. He personally thinks that it is ludicrous to say that the relationship did not occur in the course of Dr. Heyd's treatment of Patient 1. It's clearly the reason you don't have this kind of a relationship with a patient. Dr. Heyd went through some agonizing things, but he was clearly in a power position. Patient 1 sought Dr. Heyd out for the problem, Dr. Heyd represented himself to everyone as her physician;

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he went to the abortion clinic, into the room, because he's her doctor. Dr. Robbins stated that he finds it incredible that they would say that the relationship did not occur in the course of Dr. Heyd's treating Patient 1. He finds that ridiculous.

Dr. Robbins continued that, at the same time, he thinks that Dr. Heyd has suffered a lot. He added that his sense is that Dr. Heyd has learned a tremendous amount and he's paid quite a price. One of his problems here is the permanent revocation, even though it's stayed. He has difficulty permanently revoking Dr. Heyd's license. His sense is that a suspension is warranted; he added that he's not opposed to a 60-day suspension as opposed to a 90-day suspension. He doesn't particularly have a problem with the ethics course being transferred as Dr. Steinbergh has suggested, adding that it makes a lot of sense. Dr. Robbins again spoke against imposing a stayed permanent revocation.

Dr. Davidson asked whether Dr. Steinbergh had made a motion to amend.

Dr. Steinbergh stated that she had not.

Responding to Dr. Robbins' comments, Dr. Steinbergh stated that the language of permanent revocation indicates the severity of the case. The Board feels that issues such as this are egregious. She believes that the language is consistent with other sexual boundary cases.

Concerning the issue of Dr. Heyd's being in the room during the abortion procedure, Dr. Steinbergh stated that her sense is that Dr. Heyd and Patient 1 together made the decision to have the abortion, and once the decision was made, Dr. Heyd was there in a supportive role. She stated that she finds this to be a very humanistic response. She doesn't find this to necessarily be a bad thing. Dr. Steinbergh added that the whole situation is bad, but she tends to think that Dr. Heyd was being very human in his response to be protective. She stated that were she a woman in this circumstance, she thinks it would be a very powerful thing to have an advocate in the room with her.

Dr. Steinbergh stated that she does want to correct one thing that she said. In the case of the physician that the Board previously considered, the Board actually imposed a six-month suspension rather than a 60-day suspension. She added, however, that in this particular case, she would speak in favor of a 60-day suspension. She does believe in the harshness of the language in the Proposed Order, because it is egregious for a physician to do this. Dr. Steinbergh added that she thinks that Dr. Heyd has suffered a great deal. She noted that he did present himself well today, but probably more important to her was the response by a couple of physicians whom she personally knows to be appropriate: Dr. Martin and Dr. Ratcliff. She advised that she knows both of these physicians to be appropriate physicians who would be very thoughtful in their response. She stated that she also thinks that Dr. Martin and Dr. Ratcliff are being very human in their response that they have a physician who they feel is appropriate, and who has made a huge, horrible mistake. She commented that she doesn't think that either would think that this wasn't a horrible mistake.

Dr. Buchan stated that he agreed with the harsh language in the Proposed Order, but he differs in the sense of the necessity for the longer probation, or any significant probation. Dr. Buchan stated that he thinks that the price has been paid, and he's not opposed to a 90-day suspension. The egregiousness of the act six years

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ago speaks for itself. Dr. Buchan stated that he thinks that the time out is necessary, but he would agree with a 60-day suspension. The significance of this is that the price has been paid. Dr. Buchan added that Dr. Heyd's presence today has allowed him to be a little more lenient on the front end. Dr. Buchan stated that he doesn't think that probation serves much purpose for Dr. Heyd, who has essentially been on probationary status since this event. He has been on guard and, essentially, self-correcting and self-analyzing. Dr. Buchan stated that he believes from reading Dr. Heyd's testimony that Dr. Heyd is a changed man, and appropriately so. Dr. Buchan stated that he doesn't see the purpose in having a two-year probation for him. He thinks up front Dr. Heyd takes the hit. The only question he has is whether Dr. Heyd can get an ethics course in in 60 days. Otherwise, he's in agreement with what's been said.

Dr. Steinbergh stated that the Board could shorten the probation time, giving Dr. Heyd time to do the course and respond to the Board that he has successfully completed that.

Dr. Buchan stated that the only reason he hesitates about the probation and would suggest shortening it is that he believes it's time for Dr. Heyd to move on. He's taken a hit, and appropriately so; Dr. Buchan stated that he doesn't mean to minimize any of this at all. He would typically come to this table with a much more harsh feeling. Dr. Buchan stated that he feels that this is a changed individual, and appropriately so. Concerning the ethics course, if Dr. Heyd can't get it done within the 60 days, he doesn't go back to practice. The suspension should be for a minimum of 60 days.

Dr. Kumar stated that ethics courses are usually given twice a year, or something like that. Timing may be a problem in getting it done in 60 days.

Dr. Buchan stated that Dr. Heyd might devise his own program, if he is so motivated. Dr. Buchan stated that he would challenge Dr. Heyd to do that, if it's approved by this Board.

Mr. Browning asked whether Dr. Buchan is suggesting a change in the amendment.

Dr. Buchan stated that he was offering his opinion. He added that he doesn't think that there is a motion to amend on the table at this time.

**DR. STEINBERG MOVED TO AMEND THE PROPOSED ORDER TO READ AS FOLLOWS:**

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Timothy J. Heyd, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Heyd's certificate shall be SUSPENDED for an indefinite period of time, but not less than sixty days.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Heyd's certificate to practice medicine and surgery until all of the following conditions have been met:
  1. **Application for Reinstatement or Restoration:** Dr. Heyd shall submit an application for

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reinstatement or restoration, accompanied by appropriate fees, if any.

2. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Heyd has not been engaged in the 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. Heyd's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:
1. **Modification of Terms**: Dr. Heyd 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. **Obey the Law**: Dr. Heyd shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  3. **Professional Ethics Course**: Within the first year of probation, or as otherwise determined by the Board, Dr. Heyd 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 period(s) in which they are completed.  
  
In addition, at the time Dr. Heyd submits the documentation of successful completion of the course or courses dealing with professional ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.
  4. **Declarations of Compliance**: Dr. Heyd shall submit quarterly declarations under penalty of Board disciplinary action 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 or before the first day of the third month following the month in which Dr. Heyd's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  5. **Personal Appearances**: Dr. Heyd shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Heyd's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as

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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.

6. **Tolling of Probationary Period While Out of State**: Dr. Heyd shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
  7. **Noncompliance Will Not Reduce Probationary Period**: In the event Dr. Heyd is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
  8. **Violation of Terms of Probation**: If Dr. Heyd 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. Heyd's certificate will be fully restored.
- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Heyd 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. Heyd 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, or as otherwise determined by the Board, Dr. Heyd 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. Heyd shall also provide a copy of this Order by certified mail, return receipt requested, at the 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. Heyd shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

**MR. BROWNING SECONDED THE MOTION.**

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Dr. Robbins asked whether it has been the Board's policy to permanently revoke a license in cases such as this.

Dr. Steinbergh stated that this is the language the Board has used in the past.

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

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF TIMOTHY J. HEYD, M.D. MR. BROWNING SECONDED THE MOTION.**

Dr. Davidson stated that she would now entertain further discussion in the above matter. There was no further discussion.

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

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

The motion carried.

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KOLLI MOHAN PRASAD, M.D.

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

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

It was at this time noted that Dr. Prasad was not present. Subsequently it was announced that Dr. Prasad had indicated in his letter requesting permission to address the Board that, due to health reasons, he may not be able to appear.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF KOLLI MOHAN PRASAD, M.D. MS. SLOAN SECONDED THE MOTION.**

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

Dr. Kumar stated that it is unfortunate that Dr. Prasad is not here. There is obviously no question about the fact that Dr. Prasad has not been compliant with his Consent Agreement. It's also a fact that Dr. Prasad has not been found impaired during the last several years either. He has been having difficulty in providing urine samples and so forth, and he throws out the reason that cost is a factor. Dr. Kumar stated that, even if the Board suspends Dr. Prasad's license, his probation ends next year. Dr. Kumar stated that the Board needs to look at increasing Dr. Prasad's probationary period and, perhaps, staying the suspension. Suspending Dr. Prasad's license again may set him back, not allowing him to work. Dr. Kumar suggested that a compassionate approach would be to stay the suspension period and increase his probationary term for another year or so, so at least Dr. Prasad understands that he has to comply with these things.

Dr. Steinbergh spoke against extending Dr. Prasad's probation. She noted that Dr. Prasad has not been compliant with his Consent Agreement, but the Board doesn't have legitimate documentation of a relapse. In fact, the documentation suggests otherwise. Dr. Parran's letter indicates that he believes that Dr. Prasad is committed to his sobriety. She stated that she thinks this is a vicious cycle for Dr. Prasad. He's had significant financial problems, issues with his family, and traveling to conferences to prepare himself for work. To suspend Dr. Prasad's license is to put on hold again a possible locums job. Dr. Steinbergh stated that she doesn't know whether or not Dr. Prasad is currently working. She noted that he was supposed to start a locums job in mid March. Dr. Steinbergh suggested staying the proposed suspension and giving Dr. Prasad a last chance to get back on track. She thinks that the Board should give Dr. Prasad a chance to see what he'll do.

Ms. Thompson advised that the probationary period begins at the time of licensure reinstatement. Dr. Prasad's license was reinstated in 2003, at which time his eight-year probationary period began. She noted that Dr. Prasad has several more years of probation with the Board.

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Dr. Buchan stated he cannot tolerate defiance or lack of compliance with an agreement. The Board needs to stand firm on that. He added that he believes a period of suspension is necessary.

Dr. Robbins agreed with Dr. Buchan. The fact that Dr. Prasad is not here bothers him. Dr. Robbins stated that, if he's going to err, he's going to err on coming down on the physician for not complying in the way he has to comply. A suspension is absolutely warranted in this case.

Dr. Steinbergh stated that her reasoning for not wanting a suspension is that she sees this as a vicious cycle for Dr. Prasad. Dr. Prasad has no money, and he's trying his best, but he has a lot of problems. He's caught between a rock and a hard place.

Mr. Browning suggested a compromise of a 30-day suspension. He agreed with Dr. Steinbergh that a 90-day suspension will end Dr. Prasad's career. Mr. Browning added that he wouldn't say this if Dr. Parran hadn't opined the way he did. It seems that the Board would send Dr. Prasad a clear message with that suspension, and give him another shot. The difference is an economic sanction. The 30-day suspension will send the message.

**MR. BROWNING MOVED TO AMEND THE SUSPENSION PERIOD IN THE PROPOSED ORDER TO 30 DAYS. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- 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 KOLLI MOHAN PRASAD, M.D. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye

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

The motion carried.

#### FINDINGS, ORDERS AND JOURNAL ENTRIES

##### MOHAMMAD IBRAHIM KHAN, M.D.

Dr. Davidson advised that the Board issued its Notice of Opportunity for Hearing to Dr. Khan on September 8, 2004, but was unable to achieve service. Notice was therefore published, pursuant to Section 119.07, Ohio Revised Code, and a copy of the publication was sent to Dr. Khan's last known address. Dr. Khan did not request a hearing, and more than 30 days have elapsed since the mailing of the Notice. The matter was therefore before the Board for final disposition.

**DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE SEPTEMBER 8, 2004 NOTICE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Kumar stated that he has some issues with this case, and he believes that those issues were also recognized by the California Board to some degree. The issues pertain to that State's expert witness. Dr. Kumar indicated that he had issues with the expert's testimony as concerns the carpal tunnel patient and the use of absorbable sutures in the foot. Dr. Kumar stated that there are problems with this case. He also noted that the California Board revoked Dr. Khan's license, but essentially reprimanded Dr. Khan by staying the revocation. He noted that, throughout the California documentation, it is apparent that the California Board also disagreed with the expert witness' evaluation in many areas. Dr. Kumar stated that

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he's not sure where the California revocation stands, as compared to Ohio's revocation. Dr. Kumar stated that he would be in favor of imposing a suspension rather than a revocation in this case.

Dr. Kumar also noted that the Board requires that each physician file two addresses with the Board: A residence and a practice address. He noted that there is only one address for Dr. Khan. Staff advised that Dr. Khan provided the Board with only one address.

Dr. Steinbergh explained that the Board generally revokes licenses in cases such as this, when the physician doesn't request a hearing. The Board doesn't retry the case heard by the California Board. If a suspension was put into place, terms for reinstatement would need to be included, and without the information that might be provided at a hearing, that would be difficult. If the Board revokes Dr. Khan's license, and he later asks for restoration, he will again be offered the opportunity for a hearing on the original charges.

Dr. Buchan stated that he agrees with Dr. Kumar's opinion in his concerns about the expert witness' testimony. He added that by revoking Dr. Khan's license, the Board is leaving the door cracked for him to return to Ohio to practice.

**DR. BUCHAN MOVED TO ENTER AN ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY, IN THE MATTER OF MOHAMMAD IBRAHIM KHAN, M.D. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

##### JAMAL ALLEN, 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. KUMAR MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MR. ALLEN.**

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

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

The motion carried.

RAVI CHANDRA ASHWATH, 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. DAVIDSON MOVED TO SEND THE CITATION LETTER TO DR. ASHWATH.**  
**MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

DOUGLAS PAUL BOSACK, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

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**DR. STEINBERGH MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF DOUGLAS PAUL BOSACK, M.D., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

FRED ANDREW BRINDLE, 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. BRINDLE. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

GARY CHARLES GELESH, D.O. – CITATION LETTER

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

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

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

The motion carried.

CHARLES CHRISTIAN RICKEY, P.A. - 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 MR. RICKEY.  
DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

SONIA SHETAL SHAH, 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.

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**DR. KUMAR MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. SHAH. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

KHALID MAHMOUD SHIRIF, 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. BUCHAN MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. SHIRIF. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MITCHELL EDWARD SIMONS, 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. KUAMR MOVED TO SEND THE CITATION LETTER TO DR. SIMONS. MR. BROWNING**

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

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

The motion carried.

FRANK MURRAY STRASEK, D.P.M. – CITATION LETTER

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

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

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

The motion carried.

MILES EDWARD DRAKE, JR., 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. DRAKE.**  
**DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

RATIFICATION OF CONSENT AGREEMENTS, VOLUNTARY SURRENDERS, VOLUNTARY RETIREMENTS AND WITHDRAWALS OF APPLICATIONS

DIANE L. BAUM, L.M.T.

**DR. ROBBINS MOVED TO RATIFY THE PROPOSED NON-PERMANENT SURRENDER OF MS. BAUM'S LICENSE TO PRACTICE MASSAGE. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MARVIN J. BROWN, JR., M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. BROWN'S CERTIFICATE TO PRACTICE MEDICINE AND SURGERY. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Varyani	- aye

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Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye

The motion carried.

MICHAEL W. SULLIVAN, M.D.

**DR. KUMAR MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. SULLIVAN'S CERTIFICATE TO PRACTICE MEDICINE AND SURGERY. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

ERNESTO VASQUEZ, M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. VASQUEZ' CERTIFICATE TO PRACTICE MEDICINE AND SURGERY. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

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Dr. Davidson - aye

The motion carried.

DAVID C. ERNST, M.D.

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

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

The motion carried.

WILLIAM E. MASTERS, M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. MASTERS' CERTIFICATE TO PRACTICE MEDICINE AND SURGERY. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

JULIA RUFFIN, D.P.M.

**DR. KUMAR MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. RUFFIN. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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VOTE:

Mr. Albert	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye

The motion carried.

JOHN W. SHAW, M.D.

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

VOTE:

Mr. Albert	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye

The motion carried.

MARC H. SCHWACHTER, M.D.

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

VOTE:

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

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Dr. Steinbergh - aye

The motion carried.

STEPHEN N. BUFFINGTON, D.O.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. BUFFINGTON'S CERTIFICATE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

JOHN A. MICHALSKI, M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. MICHALSKI. MR. BROWNING SECONDED THE MOTION.**

Dr. Kumar expressed concern about the fact that this consent agreement allows P.A.s to inject the knee without the patient being seen by the physician during two or three treatments. The physician will only see the patient upon completion of the series of treatments. He advised that he believes that the Board would want the patient to be seen after each injection or at the next patient visit, prior to his or her receiving the next injection.

Dr. Kumar stated that he is also concerned that the P.A. would be giving these injections to children under the age of 12 years, when the procedure is more complicated.

Dr. Buchan stated that he will continue to register his concerns about P.A.s injecting joints, due to the complications and consequences of a failed injection. A tremendous amount of training and education would be needed before he would be comfortable with someone other than a physician doing these procedures.

Dr. Steinbergh agreed with Dr. Kumar and Dr. Buchan. She stated that she especially agrees with Dr. Kumar concerns about P.A.s performing this procedure on children under the age of 12.

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

VOTE:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- nay
	Mr. Browning	- aye
	Ms. Sloan	- nay
	Dr. Robbins	- aye
	Dr. Saxena	- abstain
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

CLEVELAND CLINIC DEPARTMENT OF ORTHOPEDIC SURGERY

**DR. KUMAR MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH THE CLEVELAND CLINIC DEPARTMENT OF ORTHOPEDIC SURGERY. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Kumar stated that the same issues apply with this consent agreement. He continues to have concerns on the issue of P.A.s injecting joints.

Dr. Steinbergh again agreed, and indicated that the Board is especially concerned about such injections being given to patients under the age of 12.

Dr. Buchan stated that he will continue to support the need for an increased level of training and education to show that P.A.s are capable of doing these procedures. He has concern for the complications of the procedures and the fact that a failed injection could result in a surgical requirement. There are significant consequences.

Dr. Davidson indicated that she was glad to see that in this consent agreement and the previous one, there is a requirement for the patient to be informed that a P.A. is performing the procedure and the patient must sign off on that.

Dr. Steinbergh agreed with Dr. Davidson, adding that consumers don't always know who the provider is. That is one thing that concerns the Board: The patient thinks that a physician is doing the procedure when, in fact, someone else is.

Dr. Robbins suggested that, as a fact-finding effort, the Board invite the Ohio Orthopedic Association to meet with it to discuss the issue of P.A.s performing orthopedic procedures.

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Other Board members agreed that that would be a good idea.

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

VOTE:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- nay
	Mr. Browning	- aye
	Ms. Sloan	- nay
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

#### PERSONAL APPEARANCES

##### JAMES H. GRAY, D.O.

Dr. Gray appeared before the Board pursuant to his request for release from the terms of the Board's Order of March 13, 2002.

Dr. Kumar asked Dr. Gray what changes he has made in his practice since the Board's Order.

Dr. Gray stated that the practice is certainly more careful of its use of P.A.s. They are more cognizant of the Board's rules, and they are following the rules. The P.A. no longer does circumcisions. He also no longer leaves signed blank prescriptions for his P.A.'s use. His P.A. assists him in seeing patients. The P.A. does not assist him in performing surgical procedures. He no longer sends his P.A. to cover for him when he is busy elsewhere. If he has to be at two places at the same time, they stop the practice. They don't see patients in the office during that time.

#### **DR. KUMAR MOVED TO RELEASE DR. GRAY FROM THE TERMS OF THE BOARD'S ORDER OF MARCH 13, 2002. DR. BUCHAN SECONDED THE MOTION.**

Dr. Steinbergh stated that she is pleased that it is time for Dr. Gray's release from probation. She noted that the Board struggles with how P.A.s should be used, and it knows that there is an appropriate place for physician extenders. The Board asks that physicians take responsible action with their personnel.

Mr. Dilling asked Dr. Gray to tell the Board how his licenses in other states were impacted as a result of the Board's action.

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Dr. Gray stated that he did his training in New York City, and had let his license lapse when he finished his training and established his permanent license in Ohio. He was subsequently informed that the New York Board was taking action against his license, although he hadn't had an active license there for 17 to 18 years. They explained that when you leave the state, they do not let your license lapse, but they put it in an "inactive" file. New York proceeded to level charges, and he had to pay an attorney in the State of New York. They came down with the decision that they were going to fine him \$2,500 and make him keep his New York license active for the rest of his life. If he did not do that, he would have to surrender his license. Dr. Gray stated that he did surrender his New York license, but, consequently, that was reported to the NPDB as well.

Mr. Dilling stated that New York has a somewhat unique system; it is an umbrella Board of sorts, with a bifurcated system of licensure and discipline.

Dr. Talmage returned to the meeting during the previous discussion.

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

THOMAS A. HUNTER, P.A.

Mr. Hunter appeared before the Board pursuant to his request for release from the terms of the Board's Order of March 13, 2002.

In response to Dr. Kumar's questions, Mr. Hunter stated that he has learned that, when the law states something, you have to follow that to a T and make sure that you don't get into any grey areas. You need to know your laws in the states in which you practice and you need to follow those rules and regulations.

Dr. Kumar asked whether Mr. Hunter has applied to be a surgical assistant. Mr. Hunter stated that he has not. He has not had any training in that regard.

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**DR. KUMAR MOVED TO RELEASE MR. HUNTER FROM THE TERMS OF THE BOARD'S ORDER OF MARCH 13, 2002.**

Dr. Steinbergh noted that Mr. Hunter is teaching P.A.s at the University of St. Francis in Fort Wayne, IN. She stated that she thinks that's wonderful, and added that she hopes that he also teaches his students on their personal responsibilities to certification or licensure, depending upon the state.

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

**PATRICK BRIAN CESTONE, JR., M.D.**

Dr. Cestone made his initial appearance before the Board, pursuant to the terms of his February 10, 2005 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Cestone acknowledged that his license is currently suspended. His recovery is going very well. He did 28 days of inpatient treatment at the Cleveland Clinic, and he has been attending weekly meetings and approved aftercare. Also, his wife works about three days a week, so he's babysitting their children, ages 3 months and 3 years. He commented that it's actually pretty nice getting to see the baby so much. He didn't get to see as much of his son at that age. He finished his inpatient treatment toward the end of February. He attends one hour of aftercare a week, and three A.A. meetings per week. Of the three A.A. meetings, one is a Caduceus meeting at his hospital, and there are two other meetings he attends in Youngstown, OH.

In response to further questions by Dr. Steinbergh, Dr. Cestone stated that his family is very supportive. He does understand the terms of his consent agreement.

In response to Dr. Buchan's questions, Dr. Cestone advised that his drug of choice was Vicodin. He's getting along all right. Dr. Cestone commented that, since he is at home, he gets to go to the gym and work

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out. A lot of the aches and pains he was self-medicating are gone now. He self-medicated for about two years, more so during the last ten months.

Dr. Kumar advised Dr. Cestone that the Board is interested in his recovery. He urged Dr. Cestone to contact Ms. Bickers should he have any questions about his consent agreement terms.

**DR. KUMAR MOVED TO CONTINUE DR. CESTONE UNDER THE TERMS OF HIS FEBRUARY 10, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

L. JEAN COOPER, M.D.

Dr. Cooper made her initial appearance before the Board, pursuant to the terms of her February 9, 2005 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Cooper stated that she is doing well. She stated that she had an extended treatment at Hazelden, and she's just completed four and a half months. She was discharged on May 13. Hazelden recommended that she stay in a sober house in Minnesota for three more months, and she has. The sober house requires three meetings a week. Dr. Cooper stated that this has been a tremendous experience. She stated that she believes that what was missing before was the 12-step program. She's pretty immersed in that now. Dr. Cooper advised that she is meeting the stipulations of the consent agreement, and she does understand it. She stated that she's seeing a psychologist and a psychiatrist in Minnesota, and then she'll request a transfer back to her Cincinnati psychiatrist, who is also a substance abuse counselor when she returns to Ohio. She has been with the latter for ten years now.

Dr. Robbins noted that Dr. Cooper went quite a while before her relapse. He asked what happened.

Dr. Cooper stated that she tried to do everything but a 12-step program. She tried to do it with just her

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psychiatrist alone. Relapse is part of the illness. She kept trying to get better. She participated in an after-relapse program in A.A., but by that time it had a very strong hold on her.

In response to further questions by Dr. Robbins, Dr. Cooper stated that she has a maternal grandfather whom her mother has suggested had a dependency problem. She does know that it's familial.

In response to Dr. Buchan's questions, Dr. Cooper stated that she has had depression since she was a child. She's been treated for depression since 1985. It's an ongoing issue. The alcohol use started in approximately 1992.

In response to Dr. Saxena's questions, Dr. Cooper stated that she hasn't had family support while going through this, and that's part of the problem. Her mother has borderline personality disorder, so that's been a real issue. She thinks that that's why the program wants her to stay in Minnesota longer. Dr. Cooper added that she does have a strong A.A. group in Cincinnati. She was going to that group for two years prior to coming down. She has a job that she can pick up again that she really enjoys. Her employer is supporting her, and her psychiatrist is in Cincinnati. Also, her daughter, who has been supportive is going to come back down to Cincinnati in August.

In response to Dr. Davidson's questions, Dr. Cooper stated that she is taking medications. She takes Lexapro 20 mg, Lomitil 150 mg, Gabitril 4 mg bid, and Seroquel 50 mg, qhs. She stated that it's a very good combination, and added that the program was able to decrease it quite a bit while she was in it. She stated that she feels really well now. She felt very hopeless when she entered the program on December 31, and she now has hope again.

In response to Dr. Steinbergh's questions, Dr. Cooper stated that she will not be living with her mother when she goes home again. She added that she's cutting off all contact with her mother during the next three months so that she can learn to reestablish a different kind of relationship with her.

In response to further questions by Dr. Buchan, Dr. Cooper stated that she was referred to her current program by the Hazelden program, which was referred to her by her psychiatrist. She stated that it's an excellent program.

**DR. STEINBERGH MOVED TO CONTINUE DR. COOPER UNDER THE TERMS OF HER FEBRUARY 9, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. SAXENA SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye

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

The motion carried.

STEVEN F. GREER, M.D.

Dr. Greer made his initial appearance before the Board, pursuant to the terms of the Board's Order of January 12, 2005.

In response to Dr. Steinbergh's questions, Dr. Greer stated that he is doing great. He's doing his residency making his meetings, and doing extra recovery related things on top of that. He has been in compliance with the terms of the Board's Order. He's at University Hospitals and has to go to Employee Health every day. He takes Antabuse, does saliva screenings and random urine screens. Dr. Greer stated that he has a really good sponsor who's very active in A.A. Dr. Greer commented that going back into residency has been kind of stressful.

Dr. Buchan asked Dr. Greer whether he's thought about his residency specialty choice.

Dr. Greer stated that he would have to go seven more years starting July 1, 2005 to finish up in urology. He's heard that there are some openings in radiology, and he may be interested in that. Dr. Greer stated that this whole process has shifted his priorities. He wants to be a good, competent physician, but definitely his sobriety and his family are the most important things.

In response to Dr. Steinbergh's questions, Dr. Greer stated that he does enjoy patient care, but his interests mostly lie in "hands-on" things and also anatomy. The three specialties he first considered were surgery, radiology and pathology when he came out of medical school; but he does like patient care as well.

In response to Dr. Davidson's questions, Dr. Greer stated that his sponsor was trained in pathology, but only does basic science research at the Cleveland Clinic. Concerning whether his fellow residents have been insightful or sympathetic to Dr. Greer's problem, Dr. Greer stated that it's been a kind of stressful situation because he doesn't know how to approach it in the hospital. A couple have asked where he's been, and he told them that he had to get some issues straightened out. It's uncomfortable at times, he wonders what the others are thinking.

Dr. Steinbergh asked whether Dr. Greer thinks that the residents are educated to understand chemical dependency.

Dr. Greer stated that he thinks that there is a lack of understanding.

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Dr. Steinbergh suggested that this might be something Dr. Greer might want to share with the other residents. She commented that he might benefit people by having some discussions in terms of chemical dependency and the disease model, and so forth.

Dr. Greer stated that back in medical school he knew that this was going to be an issue, and he just didn't know who to talk to or who to approach. He added that that's no excuse, but he wishes that there had been more education or something to make it more comfortable for one to come out and tell someone about it.

Mr. Albert asked how long Dr. Greer has been sober.

Dr. Greer stated that it will be a year in June.

Mr. Albert noted that Dr. Greer has already had one relapse, and he's lucky to be involved with a medical board willing to work with him. Maintaining his sobriety and getting through this is up to Dr. Greer. The Board will work with him, but it's important that he get his paperwork into the Board and that he works his program. He noted that the Board is here to help Dr. Greer, and if he has questions, or if issues arise, he should call Ms. Bickers. Mr. Albert stated that, although the Board is here to help him, he has to help himself.

In response to Dr. Kumar's questions, Dr. Greer stated that he was also taking Vicodin, although he wasn't using it for the treatment of pain or anything like that. It was part of his addiction. He is currently back in his residency and is classified as PGY-2, but he did eight months of internship. His wife is also a resident in the same hospital.

Ms. Sloan noted that Dr. Greer earlier stated that he knew that this was going to be an issue when he was in medical school. She asked Dr. Greer what the signs were.

Dr. Greer stated that there were the legal ramifications that he'd already suffered at that point. He doesn't know if he knew how severely impaired he was, but he knew the legal issues were going to come up.

In response to Dr. Robbins' questions, Dr. Greer stated that his wife's specialty is internal medicine. Concerning his own work hours, Dr. Greer stated that the hospital has a night flow system, so he comes in at 6:00 and tries to get out at 5:00. He and his wife don't see each other much because she's on days. His mother in North Carolina is keeping their 2-year-old. There's a lot of stress.

Dr. Buchan stated that Dr. Greer has indicated that he didn't know to whom he should turn for his problem. He suggested that Dr. Greer might want to become that person for someone else. He could be the one out there saying, "this is where I've been, this is where I'm not going back to." Dr. Buchan stated that there may be some strength and some encouragement in that position. Dr. Buchan stated that he's sensing that Dr. Greer is in a position of not wanting to talk about it, particularly with his peers. He stated that the Board isn't judging him, it's here to help him rebuild his life.

**DR. KUMAR MOVED TO CONTINUE DR. GREER UNDER THE TERMS OF THE BOARD'S**

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**ORDER OF JANUARY 12, 2005, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- abstain
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

Mr. Browning indicated that his abstention was due to his having been out of the room during part of Dr. Greer's appearance.

PHILLIP THIELE NORTH, M.D.

Dr. North made his initial appearance before the Board, pursuant to the terms of his February 9, 2005 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. North stated that his license is still suspended, but he hopes to get his license back soon. He does understand the terms of his Consent Agreement. He did 32 days of inpatient treatment at Parkside and has been compliant with continuing care. He stated that he actually enjoys going to continuing care. He goes every Friday. He attends four to five meetings a week, usually five. He goes to Caduceus meetings. He has a sponsor. He does a lot of reading in recovery. Things are going pretty well. Other than meetings, he walks a lot. He's taken up bird watching, which is a contemplative sport that he enjoys, and he meets a lot of interesting people doing it. It keeps him outside and improves his powers of perception.

In response to Mr. Albert's questions, Dr. North stated that he is working the steps and has a sponsor. He's now working on Steps four and five. Step four is making a fearless moral inventory, and five is giving it up, if he remembers correctly.

Dr. Saxena asked Dr. North how long he's been sober.

Dr. North stated that he's been sober for 138 days.

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In response to Dr. Kumar's questions, Dr. North stated that he is taking Wellbutrin 450 mg a day. He also takes something for benign essential tremor and some vitamins.

Dr. Kumar advised Dr. North that the Board is here to support him, it wants him to get better and continue in his recovery. He urged Dr. North not to give up and to continue with his recovery.

Dr. Steinbergh stated that the Board knows that this is not easy. The seriousness of Dr. North's disorder is significant. When you put together either bipolar disease or depression with alcoholism, statistically, relapses are very high. The Board doesn't take this lightly. It knows that it's a very difficult issue to deal with. Dr. Steinbergh stated that the Board hopes that Dr. North will continue to look at this on a day-to-day basis. If he's committed to his wellness, and committed to the practice of medicine, then he'll have to go through extraordinary measures to maintain his health and his ability to practice.

Dr. North stated that he takes his recovery quite seriously.

In response to Mr. Albert's questions, Dr. North stated that he probably started drinking "alcoholically" in 1995. He realized that he was an alcoholic in 2003, when he did the state-required three-day drivers intervention course after two DUIs, and he met a counselor. In the process of her evaluation of him and his discussion with her, he came to that realization.

Mr. Albert commented that his counselor may have saved his life.

Dr. North stated that he believes that that's true. He added that the officer who arrested him also helped to save his life.

**DR. STEINBERGH MOVED TO CONTINUE DR. NORTH UNDER THE TERMS OF HIS FEBRUARY 9, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

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LICENSURE & PROBATIONARY REPORT CONSENT AGENDA

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

Dr. Steinbergh asked to consider Dr. Halle's probationary request separately.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH: DAVID E. ALLEN, M.D.; JEREMY AMPS, M.D.; GREGORY X. BOEHM, M.D.; FRANK R. BRUENING, M.D.; PAUL W. BURKE, JR., M.D.; ALLAN W. CLARK, M.D.; DAVID A. DOUGHERTY, D.O.; LYNNE A. EATON, M.D.; MICHAEL SHANE GAINEY, M.D.; LAMBERTO T. R. GALANG, JR., M.D.; WALTER L. GEORGE, JR., M.D.; W. ANDREW HIGHBERGER, M.D.; KATHERINE A. HUMES, M.D.; PAUL E. KELNER, M.D.; DAVID J. LEVY, M.D.; ROBERT F. LINN, D.O.; MARK S. MCALLISTER, M.D. JUAN C. MEJIA, M.D.; DAVID R. MILLER, M.D.; WILLIAM O. MURTAGH, JR., M.D.; THOMAS A. NGUYEN, M.D.; WILLIAM DENNY ROBERTSON, M.D.; STEPHEN J. ROLFE, M.D.; WILLIAM A. ROMER, M.D.; BRIAN D. SOUTHERN, M.D.; DAVID E. SUBLER, M.D.; ROBERT R. SUMMERS, D.O.; RICHARD W. THOMAS, M.D.; BRUCE S. WORRELL, D.O.; AND MARY MEI-LING YUN, M.D. DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND TO APPROVE THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS CONCERNING THE REQUEST OF TIMOTHY A. GOODEN, M.D. DR. STEINBERGH FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT "A", THE P.A. APPLICANTS LISTED IN EXHIBIT "B", THE ACUPUNCTURISTS LISTED IN EXHIBIT "C," THE ANESTHESIOLOGIST ASSISTANTS LISTED IN EXHIBIT "D," AND THE P.A. UTILIZATION PLANS SUBMITTED BY THE FOLLOWING: KENWOOD HOSPITALISTS, INC.; KIRKWOOD FAMILY PRACTICE; CANTON CARDIOVASCULAR SURGERY; MAPLE LEAF FAMILY & SPORTS MEDICINE; KHOURY SURGICAL; LORAIN COUNTY FREE CLINIC, INC.; HEMATOLOGY ONCOLOGY ASSOCIATES; WILLIAM MIRANDO, M.D.; AND INTERNAL MEDICINE OF KETTERING, INC. MS. SLOAN SECONDED THE MOTION. A vote was taken:**

VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye

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

The motion carried.

MARK T. HALLE, M.D. – PROBATIONARY REQUEST

Dr. Halle's requests for approval of a treating psychiatrist and a practice plan were presented to the Board for consideration at this time.

Dr. Steinbergh stated that she would move to approve changing Dr. Halle's treating psychiatrist from Richard E. Minter, M.D., to Yiu-Chung Chand, M.D., but she has some concerns with the proposed modified practice plan. She noted that the information provided the Board indicates that "the Secretary and Supervising Member were not going to support the original practice plan. They would, however, support a plan where the doctor would work with other mental health professionals on-site for consultation and conferring." She asked Dr. Talmage to comment on this.

Dr. Talmage stated that the practice plan that Dr. Halle submitted was to take call on the weekends and then he would have somebody else he could call if he felt that it was necessary. Dr. Talmage stated that he and Mr. Albert thought that this was probably exactly the wrong way to go back into practice after having been out. He needed to be in the building with other psychiatrists during the day and during the week, and then take call later, once he's proven that he can handle the situation. So they did not feel that Dr. Halle's request was in his best interest.

Dr. Steinbergh asked whether Dr. Halle has submitted a revised plan.

Ms. Bickers stated that a revised plan has been submitted. It indicates that instead of taking call at home, he would be taking all call within the physical structure of Netcare.

Mr. Albert asked whether Netcare accepted the revised plan.

Ms. Bickers advised that Dr. Halle did not know whether or not Netcare would accept it, but he wanted to present the plan, as modified, to the Board, in the event that Netcare did accept it.

Mr. Talmage stated that he and Mr. Albert would recommend approval of the modification, if Dr. Halle is able to secure employment.

**DR. STEINBERGH MOVED TO APPROVE YIU-CHUNG CHAND, M.D., TO SERVE AS DR. HALLE'S TREATING PSYCHIATRIST. SHE FURTHER MOVED TO APPROVE THE MODIFIED PROPOSED PRACTICE PLAN, IF ACCEPTABLE TO THE SECRETARY AND SUPERVISING MEMBER.**

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Mr. Albert indicated that he believes that Netcare is connected to the Adams Board, which used to be the 648 Board, upon which he served for eight years and was president for three or four of those years. They used to have institutions such as this that are psychiatric emergency rooms. They are places where police will bring in someone who is acting strange. Usually these were people who had been released from a psychiatric institution and who subsequently quit taking their drugs. When he was on the 648 Board, these institutions were mostly staffed by a psychiatric nurse and a social worker. It was hard to get psychiatrists willing to staff them.

Mr. Albert stated that, personally, he wouldn't have had any problem approving Dr. Halle's practice plan as initially proposed, but Dr. Halle hasn't practiced for three years.

Dr. Steinbergh stated that he needs to be in a supervised setting.

Dr. Robbins stated that this is someone who hasn't practiced for three years, and he asked why the Board can't require him to take the SPEX.

Ms. Bickers stated that Dr. Halle has kept his license current and has fulfilled his C.M.E. requirement. His license never became inactive at any time.

Dr. Robbins stated that the Board knows that Dr. Halle hasn't practiced in that time.

Dr. Talmage stated that the SPEX is geared more toward family doctors, internal medicine practitioners. It doesn't really examine psychiatric knowledge in any great substance. Requiring Dr. Halle to practice under supervision seems to be a better way for Dr. Halle to re-enter practice.

Mr. Albert stated that if Dr. Halle does this for six months or so, then he can expand his practice. He commented that Dr. Halle is typical. Psychiatrists out of practice, on probation, have a hard time finding a job.

The Board at this time held further discussion concerning physicians maintaining their licenses to practice when they are not, in fact, practicing medicine, and the fact that these individuals are not required to take the SPEX to ensure competency. It was also noted that the Board can't issue a limited license to these people. It was determined that statutory changes would be needed to allow the Board to require such physicians to take an exam prior to reentering practice.

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye

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Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

#### PROBATIONARY REQUESTS

##### CAROL E. LEWIS, M.D.

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

#### **DR. STEINBERGH MOVED TO APPROVE DR. LEWIS' NEW PRACTICE PLAN WITH THE BAY SHORE PSYCHIATRIC CLINIC IN SANDUSKY, OHIO.**

Dr. Kumar stated that Dr. Lewis is going to be working in a psychiatric clinic and writing prescriptions for patients. There is a potential for her to fall into a trap. He added that he would also like to see a review of Dr. Lewis' prescription writing.

Dr. Steinbergh stated that if it's not part of Dr. Lewis' consent agreement, the Board can't change that.

Dr. Talmage noted that Dr. Lewis' drug of choice was alcohol.

Danielle stated that Dr. Lewis has to keep a drug log for the Board's review. The clinic work is part of her residency program, so she will be monitored.

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

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The motion carried.

JEFFREY D. NEIDHART, M.D.

Dr. Neidhart's request to change his monitoring physician was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE GEORGE H. PEACOCK, M.D., TO SERVE AS DR. NEIDHART'S NEW MONITORING PHYSICIAN. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

ERDULFO PAZ PAAT, M.D.

Dr. Paat's request for approval of a program related to professional behavior and effective physician/patient communication.

Dr. Steinbergh stated that she would be willing to approve the course as partial credit for the requirement, but the course is only two hours. She would like to see him expand on the topic to include some discussion on conduct towards women. Dr. Steinbergh noted that the seminar brochure, entitled, *Communicating The Good, The Bad And The Apology*, indicates that it "covers three fundamental topics: 1) the importance of effective communication among physicians, 2) patient education, and 3) discussions of unexpected outcomes with patients and their families." She stated that this is not a case of an unexpected outcome. This was a patient charge of Dr. Paat crossing boundaries and so forth. Paragraph B.4. of the Board's Order requires that the education program be related to professional behavior and effective physician-patient communication. Dr. Steinbergh stated that, although she feels that Dr. Paat could use this seminar as working towards fulfilling the requirement, she cannot approve it as fulfilling the total requirement. She added that she would hope that Dr. Paat would address the issue of sexual imposition in his next course.

Dr. Kumar indicated that he, too, found that there wasn't enough in this program to satisfy the Board's

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requirement.

Dr. Robbins commented that Dr. Paat is in the Cleveland area, and should be able to find a program at Case Western Reserve University (CWRU). He ought to definitely be looking at those programs. Dr. Robbins stated that there is one program specifically on this particular problem. The program Dr. Paat proposes is pretty lightweight.

**DR. STEINBERGH MOVED TO APPROVE PROASSURANCE GROUP'S SEMINAR, *LET'S TALK. . . COMMUNICATING THE GOOD, THE BAD, AND THE APOLOGY* AS PARTIAL FULFILLMENT OF PARAGRAPH B.4 OF THE BOARD'S ORDER OF MARCH 10, 2004. DR. ROBBINS SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

NYKOLAI VASIL PIDHORODECKYJ, M.D.

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

**DR. STEINBERGH MOVED TO APPROVE VICTORIA L. SANELLI, M.D., TO SERVE AS DR. PIDHORODECKYJ'S TREATING PSYCHIATRIST AND SUPERVISING PHYSICIAN, PURSUANT TO THE TERMS OF DR. PIDHORODECKYJ'S JANUARY 12, 2005 CONSENT AGREEMENT. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye

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

The motion carried.

### REINSTATEMENT REQUESTS

#### SAMUEL R. GOSS, D.P.M.

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

Dr. Steinbergh noted that Dr. Goss is a podiatrist who was found guilty of Medicare/Medicaid fraud. She stated that she would like more information about the course he is proposing before the Board approves it. She asked how many hours of face-to-face education, as opposed to reading or online, the course entailed. She wanted to know how many hours the course entailed, the expectations in terms of personal discussion on the topic, and what type of report would be generated by the program. Dr. Steinbergh suggested tabling Dr. Goss' request until such time as he can provide those answers.

Ms. Jacobs stated that Dr. Goss asked for this to be approved for both the personal ethics and professional ethics requirements of the Board's August 13, 2003 Order. She stated that she encouraged Dr. Goss to look at this as only one course dealing with professional ethics because she couldn't find anything in the course to address personal ethics.

Dr. Steinbergh agreed.

Dr. Talmage stated that more and more often the Board is sending people to courses. Almost always they are requested to send a letter to the Board assuring that they have completed the course. He doesn't think that having the instructor send a letter to the Board would be a normal step.

Ms. Jacobs stated that the director of the course often does make a report for the Board.

Dr. Kumar noted that the letter from the course director, Donna Homenko, Ph.D., indicates that additional hours of professional ethics "are also available via another course outline." Dr. Kumar stated that this indicates that Dr. Homenko also recognizes that 20 hours may not be enough.

Ms. Jacobs stated that Dr. Goss was really concerned about the number of hours. He wanted her to tell him precisely how many hours he would need. She told him that that's the Board's call.

Dr. Steinbergh stated that just to give the number of hours doesn't tell the Board anything. It really needs to see the meat of the course and how this will change his behavior.

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Ms. Jacobs stated that she will give that information to Dr. Homenko, who is willing to provide the information the Board wants.

Mr. Browning asked whether there's a correct answer to the question about the number of hours necessary.

Dr. Steinbergh stated that 20 hours, for instance, can be acceptable, if the Board sees that the meat of the course is appropriate. Two hours is not enough, but 50 hours isn't necessary. There are some physicians will present a longer course. Twenty hours is not bad if the Board knows that they're, in fact, dealing with the subject that brought him before the Board.

Ms. Jacobs stated that the Board has from time to time adopted consent agreements or orders that have specified the number of hours.

Dr. Kumar stated that, if his understanding is correct, the course that the Board has already approved at CWRU has 20 to 24 hours. It lasts about three days.

Mr. Browning asked whether Dr. Homenko is a psychologist.

Ms. Jacobs stated that she is not, she is an ethicist. She stated that she has done courses for Medical Board licensees in the past and has provided a report. The outline is consistent with what she's done in the past.

Mr. Browning spoke in favor of approving this course and not delaying it a month.

Dr. Steinbergh stated that she wants to know how much of the course is face-to-face. She stated that it's one thing to be taking a course on-line or reading books, and it's another thing to be able to have a discussion on fraud and ethical decisions in his practice.

Dr. Talmage stated that he thinks the most important thing is the evaluation. Someone can go to a course that's five hours long and get it, and someone else can go to a course that's 100 hours long and still not get it. The bottom line is the evaluation by the preceptor.

Mr. Browning stated that it seems to him that there should be some criteria so that twelve people don't have to sit around and talk about a course. The Board goes around and around on a number of things where it doesn't have criteria.

Ms. Jacobs stated that the Consent Agreement Committee will be discussing different things to do to enable moving some items into the consent agenda.

**DR. ROBBINS MOVED TO APPROVE THE PROFESSIONAL ETHICS COURSE, *ETHICS ACROSS THE MEDICAL PROFESSIONS*, OFFERED BY DONNA F. HOMENKO, PhD, AS FULFILLING PARAGRAPH B(3) OF THE BOARD'S ORDER OF AUGUST 13, 2003, SUBJECT TO THE SECRETARY AND SUPERVISING MEMBER'S APPROVAL AFTER THE QUESTIONS SHE POSED ARE ANSWERED. DR. BUCHAN SECONDED THE MOTION. A**

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vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

THOMAS ANH NGUYEN, M.D.

Dr. Nguyen's request for approval of the two chemical dependency assessors required by the Board's Order of September 10, 2003, was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE MAURICE S. CERUL, M.D., AND JON SHAPIRO, M.D., TO PERFORM THE CHEMICAL DEPENDENCY ASSESSMENTS REQUIRED BY PARAGRAPH 3.d OF THE BOARD'S ORDER OF SEPTEMBER 10, 2003.**

Dr. Kumar commented that Dr. Shapiro is a trained gastroenterologist.

Dr. Steinbergh stated that Dr. Shapiro is Assistant Medical Director for the Physician's Health Program in Pennsylvania, so he's had some experience. She noted that he also belongs to the American Society of Addiction Medicine. A lot of physicians go into that. She stated that she thought that Dr. Shapiro was okay.

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye

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Dr. Steinbergh - aye  
Dr. Davidson - aye

The motion carried.

LICENSURE

WETHERINGTON FAMILY MEDICINE – P.A. UTILIZATION PLAN

The above-captioned P.A. Utilization Plan was presented to the Board for consideration at this time. The Board approved the plan in May 2003; however, Wetherington is now requesting permission to increase the P.A.'s patient load to 30 patients per day.

**DR. STEINBERGH MOVED TO APPROVE WETHERINGTON FAMILY MEDICINE'S REQUEST TO INCREASE THE P.A.'S PATIENT LOAD TO 30 PATIENTS PER DAY. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

MIPA PRIMARY CARE – P.A. UTILIZATION PLAN

The above-captioned P.A. Utilization Plan was presented to the Board for consideration at this time. The Board approved the plan in October 2004; however, MIPA Primary Care is now requesting to increase the P.A.'s patient load to 25 patients per day.

**DR. STEINBERGH MOVED TO APPROVE MIPA PRIMARY CARE'S REQUEST TO INCREASE THE P.A.'S PATIENT LOAD TO 30 PATIENTS PER DAY. DR. SAXENA SECONDED THE MOTION.** A vote was taken:

VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye

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

The motion carried.

DECEMBER 7, 2004 MASSAGE THERAPY EXAMINATION RESULTS

Due to an error in the answer key for the above-captioned examination, a number of individuals were advised that they had failed the examination. A list of examinees who achieved passing scores after their examinations were regraded was presented to the Board.

**DR. ROBBINS MOVED TO APPROVE THE REVISED RESULTS OF THE DECEMBER 2004 MASSAGE THERAPY EXAMINATION, AND TO CERTIFY AS PASSING AND LICENSE THOSE RECEIVING A SCORE OF 75 OR ABOVE (EXHIBIT E), IN ACCEPTANCE WITH LICENSURE PROTOCOLS, AND TO CERTIFY AS FAILING AND DENY LICENSURE TO THOSE WHO RECEIVED A SCORE OF LESS THAN 75 ON THE EXAMINATION.**

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

JOINT REGULATORY STATEMENT REGARDING THE PROVISION OF ESTHETIC, COSMETOLOGY AND RELATED SERVICES

Mr. Dilling advised that the Board previously approved the above-captioned statement. It has been

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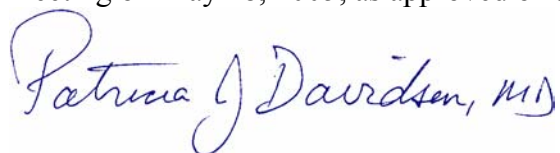
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subsequently learned that the Cosmetology Board did not concur with some of the changes that were made. They have indicated that they need further time to look the statement over. He advised that he and Dr. Davidson met with representatives of the Cosmetology Board to discuss the issues, and it was decided that further research was needed on some of the issues. The Cosmetology representatives indicated that they would do that and present their recommendations to the Board, possible prior to the Board's June 2005 meeting. He suggested that the revised language be sent back through the Board's Scope of Practice Committee.

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

Thereupon at 4:43 p.m. the May 18, 2005 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 18, 2005, as approved on June 8, 2005.



Patricia J. Davidson, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

May 19, 2005

Patricia J. Davidson, M.D., President, called the meeting to order at 8:03 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Andrew F. Robbins, Jr., M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Nandlal Varyani, M.D.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Kamala Saxena, M.D., and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: David S. Buchan, D.P.M. The following did not attend the meeting: Carol L. Egner, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Thomas A. Dilling, Executive Director, Emeritus; William J. Schmidt, Assistant Executive Director; Diann K. Thompson, Assistant Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Lori S. Gilbert, Chief Enforcement Attorney; and Kathleen S. Peterson, Enforcement Attorney; Tara L Barrien, Assistant Attorney 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; Lynda Hosken, Chief, Human Resources; and Gary J. Holben, Administrator, Fiscal/Human Resources And Information Technology.

#### PRESENTATION OF LETTER OF APPRECIATION

At this time Dr. Davidson, on behalf of the Board's Management Committee, expressed appreciation for the Board staff who have thanked her and the other Committee members for the work they did in finding a new Executive Director. She stated that the Committee learned a lot through the comments made. She noted that Dr. Talmage, Dr. Egner, Mr. Browning, Mr. Albert and she, the Committee members, put in a lot of extra hours of effort, thought, work and anxiety to get where the Board is today. It meant a lot for the Committee to hear comments of appreciation from the staff.

Dr. Davidson stated that one person in particular, Lynda Hosken, needs recognition by the Board. She stated that the Committee reached out to Ms. Hosken for assistance. Miss Hosken stepped up to assist the Committee, making herself available to Committee members at all times. She wrote the job description for the new administrator of fiscal, human resources and information technology, she posted the job, assisted in the interviews with applicants, and helped to get Mr. Holben on Board. She saw the Committee through the whole process. Mr. Holben, in turn helped the Committee find Mr. Whitehouse, who will now help the Board in reaching its next goals. Dr. Davidson commented that the Board's next retreat, on September 15, will be a strategic planning session for the future of the Board.

Dr. Davidson commented that the Board has already begun an incredible building process, and she believes that that started with Ms. Hosken. At this time she presented Ms. Hosken with a framed letter of

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appreciation from the Board and the Management Committee.

The Board recognized Ms. Hosken with applause.

Ms. Hosken thanked the Board. She added that she thinks that the Board is headed in the right direction. The process was long, but she believes that the Management Committee did a great job.

Dr. Steinbergh at this time thanked Dr. Davidson for her leadership during this period.

The Board acknowledged Dr. Davidson with applause.

Dr. Buchan joined the meeting during the previous discussion.

#### REPORTS OF ASSIGNED COMMITTEES

##### EXECUTIVE COMMITTEE

Dr. Davidson reported on the Committee's discussions of the items on its agenda, as detailed in the Committee's minutes, a copy of which shall be maintained in the exhibits section of this journal.

Concerning the Board's September 15 retreat, Dr. Davidson asked that Board members and staff who have any interest in working on the strategic planning session to contact Ms. Wehrle with their suggestions.

##### LEGISLATIVE LIAISON AND RULES COMMITTEE

Mr. Browning reported on the Committee's discussions of the items on its agenda, as detailed in the Committee's minutes, a copy of which shall be maintained in the exhibits section of this journal.

##### LICENSURE COMMITTEE

Dr. Robbins stated that the Committee reviewed applications of eight individuals.

##### Robert B. Baker, M.D.

Dr. Robbins stated that Dr. Baker has not been engaged in the active practice of medicine since 2001. He has done 100% administrative work since that time. He was certified in general pediatrics in 1979, and recertified in 2003. Based on the recertification, the Committee recommends that the Board approve Dr. Baker's license application.

**DR. STEINBERGH MOVED TO APPROVE DR. BAKER'S REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

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VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

Milton Swaby, M.D.

Dr. Robbins advised that Dr. Swaby's request for special accommodations to take Step 3 of the USMLE was considered by the Committee. Dr. Swaby has been diagnosed with a learning disorder that affects his ability to read. He is requesting that the Board allow him additional time of double time. After review of his request and the recommendation of the National Board of Medical Examiners, the Committee recommends denial of Dr. Swaby's request.

**DR. STEINBERGH MOVED TO DENY DR. SWABY'S REQUEST FOR SPECIAL ACCOMMODATIONS FOR STEP 3 OF THE USMLE. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

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Janelle Coblentz, M.T. Applicant

Ms. Coblentz request for special accommodations under the ADA was reviewed by the Committee. Dr. Robbins advised that Ms. Coblentz was diagnosed with a specific learning disability in reading. She was granted accommodations by her massage school. Dr. Robbins stated that the Committee recommends that the Board allow Ms. Coblentz a taped exam, extended testing time of time and a half, and a separate testing area.

**DR. STEINBERGH MOVED TO GRANT MS. COBLENTZ' REQUEST FOR ACCOMMODATIONS AS FOLLOWS: A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

Deborah M. Ellis, L.M.T.

Ms. Ellis' application for restoration of her license to practice massage therapy was reviewed by the Committee. Ms. Ellis indicated that she has not practiced massage since September 2002. Dr. Robbins stated that the Committee recommends that Ms. Ellis be required to pass the Limited Branch portion of the massage examination.

**DR. STEINBERGH MOVED TO GRANT MS. ELLIS' REQUEST FOR RESTORATION OF HER LICENSE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE MASSAGE EXAMINATION, AND CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye

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

The motion carried.

Laura Ferris, M.T. Applicant

Dr. Robbins advised that the Committee reviewed Ms. Ferris' application to sit for the June 2005 massage therapy examination. Ms. Ferris has requested special accommodations under the A.D.A. She has been diagnosed with epilepsy. Dr. Robbins stated that the Committee recommends approval of Ms. Ferris' request.

**DR. BUCHAN MOVED TO GRANT MS. FERRIS' REQUEST FOR ACCOMMODATION OF EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE ROOM FOR THE EXAMINATION. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

Deanna Lewis, M.T. Applicant

Ms. Lewis' request for special accommodations for the June 2005 massage therapy examination was considered by the Committee. She has been diagnosed as being legally blind.

**DR. ROBBINS MOVED TO APPROVE MS. LEWIS' REQUEST FOR AN ENLARGED PRINT EXAM, A TAPED EXAM (IF NECESSARY, EXTENDED TESTING TIME OF TIME AND A**

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**HALF AND A SEPARATE TESTING AREA. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

Bonnie S. Pearson, L.M.T.

Dr. Robbins stated that Ms. Pearson's request for restoration of her license to practice massage therapy was considered by the Committee. Ms. Pearson has indicated that she has not been engaged in the active practice of massage since September 1999.

**MR. BROWNING MOVED TO GRANT MS. PEARSON'S REQUEST FOR RESTORATION OF HER LICENSE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE MASSAGE EXAMINATION, AND CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

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John Bennett, M.T. Applicant

Mr. Bennett's request for special accommodations for the June 2005 Massage Therapy examination was reviewed by the Committee. Mr. Bennett has been diagnosed with Attention Deficit Disorder, inattentive type.

Dr. Robbins advised that, following review the documentation submitted by Mr. Bennett, the Committee recommends approving Mr. Bennett's request.

**DR. STEINBERGH MOVED TO APPROVE MR. BENNETT'S REQUEST FOR THE SPECIAL ACCOMMODATIONS OF EXTENDED 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. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

Patricia Lohnes, M.T. Applicant

Ms. Lohnes request for special accommodations under the A.D.A., was considered by the full Board at this time. Ms. Lohnes has been diagnosed with a specific learning disability in reading and mathematics. She requested a reader, extended testing time of time and a half, and a separate testing area.

**DR. STEINBERGH MOVED TO APPROVE MS. LOHNES REQUEST FOR THE SPECIAL ACCOMMODATIONS OF A TAPED EXAMINATION, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. DR. ROBBINS SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye

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

The motion carried.

Dr. Robbins stated that the Committee will take the charge of preparing a survey to be included with the renewal questions concerning whether or not physicians in Ohio are practicing. He added that he would dovetail into that the issue of physician competence. He stated that it bothers him that the Board requires individuals to take examinations to prove competency for restoration of their licenses when they've been out of practice for two years, but those individuals who have been out of practice but who haven't let their licenses lapse can return to practice without passing an examination. Dr. Robbins stated that one thing learned at the Federation meeting was that C.M.E. is not a good indicator of competence. He stated that the Board has to study this issue, and if a statutory change is needed, it should work toward that.

#### PRESCRIBING COMMITTEE

Dr. Davidson reported on the Prescribing Committee meeting, as outlined in the minutes of that Committee, a copy of which shall be maintained in the exhibits section of this journal.

Dr. Davidson advised that the Committee also reviewed a model letter, drafted by the Federation of State Medical Boards, to be sent by member boards to support the Ryan Haight Internet Pharmacy Consumer Protection Act. The Act was introduced to address protection of patients ordering prescriptions over the internet after filling out an on-line questionnaire, and to provide state attorneys general with nationwide injunctive powers to shut down non-complying websites across the country. Dr. Davidson stated that the Committee is recommending that the Board send the letter to Ohio's Senators in Washington.

#### **DR. STEINBERGH MOVED TO SEND THE PROPOSED DRAFT LETTER TO SENATORS GEORGE V. VOINOVICH AND MIKE DEWINE. DR. ROBBINS SECONDED THE MOTION.**

A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

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

The motion carried.

#### QUALITY ASSURANCE COMMITTEE

Dr. Davidson reported on the Quality Assurance Committee, as outlined in the minutes of that Committee, a copy of which shall be maintained in the exhibits section of this journal.

The Board subsequently discussed complaint priority codes, and the handling of complaints. Concern was expressed over the backlog of cases from when the Board had fewer enforcement attorneys.

Ms. Gilbert assured the Board that the enforcement staff is addressing those cases as quickly as they can.

Mr. Albert stated that the Board's number one priority is taking impaired practitioners out of practice. The Board has been successful in getting those cases handled expeditiously.

Mr. Browning and Dr. Steinbergh expressed concern that minimal standards cases aren't handled as quickly. Dr. Steinbergh indicated that a physician practicing below minimal standards could be as dangerous as an impaired physician.

Dr. Davidson asked Dr. Talmage and Mr. Albert to re-evaluate the priority codes.

#### LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed an application for a certificate of good standing from Community College of Allegheny County, Pittsburgh, PA, for its' massage therapy course. Following review of the documentation submitted by the school, the Committee recommended approval.

**DR. ROBBINS MOVED TO GRANT COMMUNITY COLLEGE OF ALLEGHENY COUNTY A CERTIFICATE OF GOOD STANDING. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

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

The motion carried.

P. A. COMMITTEE

Dr. Talmage advised that the Committee reviewed a number of supplemental utilization requests. He stated that he would like to review these requests in groups. He added that, in light of the consent agreements ratified the previous day, there will be several supplemental requests that will be pulled out for discussion so that the Board can vote on them separately.

Pro Scan Reading Services

**DR. TALMAGE MOVED TO APPROVE PRO-SCAN READING SERVICES' SUPPLEMENTAL PLANS TO PERFORM CONTRAST ADMINISTRATION MONITORING, PROVIDED ITS FOR PATIENTS OVER FIVE YEARS OLD AND ITS FOR MRI SCANNING ONLY, IN AN OFFICE SETTING, UTILIZING 10% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY.**

Dr. Talmage stated that the Committee voted to not require a supplement for x-ray and spine study preview for physician review, as they felt that this was within the primary scope of a P.A..

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

VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

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Samaritan Professional Corporation

**DR. TALMAGE MOVED TO DENY SAMARITAN PROFESSIONAL CORPORATION'S SUPPLEMENTAL PLAN TO ALLOW P.A.S TO EVALUATE AND TREAT NEW PATIENTS WITH OFF-SITE SUPERVISION ONLY ON THE BASIS THAT IT IS NOT PERMITTED ACCORDING TO STATUTES. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

Center Urology Associates

**DR. TALMAGE MOVED TO APPROVE CENTER UROLOGY ASSOCIATES SUPPLEMENTAL PLANS AS FOLLOWS: URODYNAMIC STUDIES, IN A HOSPITAL SETTING, UTILIZING 100% DIRECT SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY; BLADDER SCAN FOR POST VOID RESIDUALS, IN AN OFFICE SETTING, UTILIZING 33% DIRECT, 33% ONSITE, AND 34% OFFSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 5 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 10 PROCEDURES TO DETERMINE COMPETENCY; AND BIOFEEDBACK BY VAGINAL DEVICE ONLY, IN AN OFFICE SETTING, UTILIZING 50% ONSITE AND 50% OFFSITE SUPERVISION, WITH THE P.A. OBSERVING A REGISTERED NURSE PERFORM 10 PROCEDURES.**

Dr. Talmage stated that the Committee actually thought that the biofeedback request, because it's a teaching function, was within the basic scope of practice of a P.A.; however, the Committee did decide to vote to approve it.

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye

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

The motion carried.

The Heart Center at Akron Children's Hospital

**DR. TALMAGE MOVED TO APPROVE THE SUPPLEMENTAL REQUESTS FROM THE HEART CENTER: REMOVAL OF CHEST TUBES, IN AN HOSPITAL SETTING, UTILIZING 100% DIRECT SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 10 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 8 PROCEDURES TO DETERMINE COMPETENCY; AND REMOVAL OF TEMPORARY PACER WIRES, IN AN OFFICE SETTING, UTILIZING 100% DIRECT SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 10 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 10 PROCEDURES TO DETERMINE COMPETENCY. DR. BUCHAN SECONDED THE MOTION. A vote was taken:**

VOTE:

Mr. Albert - aye  
 Dr. Talmage - aye  
 Dr. Varyani - aye  
 Dr. Buchan - aye  
 Dr. Kumar - aye  
 Mr. Browning - abstain  
 Ms. Sloan - aye  
 Dr. Robbins - aye  
 Dr. Saxena - aye  
 Dr. Steinbergh - aye  
 Dr. Davidson - aye

The motion carried.

Reconstructive Orthopaedics

**DR. TALMAGE MOVED TO DENY THE FOLLOWING SUPPLEMENTAL REQUESTS OF RECONSTRUCTIVE ORTHOPAEDICS ON THE BASES THAT THE APPLICATIONS OUTLINED THE NECESSARY EDUCATION AND TRAINING TO DO THOSE PROCEDURES,**

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**AND THE COMPLICATIONS THAT CAN OCCUR ARE SIGNIFICANT AND COULD RESULT IN THE NEED FOR SURGERY: CORTICOSTEROID INJECTIONS INTO THE MP & IP FINGER JOINTS; INTRA-ARTICULAR INJECTIONS OF THE ANKLE; CMC THUMB JOINT INJECTIONS; WRIST ASPIRATION AND INJECTIONS; MORTON NEUROMA INJECTION INTO THE FOOT; ELBOW ASPIRATION/INJECTIONS OLECRANON-BURSA; ACROMIO-CLAVICULAR SHOULDER JOINT INJECTIONS; MEDIAL/LATERAL/EPI-CONDYLITIS; ELBOW INJECTIONS; TRIGGER FINGER INJECTIONS; GREATER TROCHANTERIC BURSITIS HIP INJECTION; FOOT INJECTIONS PLANTAR FASCIITIS; DEQUERVAIN INJECTION INTO THE WRIST; AND CERVICAL/THORACIC/LUMBAR/PERESPINAL MUSCLE TRIGGER-POINT INJECTIONS. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

**DR. TALMAGE MOVED TO APPROVE THE FOLLOWING SUPPLEMENTAL REQUESTS: GANGLION WRIST ASPIRATION; SUBRACROMIAL SHOULDER INJECTION; FINGER & TOE SUBUNGEAL HEMATOMA EVACUATION; AND TOE NAIL TRIMMING AND REMOVING INGROWN NAILS, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY IN ALL PROCEDURES. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye

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Dr. Steinbergh     - aye  
Dr. Davidson       - aye

The motion carried.

Dr. Talmage stated that, in light of the Consent Agreements entered into the previous day, the Board will need to have expert testimony to support a motion to deny. He advised that, in this applicant's case, the P.A.P.C. recommended approval of the group's requests to allow their P.A.s to do the following: Knee joint injections; Arthrocentesis of the knee; and Aspiration of the knee. The Board's Committee, however, recommended denying approval for these procedures. As Chair of the P.A. Committee, he must recommend denial, based upon the Committee's discussion prior to the ratification of the consent agreements.

**DR. TALMAGE MOVED TO DENY THE GROUP'S REQUEST FOR ITS P.A.S TO PERFORM KNEE JOINT INJECTIONS; ARTHROCENTESIS OF THE KNEE; AND ASPIRATION OF THE KNEE.** The motion died for lack of a second.

Dr. Kumar stated that he feels that this case is different from the consent agreement for two or three reasons. The consent agreements required patient notification that a P.A. was performing the procedures. This request does not indicate that patients would be notified. A second difference is that in the consent agreement, there is a specific requirement that the patient is examined after two or three injections. These requests do not specify how soon the patient will be examined and how the monitoring system will be. So there is a difference, and he finds those differences to be significant for quality control issues. The only way he would approve these is if those provisions were included.

Dr. Talmage stated that the statute regarding P.A.s requires that the P.A. be clearly identified by badge or nametag. It should be clear to a patient, by statute, that the P.A. is doing the procedure.

Dr. Kumar stated that even though they're identified, he would like to see acknowledgement in the consent form that the patient understands that the person doing the procedure is a physician assistant.

Dr. Steinbergh suggested that, in the future, the Board might require applicants for these procedures to agree to do them under the same terms as the consent agreements. The Board could ask those who are filing requests at this time to resubmit their requests in a format similar to that of the consent agreement, so that the language is consistent, indicating that the education and training of the P.A. will be the same as agreed to, including that the procedures be done under 100% on-site supervision, that the physician make the decision that the procedure is necessary and over what period of time it will be done, when the physician will reassess the patient, and the supervising physician making quarterly reports and letting the Board know how it's going. It's a quality issue. Dr. Steinbergh stated that she doesn't know that the Board needs to enter into consent agreements with all future applicants; but if the Board gives this information out, others can request in a similar format.

**DR. STEINBERGH MOVED TO ASK THE APPLICANTS TO RESUBMIT THEIR**

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**APPLICATIONS FOR THE FOLLOWING PROCEDURES, TO BE CONSISTENT WITH THE CONSENT AGREEMENTS RATIFIED BY THE BOARD: KNEE JOINT INJECTIONS; ARTHROCENTESIS OF THE KNEE; AND ASPIRATION OF THE KNEE. MS. SLOAN SECONDED THE MOTION.**

Dr. Kumar stated that he doesn't want to send these applicants the consent agreement. He would prefer just saying that these are the Board's guidelines. He'd like to toughen up those guidelines a little bit.

Dr. Steinbergh stated that the Board has ratified a consent agreement, and that is the Board's standard now. It's public information, there's no reason why other applicants can't see the consent agreement also. Dr. Steinbergh stated that she doesn't think that the Board can toughen up the requirements if the applicant meets the standard ratified by the Board the previous day.

Dr. Talmage verified that the consent is a public document and the applicants can have access to it.

Dr. Steinbergh stated that if future applicants can't meet this standard, it will have to go back to the Committee for reassessment.

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

Central Ohio Cardiovascular Consultants

**DR. MOVED TO APPROVE CENTRAL OHIO CARDIOVASCULAR CONSULTANT'S REQUEST FOR ITS P.A.S TO PERFORM NONINVASIVE CARDIOVASCULAR STUDIES, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 10 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

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VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

Family Medical Care Plus

**DR. TALMAGE MOVED TO APPROVE FAMILY MEDICAL CARE PLUS' REQUEST FOR ITS P.A.S TO APPLY LIGHT-BASED MEDICAL DEVICES FOR HAIR REMOVAL, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 40 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

Freiberg Orthopaedic Group

**DR. TALMAGE MOVED TO APPROVE FREIBERG ORTHOPAEDIC GROUP'S REQUESTS FOR ITS P.A.S TO PERFORM: GANGLION WRIST INJECTIONS, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25**

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**PROCEDURES TO DETERMINE COMPETENCY; AND SUBRACROMIAL SHOULDER INJECTIONS, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

**DR. TALMAGE MOVED TO DENY APPROVAL OF THE FOLLOWING PROCEDURES ON THE BASES THAT THE AMOUNT OF TRAINING OUTLINED IN THE APPLICATION IS INSUFFICIENT TO ALLOW A COMFORT LEVEL FOR APPROVAL, AND THE LIABILITY OF COMPLICATION IS HIGHER IN THESE PROCEDURES, AND THEY THEREFORE ARE NOT WITHIN THE SCOPE OF A NON-PHYSICIAN PROVIDER: CORTICOSTEROID INTRAARTICULAR INJECTIONS OF THE HAND MP, PIP, AND DIP JOINTS; CORTICOSTEROID INTRA-ARTICULAR INJECTIONS OF THE ANKLE; CORTICOSTEROID INTRARTICULAR INJECTION INTO THE FOOT MIP JOINT; INJECTION INTO THE WRIST FOR DEQUERVAIN SYNDROME; MEDIAL/EPICONDYLITIS ELBOW INJECTIONS; LATERAL/EPICONDYLITIS ELBOW INJECTIONS; OLECRANON-BURSA ELBOW INJECTIONS; ACROMIO-CLAVICULAR SHOULDER JOINT INJECTION; INTRAARTICULAR INJECTION OF THE GLENOHUMERAL SHOULDER JOINT; INJECTION OF CORTICOSTEROID FOR TRIGGER FINGER; CORTICOSTEROID INJECTION OF THE GREATER TROCHANTERIC BURSA HIP; CORTICOSTEROID TRIGGERPOINT INJECTIONS; TENDON SHEATH CORTICOSTEROID INJECTION INTO THE BICEP TENDON; CORTICOSTEROID TENDON SHEATH INJECTION OF THE PATELLAR TENDON; CORTICOSTEROID INJECTION INTO THE PREPATELLAR BURSA; AND CORTICOSTEROID INJECTION INTO THE PESANSERINE BURSA. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye

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

The motion carried.

Dr. Talmage stated that the following procedures are parallel to the ones previously discussed in the consent agreements ratified the previous day. The Committee recommended denial prior to the ratification.

**DR. TALMAGE MOVED TO DENY THE FOLLOWING PROCEDURES: ARTHROCENTESIS OF THE KNEE; ASPIRATION OF THE KNEE; CORTICOSTEROID INTRAARTICULAR INJECTIONS OF THE KNEE; JOINT; AND VISCOSUPPLEMENTATION INJECTIONS OF THE KNEE JOINT.** The motion died for lack of a second.

**DR. KUMAR MOVED TO ASK THE APPLICANTS TO RESUBMIT THEIR APPLICATIONS FOR THE FOLLOWING PROCEDURES, TO BE CONSISTENT WITH THE CONSENT AGREEMENTS RATIFIED BY THE BOARD: ARTHROCENTESIS OF THE KNEE; ASPIRATION OF THE KNEE; CORTICOSTEROID INTRAARTICULAR INJECTIONS OF THE KNEE; JOINT; AND VISCOSUPPLEMENTATION INJECTIONS OF THE KNEE JOINT.**  
**DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

University Cardiology, Inc.

**DR. TALMAGE MOVED TO APPROVE UNIVERSITY CARDIOLOGY, INC.'S REQUEST FOR**

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**ITS P.A.S TO PERFORM CARDIAC EXERCISE STRESS TESTING, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 50 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 50 PROCEDURES TO DETERMINE COMPETENCY. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

At this time there was a discussion concerning the size of the agenda package sent to Board members. Mr. Albert noted that this month's agenda package was nearly 2000 pages. He stated that there needs to be a way to cut down on the information provided in each agenda.

Dr. Steinbergh expressed concern over the Board's receiving items 1 – 3 days prior to the meeting. She stated that many of these items, particularly consent agreements, take time to study, which working Board members don't have during that 1 – 3 days.

Dr. Talmage stated that the alternative is to not take those people out of practice for another 30 days.

Dr. Steinbergh stated that she doesn't know the answer, but she feels that it is somehow sitting out there.

Dr. Kumar suggested setting a deadline, such as the Friday before the meeting, for sending things to the Board.

Dr. Talmage stated that these consent agreements are gone over with the Secretary and Supervising Member by phone. He stated that he gets almost a daily phone call from the Board. These sometimes come in five days ahead of time, and the staff asks whether they can submit them to the Board because they need to get individuals out of practice, and he and Mr. Albert approve it. He expressed concern over the Board's waiting another 30 days in some of these cases.

Mr. Browning stated that there are a number of questions about the process, what the Board approves, and how it goes about its business. With new leadership of the Board staff, it's a natural time to reflect on the

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process. His sense is that one or more things do not have to come to the full Board but can be dealt with in different ways. Mr. Browning suggested that an ad hoc group, including the Secretary and Supervising Member, be appointed to take some time to reflect on the process and see what makes sense.

Mr. Browning added that it seems reasonable to put a deadline for the Board members to get materials before the monthly meeting.

Ms. Gilbert stated that if the Board doesn't address the issues, bad physicians stay in practice. Some of these people, such as those submitting Step 2 consent agreements, have the incentive to turn something in early, because they want to get back into practice. If it's a Step 1 agreement, where the Board is taking a physician out of practice because they're impaired and they need to be out of practice, they have no incentive to respond early. The Board may or may not be in a position to summarily suspend the licenses of these individuals if they don't make the deadline. If the Board doesn't take the Step 1 that comes in late, these physicians are staying in practice for another month, potentially harming patients. The Board's goal is to protect the public from harm, and she will argue every time for sending the Board members every document she can get up to the last minute, or even if one walks in the door when the Board meeting is going on. She will argue for bringing those to the Board, and giving the Board time during the meeting to review and act on it. Ms. Gilbert noted that this month, only one document was sent after Friday, and that was a three-page permanent surrender. She doesn't think that that pushed anybody over the edge.

Dr. Steinbergh stated that she can't argue with that, but she noted that some Board members were at the Federation meeting.

Ms. Gilbert again stated that the alternative is not taking dangerous practitioners out of practice.

Mr. Browning stated that the alternative may be a different process. Is there a different process?

Ms. Gilbert stated that there are certain things on which the Board has to vote.

Mr. Browning suggested that that might be something to be changed. The Board isn't just locked into the status quo.

Dr. Davidson stated that Mr. Browning's suggestion is a good one. This is a good opportunity for an Ad Hoc Committee, with the Secretary and Supervising Member's assistance, to step back and take a little time to look at process.

Mr. Albert suggested that that would be the job of the Management Committee.

Dr. Davidson stated that it could be.

Dr. Buchan stated that he agrees with Mr. Browning that the process needs to be reviewed. However, he is also in favor of full-court press. He's trained so that on the Monday and Tuesday nights before the Board meeting he's checking his e-mail. Dr. Buchan stated that if the Board gets a consent agreement at the 11<sup>th</sup> hour, it must respond. He's not in favor of a deadline. If he needs to spend time on Wednesday morning to

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review things, he'll do it, but he wants these practitioners out of practice.

Dr. Davidson expressed confidence in Mr. Whitehouse's ability to direct the Board in its quest.

Dr. Varyani expressed concern that the previous day the Board complained about not getting a case sooner – that it took too long, and now it's sitting here saying that it doesn't want last-minute things. Dr. Varyani noted that the Board looks at the numbers of revocations and suspensions, etc., but he feels that the Board also needs to look at how efficiently it performs. He suggested that Mr. Whitehouse can review the situation, and, in the meanwhile, the Committee can look at it and give the Board suggestions how things can change. Dr. Varyani stated that, as a Board member, he would like to be involved in the process.

REPORT ON FSMB WORKSHOP: *PROMOTING BALANCE AND CONSISTENCY IN THE REGULATORY OVERSIGHT OF PAIN CARE*

Dr. Davidson stated that Dr. Talmage attended the workshop in Birmingham, Alabama in March, and she and Ms. Gilbert attended the workshop in Boston in April. She stated that the book she was given at the workshop is available for Board members' review. Dr. Davidson asked Dr. Talmage and Ms. Gilbert to comment on the workshop.

Dr. Talmage stated that he thinks the presentation was a very sophisticated presentation that, with his medical background, lost him after about five minutes. Dr. Talmage stated that one of the messages he got is that there is more to be learned about the treatment of pain. Another message is that Boards need to do a good job in separating those who treat pain poorly from those who do a good job. Dr. Talmage commented that he thinks that that is a message that this Board has gotten for a long time.

Dr. Talmage continued that the biggest message he came away with is the registration systems in the other states. In Idaho and Kentucky, they can go on line and in a 24-hour span they can find out other prescriptions that a patient has gotten from every pharmacy in the state. When you have people that cross over state lines, there would be a little more problem. Dr. Talmage stated that he would imagine that, if Ohio had such registration, it could cross-register with contiguous states. You could find out the prescribers who are overdoing, the patients who are shopping multiple prescribers, and you can find the drugstores that are local drug distribution centers. Dr. Talmage stated that he thinks that this system is a necessity and one the Board should encourage the State to put into practice. It's a huge step forward in regulating illicit medications. Dr. Talmage commented that anything the Board can do to keep drugs such as Oxycontin from being taken off the market, which would be a disaster for chronic pain patients, would be worthwhile pursuing.

Dr. Steinbergh suggested putting this topic on the agenda for the Midwest Regional Medical Boards discussion.

Ms. Gilbert stated that she thought the main theme was the need to remember that there are competing interests in the sense of addressing abuse and diversion of pain medications versus ensuring that pain that is legitimate is treated. They went through the pain subjective and why that's always going to be so difficult;

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but, as a regulatory board, when you are drafting policies, rules or statutes that are going to regulate pain management, boards should attempt to craft those in such a way that they're not discouraging legitimate pain treatment, and, in fact, to even specify that they encourage that legitimate pain be fully treated. They talked a lot about the fact that when you have a policy, such as the Board's pain rules, some doctors will argue that that makes them not prescribe. Boards should do what they can to couch such rules in good language and think about the cases that they're getting involved in. They should think about discipline in terms of what type of physician they're looking at. Is it someone who was dishonest? Was it someone who was disabled, impaired themselves? Was it someone who was duped or scammed, or just dated and has inadequate training? Are those people that they then need to get out of practice because they were dishonest. You could potentially suspend and re-educate, get them treatment if they were disabled, or re-educate if they are out of date.

Dr. Davidson stated that the D.E.A. spokesperson said that the D.E.A. primarily looks at whether the physician was duped, dated, disabled or dishonest. Those are the doctors that are being scammed for narcotics. She commended Ms. Gilbert on picking that up as a way to look at the Board's licensees, and to do it in a productive way to do the right thing in cases of inappropriate prescribing.

Dr. Davidson stated that, compared to other medical conferences she attended, this was one of the best. She stated that she thinks that the Federation does an incredible job.

Ms. Gilbert advised that they also brought up two cases from Oregon and California where doctors were charged and discipline was imposed for the undertreatment of pain. They were both geriatric cases. So they brought that out to illustrate how regulatory boards should keep in mind that it's a violation of standards of care, not only to over prescribe, but also to under prescribe for legitimate pain.

#### REPORTS ON ANNUAL MEETING OF THE FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INC.

Dr. Davidson stated that the Federation's Annual Meeting took place the previous week. Board members and staff who attended were: Dr. Steinbergh, Dr. Robbins, Dr. Talmage, Dr. Egner, Mr. Whitehouse, Mr. Dilling and herself. She referred Board members to the program contained in the agenda materials, a copy of which shall be maintained in the exhibits section of this journal.

Dr. Davidson stated that the title of the Meeting, *Serving the Public, Keeping the Trust*, kind of said it all. She commented that this is her third year of attending the meeting, and every year they seem to reach ahead and get you to think about what you might try to accomplish in the future. Everybody seems to walk away and question how it relates to what they do as a board.

Concerning the earlier discussion on the treatment of pain, Dr. Kumar stated that pain is a very subjective thing, and the Board does struggle with it. When the Board does take an action against a licensee, it obviously does have a reaction in the community. Some of it is positive and some of it is negative. One of the things he's noticed is that, when you take an action against a person and the information shows up in the Board's newsletter, that sometimes doesn't give out the message why the Board took the action.

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Dr. Kumar asked whether the Board could put more information into the newsletter, adding that he thinks that the information currently provided gets an improper reaction to what the Board does.

Mr. Dilling suggested that this is something that can be discussed by the Committee.

Dr. Davidson, as Chair of the Education, Public Relations and Risk Management Committee, will look into including articles based on the cases in the disciplinary section.

Dr. Talmage stated that, if he could encourage everyone to do one thing, the Federation is really embracing the FAA Law. A lot of the speakers talked about the FAA model of reporting near misses and other problems, and being non-punitive. One speaker indicated that in New Zealand they punished one pilot and they haven't had a near-miss report for ten years. He suggested that Board members talk with friends who fly and get their thoughts on the FAA system. He stated that the Federation is definitely trying to move in that direction, and organized medicine has also talked about the FAA model. Dr. Talmage stated that, to him, it is a logical model, and it would behoove the Board members to understand that model as well as they can so that, when opportunities arise in legislation, they can go to that model of reporting.

Dr. Talmage stated that the maintenance of competence was a major issue talked about a lot. How can you do it, what technologies are available, how can we encourage more technology to come to bear on this issue? Another issue was encouraging more and more boards to be time limited so that physicians aren't grandfathered and have to prove that they are competent. Dr. Talmage stated that the Ontario model of going out and surveying practices is a work in progress, but how do you compensate physicians who take days out of their practices to go out and do this?

Dr. Talmage stated that there was a regional meeting, but he felt that the boards were divided up unfairly because members of the Midwest Regional Boards (MRB) were split up. Ensuring technical competence is an issue that will be worked on for the future.

Dr. Talmage stated that he thinks, because of the other regional meeting, the MRB meeting got very bad attendance. Everybody was still committed to attending the MRB meetings in Ohio in the future. They felt that the Federation's regional meeting was helpful, and decided to recommend that the Federation divide the regions a little differently so that the boards meeting have more in common with each other.

Dr. Steinbergh stated that she thinks that the Federation divided the groups, consistent with the AIM regions. That was their first attempt in doing that. She noted that the MRB meeting has had terrific attendance and terrific discussions. It was fulfilling to see that the Federation took the MRB seriously and are recognizing that regional discussions are important and that they enhance the mission of the Federation.

Dr. Steinbergh stated that she thought it was a great meeting, but she did get tired of the FAA model. She commented that it seemed that she was hearing the same thing in every session she attended. She added that there was wonderful discussion. She also enjoyed the discussion on developing a culture within the hospital settings that would be consistent with positive behavior and positive reinforcement of practitioners and their entire staff in terms of patient safety. Patient safety was the focus, rather than physician errors.

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Dr. Talmage stated that he did attend the AIM meeting, at which Mr. Dilling received the Administrator Award and Investigator Randy Beck received the Investigator of the Year Award.

Dr. Talmage at this time announced the following election results for members of the MRB: Susan M. Rose, D.O. (Michigan) – Treasurer; Harold J. Sauer, M.D. (Michigan) – Board of Directors; N. Stacy Lankford, M.D. (Indiana) – Vice Chair; and Kishor S. Mehta (Pennsylvania) – Nominating Committee.

Dr. Talmage stated that the bylaws changes took place, and there will now be two-year terms on the Nominating Committee, and those terms will be staggered. This first year they elected several people for three-year terms and the rest for two-year terms. The bylaw change creating a non-physician member seat on the Board of Directors came into being, and Robin N. Hunter-Buskey, PA-C (North Carolina) was elected since she was the only non-physician running.

Dr. Steinbergh stated that there was another non-physician there, Paul McNamara, who was really the only person there who was willing to move forward in terms of public representation. She questioned putting a P.A. into a consumer role, and suggested that next year there will be some language changes in the bylaws.

Dr. Talmage commented that next year there will be two non-physician seats on the Board. Ms. Hunter-Buskey was elected to a two-year term. In addition, the Chair gets to appoint an administrator to the Board and Nancy Audesse from Massachusetts was appointed.

Dr. Steinbergh stated that Gary Clark, the Executive Director of Oklahoma's Osteopathic Board was also asked to sit.

Dr. Davidson stated that the House of Delegates considered several resolutions, one of which was to approve the Special Report on Scope of Practice of a workgroup that spent two years working through recommendations, as a result of the Oklahoma Board's asking the Federation for help in scope of practice issues. She stated that the discussion got pretty contentious. The American Association of Nurse Anesthetists rose and spoke in the Reference Committee, as did the A.N.A., debating the Federation's jurisdiction. She stated that the Special Report did pass.

Dr. Steinbergh stated that Sidney M. Wolfe, M.D., Director, Health Research Group, Public Citizen, was the featured speaker for the *Dr. Bryant L. Galusha Lecture*.

#### ADMINISTRATIVE REPORT

Mr. Whitehouse referred to a copy of his written administrative report, a copy of which shall be maintained in the exhibits section of this journal. He stated that he thinks that the Board has already touched on all the items in the report.

Mr. Whitehouse stated that he does appreciate the confidence the Board has placed in him, and he will try to live up to expectations. He commented that one of the phrases that he heard early on relative to the

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public perception of what this Board does is that they don't know what they don't know. Certainly, when he came on board, he didn't know what he didn't know. Now, three weeks into his employment, he does have a good idea that he knows what he doesn't know, and he's working on that. One thing he is sure of is that this is a strong Board with a tremendous staff. He stated that he's pleased to be working with these folks, on whom he's counting to keep him afloat. Mr. Whitehouse stated that he is looking forward to the next couple of months, coming up with a plan, a direction, setting that course and, hopefully, having a number of successful years with the Board.

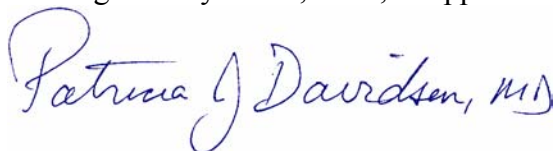
At this time Mr. Dilling stated that he is somewhat sad to leave the Board's employ, but he's also happy to know that Mr. Whitehouse is in place and that the Board made such a good selection. He advised that he will miss the Board.

The Board acknowledged Mr. Dilling with applause.

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

Thereupon at 10:3 a.m. on May 18, 2005, the May 18-19, 2005 meeting of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on May 18-19, 2005, as approved on June 8, 2005.



Patricia J. Davidson, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

