

July 14, 2004

MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Anquetette Sloan, 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: Patricia J. Davidson, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Anant R. Bhati, M.D.; David S. Buchan, D.P.M.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Andrew F. Robbins, Jr., M.D.; Anand G. Garg, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Carol L. Egner, M.D.

Also present were: Thomas A. Dilling, Executive Director; Diann K. Thompson, Assistant Executive Director; Mark Wayda, Chief of Executive Staff; Lauren Lubow, Senior Executive Staff Attorney; Shannon F. Baldwin, Executive Staff Attorney; Lori S. Gilbert, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Burrow, Sally 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 Gregory A. Perry, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore and Annette Jones, Disciplinary Information Assistants; R. Gregory Porter, Chief Hearing Examiner; Sharon W. Murphy and Siobhan Clovis, Hearing Examiners.

REPORTS OF ASSIGNED COMMITTEES

P.A COMMITTEE

Dr. Talmage advised that the Committee considered two supplemental plans at its meeting, and was addressed by John Bergfeld, M.D., of the Cleveland Clinic concerning the Clinic's request that P.A.s be permitted to perform arthrocentesis of the knee and injection of the knee joint. Dr. Talmage stated that Dr. Bergfeld has requested to address the entire Board about this request. Dr. Talmage stated that he discussed this request with Ms. Sloan, who agreed to allow Dr. Bergfeld to address the Board this afternoon.

Mr. Dilling advised that the Board would not be taking action on the actual request at this time. That item is on the Board's Thursday agenda and will be considered then.

Dr. Bergfeld stated that he's an orthopedic surgeon and has been practicing at the Cleveland Clinic since 1973. He has the privilege of practicing with a P.A., and he was introduced to P.A.s when he was in the navy, taking care of Viet Nam injuries with corpsmen. Dr. Bergfeld stated that his reason for being here is to apply for privileges that would allow the P.A.s, under the direct supervision of physicians, to aspirate and inject knee joints only. Dr. Bergfeld stated that there are 104 P.A.s at the Cleveland Clinic, and they perform all sorts of roles under the supervision of physicians: Histories and physicals, day-to-day care of

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patients, assist in surgery where they handle tissues, and suture and close wounds.

Dr. Bergfeld stated that the knee joint, anatomically, is the easiest joint to aspirate or inject. It's all done from the front; there are no nerves or vessels.

Dr. Bergfeld advised that P.A.s develop tremendous rapport working with physicians. They identify with patients, they spend time with patients and patients can call them. Having a P.A. aspirate or inject a joint just falls along with the things that they do and is well within their skill and training level. In addition to that, it increases physician efficiency, working day-to-day in a clinic. Typically, in his clinic, he may have four to five injections a day. Some physicians have more than that, some less. To inject a joint takes 15 minutes. That gives him an hour to an hour and 15 minutes more time to see new patients.

Dr. Bergfeld continued that, recently, with arthritis, they've had the development of injections of hyaluronic acid, which is one of the things that breaks down with osteoarthritis, which affects 70% of the people in their sixth decade of life, so it's a very common thing. It seems to be working fairly well. So now they have more and more patients coming for injection of hyaluronic acid. This can be done in a series of three injections, one week apart, or five injections, depending upon the product that's used. It's a very safe product and it carries with it the same complications as any injection with a possibility of anaphylaxis, although he doesn't believe that that's ever been reported. Dr. Bergfeld stated that this is one of the roles the P.A. can fill and increase the efficiency with the physician's side and the patient's side. Patients are happier because they can come in, get their injection by the P.A., under the supervision of a physician, and don't have to wait for the physician to take time to give the injection.

Dr. Bergfeld again stated that this is well within the realm of P.A.s, it increases physician efficiency, it increases patient satisfaction, which is one of their biggest goals, and it allows access of more patients. It gives the physician one more hour to see more new patients. It improves patient access, which is one of the biggest problems throughout the state.

Dr. Bergfeld stated that this is an accepted procedure for P.A.s in 48 states. He added that he's not talking about P.A.s doing things such as injections for bursitis or tendonitis. He's talking about aspirating and injecting a knee joint itself. Dr. Bergfeld advised that there is no documented literature of complications for this procedure, but possible complications that can occur are infection, injury to the articular cartilage with an injection. If injected in the soft tissues, subcutaneous fat atrophy can occur with cortisone injections, but those are complications that mostly occur when they inject for tendonitis and things like that. He stated that they're not asking for approval for the P.A.s to do that.

Dr. Bergfeld again thanked the Board for allowing him time to discuss the Clinic's request.

Dr. Robbins asked whether this is to be done under direct supervision.

Dr. Talmage stated that that the request is that it be done with onsite supervision.

Dr. Bergfeld stated that during training, 25 injections would be given with direct supervision before the P.A. would be allowed to do it with onsite supervision.

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Dr. Garg asked where the Clinic's residents and fellows come into this. He stated that he understands that the Clinic has some orthopedic residents and fellows. Where does their training come? Don't they do these procedures? Does allowing P.A.s to do them dilute the residents' and fellows' training program.

Dr. Bergfeld stated that they have 40 orthopedic surgeons at the Cleveland Clinic, and there aren't enough residents to go around, so he often practiced without a resident. This doesn't affect the residency training program. Dr. Bergfeld added that, if he has a resident with him, the resident may well do the aspiration or injection to get adequate training to do that.

In response to further questions by Dr. Garg, Dr. Bergfeld stated that he would be available on the floor but not in the room when the P.A. does these procedures. He stated that, typically, the patient would be seen by him, although he may first be seen by the P.A., who will get a history and physical on the patient. Then he will come in and examine the patient. Dr. Bergfeld stated that he will make the determination that the patient needs a series of injections or a knee aspirated. He will then direct his P.A. to carry out this procedure. Usually an arthritis patient will have a series of three injections. It could take three to four weeks before the effects are known. Typically, what they will do is tell the patient that they will do a series of three injections, and then the patient is to make a follow-up appointment to see the physician in four to six weeks from the initial evaluation to see how the patient is doing and whether the injections are having any effect. Dr. Bergfeld stated that, what's making them feel good about this is that the patients are coming back for a second set of injections. They didn't like to do that when they were giving cortisone injections because it does have some deleterious effects.

MINUTES REVIEW

DR. GARG MOVED TO APPROVE THE MINUTES OF JUNE 9-10, 2004. DR. BUCHAN SECONDED THE MOTION. A vote was taken

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

The motion carried.

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REPORTS AND RECOMMENDATIONS

Ms. Sloan 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: Jeremy Amps, M.D.; Robert A. Berkman, M.D.; Jeremy John Burdge, M.D.; David A. Hoxie, M.D.; Jeffrey Thomas Jones, P.A.; Tom Reutti Starr, M.D.; and Karen Ann Vossler, M.T. A roll call was taken:

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

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

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

Ms. Sloan 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.

Ms. Sloan stated that if there were no objections, the Chair would dispense with the reading of the

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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.

JEREMY AMPS, M.D.

Ms. Sloan directed the Board's attention to the matter of Jeremy Amps, M.D. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

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

Dr. Amps was accompanied by his attorney, John R. Irwin.

Mr. Irwin thanked the Board for the opportunity to address it. He referred to the record, noting that Dr. Amps transgressed in the midst of his training program at University Hospitals of Cleveland by writing prescriptions. He stated that the record will also reflect that Dr. Amps has done exceedingly well in his training program since this transgression, and has received very strong support from his supervisors, and the department and program chairs.

Dr. Amps also thanked the Board for hearing him. He stated that he is extremely sorry for what happened. All he wanted to do was help his fiancée. He stated that he tried to do everything he could do to repay this debt to the Board, to his hospital, and to his department. He would like to continue to make up for the mistake he made, and he doesn't know any better way that he can do that than by doing what he has been taught to do, just be a good doctor.

Dr. Amps stated that he has learned from this experience. He has learned that he has to obey all of the rules, no matter what he thinks happens to seem right at the time. He has not broken any rules since this happened. He has read all the regulations of the Ohio State Medical Board, and he will continue to make sure that he understands and follows them. He's had the opportunity to observe other residents nearly make the same mistakes that he had made, and he has had the opportunity to prevent them from doing that.

Dr. Amps stated that he just wasn't thinking when he did what he did for his fiancée. He sincerely wishes that he could take it back. Dr. Amps again stated that he was very sorry, and he will do what he has to do.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Mr. Wilcox stated that this was a very difficult case for him in terms of agreeing with the Report and Recommendation in this matter. On the one hand you have a physician who is responsible for knowing the law. He should have known that he was only allowed to prescribe to patients in his training program. Additionally, he should have known that he cannot prescribe to a family member like his fiancée. From all indications, and from what he observed at hearing, Dr. Amps was very forthcoming with the police investigators and at the hearing itself. He did not make excuses for his behavior, and he did not blame

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others for his actions.

Mr. Wilcox noted that Dr. Amps has been convicted of two felony offenses. The Report and Recommendation recommends that his training certificate be suspended for 30 days. To give a physician a 30-day suspension for two felony convictions is obviously a very light punishment; yet, as he looks at this case, he does believe that Dr. Amps has many mitigating factors in his favor. Everything in the record suggests that felonious behavior is not routine to his character. Mr. Wilcox stated that he believes that Dr. Amps has learned much from this experience. Since the Board looks at each case and all the mitigating and aggravating circumstances, he does not oppose the recommended sanction.

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

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Steinbergh stated that Dr. Amps did make a huge mistake, and it's obviously very unfortunate that he did this so early on in his career as a resident. Dr. Amps has, nevertheless, had to plead guilty to this particular offense, which is a felony. Prescribing controlled substances in any state, and especially in the state of Ohio, is obviously a very significant violation. Dr. Steinbergh stated that she agrees with the Report and Recommendation, except for the suspension time, which she thinks is much too lenient for a felony conviction. She stated that she appreciates the mitigating circumstances and so forth, but 30 days to her doesn't send an appropriate message for the severity of the violation. Dr. Steinbergh recommended a 90-day suspension. Otherwise, she feels that the probationary conditions are appropriate. Dr. Amps will probably submit documentation of the course that he took prior to this meeting. She again stated that she disagreed with a 30-day suspension for a felony conviction.

Dr. Buchan spoke in favor of the Report and Recommendation, as written, or a lesser sanction. He stated that he read this case, and he has read many over the years, and he does understand the felony conviction. However, he believes that the mitigating factors just far outweigh what the guidelines suggest the Board do. This is Dr. Amps' first offense. It was a terrible act of poor judgment, but it was also out of character for Dr. Amps. Dr. Buchan stated that, as he read this report and the hearing record, this is a one-time issue for this fellow. Dr. Buchan stated that there was no personal gain to Dr. Amps. Dr. Amps is a physician who was acting in a compassionate way toward someone about whom he obviously felt strongly. Dr. Buchan stated that he doesn't lessen what Dr. Amps did. He does think that the mitigating factors are significant. Dr. Amps complied with all the conditions set forth; he met his civil responsibilities. Are the people of this state better off having Dr. Amps sit out for any period of time? Dr. Buchan stated that that is a question he asks himself frequently. His answer to that question is, "no." Dr. Buchan stated that he doesn't think that the people of this state are well served by Dr. Amps not practicing. He's paid a tremendous price and has learned an extraordinary lesson. Dr. Buchan stated that he believes Dr. Amps sincerely when Dr. Amps says that he will help others to not travel down that road.

Dr. Buchan added that, that having been said, he does understand the leniency of this order, but he would suggest more lenience, to the extent that he would stay any suspension period. He would delete paragraph

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(B), the Conditions for Reinstatement, from the Proposed Order, and go right to the probationary terms.

Dr. Egner agreed with Dr. Buchan, stating that this is a very unusual case. In all of the prescribing cases the Board has had, especially with younger people, so many times the physician him or herself is caught up in an impairment issue. That is not the case with this physician. Dr. Amps is obviously extremely remorseful, and not just because he got caught. Dr. Egner stated that she thinks that Dr. Amps has learned more than that.

Dr. Egner added that Dr. Amps' youth was a factor. Although he should have known all of the rules of holding a training certificate, he didn't. It is also part of the responsibility of the institution, too, to impart some of this knowledge to their residents. Dr. Egner stated that other Board members know as well as she does that that is not done thoroughly or frequently enough. Dr. Egner stated that she definitely feels that the suspension should be stayed and she would agree to a lenient sanction for Dr. Amps.

Dr. Bhati stated that, from what the Board has seen so far of Dr. Amps, it is his opinion that Dr. Amps is extremely unlikely to engage in future problem activity. He stated that he's not trying to overlook the felony convictions, but he's trying to look into the future and question whether it is possible that Dr. Amps will fail again, and his answer to that is, "no." Dr. Bhati stated that he is more in favor of leniency in this case.

Dr. Kumar stated that he agrees with what has been said so far to the extent that he doesn't believe taking Dr. Amps out of practice will in any way effectively serve the citizens of Ohio. Dr. Kumar stated that he is troubled by one thing. Dr. Amps prescribed medication without doing a prudent examination or having documentation of that. Dr. Kumar noted that Dr. Amps has taken a course for prescribing medications as required by the Court. Dr. Kumar stated that he would be in support of staying the suspension and eliminating paragraph (B).

DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER BY STAYING THE 30-DAY SUSPENSION IN PARAGRAPH (A), DELETING PARAGRAPH (B) AND ITS SUBPARAGRAPHS, SUBJECT TO DR. AMPS PROVIDING DOCUMENTATION OF HAVING COMPLETED A "CONTROLLED SUBSTANCES PRESCRIBING COURSE" AT CASE WESTERN RESERVE UNIVERSITY, AND RENUMBERING THE SUBSEQUENT PARAGRAPHS. DR. BUCHAN FURTHER MOVED TO CHANGE THE NEW PARAGRAPH (B) TO READ AS FOLLOWS:

PROBATION: Upon reinstatement or restoration and/or subsequent licensure, Dr. Amps' training certificate and/or subsequent license shall be subject to the following probationary terms, conditions and limitations for a period of at least three years:

DR. KUMAR SECONDED THE MOTION.

Mr. Browning questioned the three-year probation. If the decision is to go to zero suspension from 30 days, what is the Board doing spending three years with this physician? Mr. Browning stated that, even though he agrees with what has been said, he would be comfortable with the proposed 30-day suspension,

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he believes that is more consistent with the Board's policies. This was a violation. The Board understands the mitigating circumstances, but it is what it is. A 30-day suspension is lenient, relative to the Board's pattern in these matters. He would favor a shorter probation and the 30-day suspension. He would favor a one-year probationary period, no matter what the Board does.

DR. BUCHAN AGREED TO ADD A MOTION TO AMEND THE PROBATIONARY PERIOD TO ONE YEAR TO HIS MOTION TO AMEND. DR. KUMAR, AS SECOND, AGREED.

Dr. Robbins stated that he agrees with almost everything that has been said, and added that he was even considering a reprimand versus any suspension; however, he feels that the suspension says what the Board needs to say due to the seriousness of what Dr. Amps did. Dr. Robbins stated that he would lean more toward a 30-day suspension, based on Mr. Browning's statements. He added that there is no question that this case deserves leniency. He stated that he thinks that Dr. Amps has learned a great deal. Dr. Robbins stated that he would favor a one-year probation, and a 30-day suspension in this case, to be more consistent with past Board actions.

Dr. Davidson stated that she has argued with herself over the same issues. She likes to see the Board respect its Disciplinary Guidelines. She stated that the Board's going outside the Disciplinary Guidelines weighs heavily in her thoughts. She noted that both the minimum and maximum penalties for felonies in the course of practice are permanent revocation. Dr. Davidson added that there are enough mitigating circumstances in this case to make it clear that this is a different case from most felony convictions.

Dr. Buchan noted that Dr. Amps did have time out of practice during the criminal investigation. Dr. Buchan stated that the fundamental question is: Are the citizens of this state served any better by this man at this point in his life sitting out? Dr. Buchan stated that his answer to that question is, "no."

Mr. Browning commented that one could agree with the answer to Dr. Buchan's question, and still be in favor of a 30-day suspension, because there are other reasons, other questions that are at play here.

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

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

The motion carried.

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

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

The motion carried.

ROBERT A. BERKMAN, M.D.

Ms. Sloan directed the Board's attention to the matter of Robert A. Berkman, M.D. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

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

Dr. Berkman was accompanied by his attorney, Kevin P. Byers.

Mr. Byers stated that it has been an honor to represent Dr. Berkman. He commented that in his 14 years of this type of practice, he doesn't believe that he has run into a physician who better exemplifies what a physician should be to his community, to his medical peers. Dr. Berkman has impressed him as an honestly forthcoming person who benefits all who have the chance to meet him, whether it is in the patient role or not.

Mr. Byers stated that he has been involved in the legal system for about 25 years, 16 of those as a practicing attorney. When a physician or client comes in and tells him a story, he's not only skeptical, he's cynical. He does not believe them. Dr. Berkman came in and told him a story, and essentially made it sound like he was a victim of a big pharmaceutical company. Mr. Byers stated that he didn't believe Dr. Berkman. He checked it out as thoroughly as he could, and he came to believe it. Mr. Byers stated that the record reflects that the sentencing judge came to believe that Dr. Berkman was a victim. The judge told Dr. Berkman that in open court. Mr. Byers stated that he believes that Hearing Examiner Murphy has viewed Dr. Berkman as somewhat of a victim.

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Mr. Byers stated that Dr. Berkman is certainly responsible for his behavior. He cooperated in the criminal investigation, and he has admitted responsibility for a lack of due diligence. When this offer was presented to him, along with the other 300 or so urologists around the country that are involved in this, he should have gone to someone who could have advised him as to whether this is appropriate under the rules, whether there is a safe harbor. It should have seemed so good that he realized it was too good to be true. Dr. Berkman failed to do so. For that he was convicted of a felony, he has lost his practice, he has not practiced since April of this year. His malpractice premiums skyrocketed, he could not get insurance, he lost his hospital privileges. Dr. Berkman has suffered shattering losses. Mr. Byers stated that he hopes that the Board is as lenient, reasonable and fair as it was in the previous case that the Board considered, hopefully understanding the unique circumstances of this matter, looking at Dr. Berkman's 30-plus years of stellar service to the community at large, not just the patient population.

Dr. Berkman thanked the Board for its time. He stated that he would like to apologize to the Board and to the citizens of the State of Ohio for what has occurred here. He takes full responsibility for what has occurred on his part. Dr. Berkman stated that he would also like to personally thank the Board for its objectivity and for reviewing his case. He thanked Ms. Murphy for her diligence in looking at the issues objectively and studying them in depth, which, obviously, she did. Dr. Berkman stated that he would be happy and privileged to be able to continue to practice medicine within the constraints of Ms. Murphy's recommendations. Dr. Berkman stated that he loves the practice of medicine. It has been his life, and his patients have been his family. At the termination of his practice, he was the only physician urologist with staff privileges at Ohio State University who was taking care of indigent patients. He was the only one listed on emergency room call. Dr. Berkman stated that the practice of medicine, to him, was enjoyable, fun, and it was his life.

Dr. Berkman continued that the Board can't imagine the sadness, the humiliation, and the deep regrets that he has in terms of what has occurred here. Had he seen what was occurring, he certainly would have made other decisions in retrospect.

Dr. Berkman again apologized to the Board, and asked that the Board look at this issue for what it is and give him an opportunity to make it up to the citizens of Ohio by once again being a practicing physician and offering to them what he had offered to them in the past.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Mr. Wilcox stated that he believes the Report and Recommendation does a good job of summarizing this case; however, he doesn't agree with the provision that stays all but 90 days of the suspension. Mr. Wilcox stated that he doesn't believe that Dr. Berkman was clueless to what was transpiring here. He is a very experienced physician who testified that he's very involved with the daily operation and business matters regarding his practice. He knew what he was doing by charging for these free samples. His office even changed the labeling on the samples and covered up where it said "free sample" on the packaging.

Mr. Wilcox stated that he believes this case is pretty simple, in that Dr. Berkman saw a chance to increase revenue in his practice. He knew it was wrong. The tendency here is to blame the big pharmaceutical company in this case, AstraZeneca, for this mess, but they needed willing participants in this scheme.

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Mr. Wilcox stated that he would agree with the Hearing Examiner that Dr. Berkman has a clean prior record, but his actions were just based on financial gain, and a longer suspension is warranted for a felony conviction in federal court.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ROBERT A. BERKMAN, M.D. MR. BROWNING SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Egner stated that she feels like being lenient in this case, too, although she doesn't think that Dr. Berkman was an innocent victim. She does feel that Dr. Berkman did succumb to the great influence that she imagines the drug representative used on him. Dr. Egner commented that she thinks that all physicians are exposed to that in one way or another. She doesn't think that there are very many physicians who really get involved in buying of a drug, administering it and billing for it in the office, but she may be wrong. She believes that, for the most part, physicians are prescription writers, sending patients to pharmacies to get prescriptions filled. So, in this instance, she would say that this is not something that is every day practice for physicians. This was something rather unusual with which he got involved. She added that it might not be unusual for a urologist, given the high number of patients under this treatment, but it's not part of the usual practice.

Dr. Egner stated that this was done to increase Dr. Berkman's revenues. She added that, unfortunately, in this day and age when reimbursements are poor, you feel powerless in some aspects of the practice of medicine. She thinks more physicians bend the rules than the Board has any idea of. Dr. Berkman did it to a larger extent and got caught, but she doesn't think that Dr. Berkman is alone in this area. Dr. Egner stated that she would not impose a longer suspension. She added that she would like to make the suspension period a straight 90 days. She doesn't see the sense in setting a year's suspension and staying all but 90 days. She would just impose the 90-day suspension and the three-year probation.

Dr. Bhati disagreed with Dr. Egner. He stated that this is a situation where, from February 1994 to July 1996, there were 223 samples taken. They were considered to be free samples. The labels were changed and bills were submitted and 220 samples were paid for. That's excessive. Dr. Bhati stated that he doesn't feel very sympathetic to this case at all.

Dr. Kumar stated that he has managed some surgicenters, and has had some urologists who partner in them. Dr. Kumar stated that he doesn't believe that this is simply an isolated case. Pharmacology companies come out with deals, such as buy 10 and get the 11th one free, which are very suspicious and very questionable. Dr. Kumar stated that he thinks that Dr. Berkman just succumbed to that. Dr. Kumar stated that he has seen the same kind of process happen for oncologists. They buy prescriptions for chemotherapy drugs for their office and dispense it. He has seen the same process for haemopoietic drugs, where pharmacists come out and say, okay, you buy this much, and if you spend this much, the next is free. This is a process that is more out in the community than is realized.

Dr. Kumar stated that he agrees with Dr. Bhati in the sense that it wasn't just simply a matter of getting

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caught in a process which was suggested by the pharmaceutical industry, but rather a definite effort was made to hide the process by changing the labels and so on and so forth. Dr. Kumar stated that he has some reservation about reducing the period of suspension. He thinks 90 days is too short.

Dr. Steinbergh stated that she agrees with Dr. Kumar and Dr. Bhati. To her, this was not such a difficult case. It's clear that Dr. Berkman is not the only one who's been involved in this type of scheme. She agrees with Mr. Wilcox's comments in the hearing record that the judge's comments lacked a bit of credibility. Dr. Steinbergh stated that she finds that Dr. Berkman is as guilty as AstraZeneca. He was responsible for the business management of his practice. Although, over and over again Dr. Berkman said that he was not a business person, in fact, he did run the business of the practice, and, therefore, he was a businessman. When you get something for free, you can't charge for it. It's really pretty clear. When you get samples, you cannot profit by charging another person. Dr. Steinbergh stated that she finds that Dr. Berkman's conviction was appropriate. She agrees that it's unfortunate. She added that she does believe that other physicians are being pressured to do that under today's economic struggle for physicians, but that's why the Board makes the decisions that it does. Physicians are an ethical group who make less money and work harder, but they can't cheat people and they can't bill the government for something that was given to them. They can't bill patients for something that was given to them. That kind of a decision, to her, is very clear.

Dr. Steinbergh stated that she supports the Report and Recommendation, except she agrees that she would not be lenient, and this particular Recommendation is lenient for a felony conviction of this sort.

Dr. Robbins also spoke against leniency in this case. If, as some Board members have said, this is out there in any amount in the medical community, the Board needs to put a stop to it and do everything in its power to stop it. There is no rationale of any kind to charge a patient or charge an insurance company for a free sample. A free sample is just that. It's free and should be given free to the patient, with no exception. Dr. Robbins stated that he can make no exception in this case. He added that, to think that this goes on for three years without the doctor knowing it is, as far as he's concerned, naïve. Dr. Robbins agreed that Dr. Berkman suffered from this, but he would say that Dr. Berkman should. This is totally unacceptable and needs to be stopped. Dr. Robbins stated that he would be against leniency.

Dr. Buchan stated that he's not convinced that the changing of the labels was done by Dr. Berkman. There was some confusion as to whether his staff did it, but, certainly, it appeared that the drug representatives supplied those labels. Dr. Buchan stated that he was affected by the letters of support by patients and by colleagues. He saw Dr. Berkman more as a respected teacher and as an educator, and not a felon. Dr. Berkman paid a debt to the community in the states of New York and New Jersey. He has a reprimand and three years of probation. The U.S. District Court Judge said that it is unlikely that Dr. Berkman will repeat this offense, and he downwardly departed from the sentencing guidelines. Dr. Buchan stated that he pays attention to the Board's guidelines every month, but he would suggest that the Board downwardly depart from its guidelines as well. Dr. Buchan concluded by stating that he is in favor of the Report, as written, or lesser.

Mr. Browning recommended striving for some middle ground on this.

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MR. BROWNING MOVED TO AMEND THE PROPOSED ORDER BY INCREASING THE 90-DAY SUSPENSION TO SIX MONTHS. DR. BHATI SECONDED THE MOTION.

Dr. Buchan stated that that's not the kind of middle ground he was looking for, and stated that he stands in opposition to a six-month suspension.

Dr. Robbins advised that Mr. Browning's motion is the kind of middle ground he was looking for, and he would stand in favor of it.

Dr. Kumar also agreed to the proposed amendment. Dr. Kumar pointed out that many times the way these things are presented is a little complicated. It's not just presented as a free sample. They are presented as a business deal. He stated that it's like going to K-Mart and finding something sold as two for the price of one. If you order one, you will get two or three in conjunction with it. So, they will come out and say if you order ten of a particular thing, we'll give you five extra free. The word "free" there bothered him tremendously. Dr. Kumar concluded, however, that he is in agreement with the six-month suspension as a compromise.

Dr. Robbins stated that it's that exact approach that is deceptive here. If you do twenty, we're going to give you ten free. Dr. Robbins stated that he'd say take 30 and charge them all the same, not take the ten free.

Mr. Dilling asked Mr. Browning if he would accept a substitution of the term "six months" with "180 days," to be consistent with other Board Orders.

MR. BROWNING STATED THAT HE WOULD. DR. KUMAR, AS SECOND, AGREED.

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

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

The motion carried.

DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF ROBERT

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A. BERKMAN, M.D. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JEREMY JOHN BURDGE, M.D.

Ms. Sloan directed the Board's attention to the matter of Jeremy John Burdge, M.D. She advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation. She noted that Dr. Garg did not serve as Secretary in this matter and may participate in the discussion and the vote.

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

Dr. Burdge stated that the facts speak for themselves. He did not document his Continuing Medical Education. He won't argue that fact. He stated that there is no mitigation in this matter, but he would offer an explanation. He stated that he thought that he had until July to get his medical records in when he renewed, but it turns out that he had to have them by April. One of the courses he took was on April 9. That was an error. The second explanation is that one of the courses was a CME 2 credit rather than CME 1. Dr. Burdge stated that he had been one of the presenters of that course, and was surprised and annoyed to learn that it didn't get CME 1 credit because the correct paperwork hadn't been done.

Dr. Burdge continued that his third explanation is that during the two-year period involved, his grandson was in intensive care. He noted that his grandson holds the record for being in the ICU at Children's Hospital. He was there for two years. During that time, the family was being told on a weekly basis that the child was going to die. Leaving town and getting CME credits was difficult. That may have influenced his sloppy recordkeeping.

Dr. Burdge stated that he did provide the Board with the last ten years of his CME credits, and those clearly show that he has exceeded the CME requirement every year. He takes pride in keeping up to date and in being, not just a good physician, but an expert in his field. He thinks that that speaks for itself.

Dr. Burdge stated that he is perfectly happy to accept the Proposed Order of the Hearing Examiner.

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Dr. Steinbergh asked Dr. Burdge how many hours he spends at the wound care center each week.

Dr. Burdge stated that, contractually, he is required to be there two out of five days, or 16 hours a week.

Dr. Steinbergh asked what type of teaching goes on in terms of students, residents, fellows, that type of thing.

Dr. Burdge stated that they used to have residents on a daily basis. Unfortunately, it's very difficult to get people to come to the wound care center. It's very difficult to get surgeons or physicians to serve there. They get students. He lectures about wound care to students at the Family Practice residency program at Grant Hospital on a regular basis. He goes out to the surrounding community hospitals on a regular basis to lecture about wound care. He is teaching on a regular basis. He has presented grand rounds at Ohio State University, but not in the last five years.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Mr. Wilcox spoke in support of the Report and Recommendation, stating that he has nothing to add to the record.

Dr. Buchan stated that he knows Dr. Burdge, and the record reflects Dr. Burdge to be a great educator, a great teacher, and an excellent physician. He was struck by the number of CME credits Dr. Burdge has received in the past. Dr. Buchan stated that, by Dr. Burdge's own testimony, during the personal traumatic time, Dr. Burdge kept abysmal CME records. The Board understands that. Dr. Buchan stated that he agrees with the Report and Recommendation.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JEREMY JOHN BURDGE, M.D. DR. STEINBERGH SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Steinbergh stated that she found this to be an interesting case because, although she does not know Dr. Burdge personally, after her review of the record it's clear that he has a personal record of maintaining his CME. Dr. Steinbergh stated that CME is a mandate of the State Legislature, the purpose of which is to ensure that physicians continue to update their knowledge in their areas of practice in order to provide current, up-to-date medical care to patients. The hearing record is clear that Dr. Burdge was unable to document a sufficient number of Category 1 credits for the 2001-02 biennium, as he stated he did when he signed his licensure renewal form in February 2003. For that he's being disciplined.

Dr. Steinbergh stated that Dr. Burdge does, however, appropriately fulfill the ultimate goal of lifelong learning, which is the real goal of medical licensure agencies throughout this country. He directs his CME to his area of practice. He fulfills the criteria of his board certification in plastic and reconstructive surgery, and he's very emphatic about the reconstruction portion. Dr. Steinbergh noted that Dr. Burdge

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gives lectures and presentations to students and residents, as well as at national meetings.

Dr. Steinbergh stated that she hopes that Dr. Burdge will use this experience as a way to educate and encourage young physicians to obtain appropriate CME, to maintain accurate CME records, and to respect that aspect of this responsibility of medical licensure. Dr. Steinbergh stated that the Report and Recommendation is clear and gives Dr. Burdge the minimum penalty that this Board has accepted as appropriate for this violation. Dr. Steinbergh stated that she concurs with the Report and Recommendation.

Dr. Garg disagreed, stating that he reviewed this case again the previous night. He stated that his own application for renewal of his license just arrived, and he reviewed that and it says that his renewal is due on January 1. However, his CME is due October 1. It's a confusing fact for some physicians. Dr. Garg stated that he knows that some time ago the Board did that as a favor to physicians, giving them three months' extension. Dr. Garg stated that even some Board members may not realize that there is that three-month difference. CME done during those three months is not counted.

Dr. Garg stated that the purpose for CME is so that a physicians keeps up his education to practice proper medicine. Is there a problem with this physician in providing proper care, according to standards? Dr. Garg stated that there are plenty of mitigating circumstances here, even though it is not the burden of the Board to prove whether or not the mitigating circumstances are correct.

Dr. Garg stated that if the Board agrees with that, and he realizes that a reprimand and fine is a small penalty, why is the Board penalizing this physician? Dr. Garg stated that he believes that the Proposed Order is too severe. For that reason, he might vote yes for the Proposed Order, but he does not agree with it. He stated that the Board does consider these cases on a case-by-case basis. In this case he suggested a simple reprimand.

Dr. Egner stated that, certainly, this is not the most egregious case the Board is going to talk about today, nor are C.M.E. cases egregious at any time. If the Board was concerned about the care that Dr. Burdge gave, it wouldn't be a CME case, it would be a minimal standards case. Dr. Egner stated that the Board has suspended licenses for 30 days for CME violations. This affected physicians' lives for years in terms of their license, their insurance. It had such terrible repercussions to it. That was the whole point of changing the sanction to a reprimand and a fine. If Dr. Burdge gave no regard to CME, he would have a \$5000 fine. Dr. Egner stated that the mitigating circumstances are the reason that the Proposed Order is for the minimal penalty, which is a reprimand and a \$1000.00 fine. Dr. Egner stated that she believes that the Board should stick with the Proposed Order. She does not think it is too harsh. She added that she does understand what happened to Dr. Burdge in this case.

Dr. Garg stated that this penalty is still reportable. If it's going to affect his insurance, it will be the same if the Board fines him \$5000 or \$1.00, whether the Board reprimands or suspends. It will still be reported to the databank and show up on the doctor's record. Dr. Garg stated that he's not suggesting that the Board let Dr. Burdge go free, he just feels that a reprimand is sufficient for the circumstances of this case.

Mr. Browning asked whether the Board can either fine and not reprimand in this case.

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Dr. Garg stated that the Board can do whatever it feels is appropriate.

Mr. Dilling stated that it can.

MR. BROWNING MOVED TO AMEND THE PROPOSED ORDER TO DELETE THE PROPOSED REPRIMAND. DR. GARG SECONDED THE MOTION.

Mr. Browning stated that he thinks that the reprimand goes to the sense of intentionality about doing something that's not right, and he doesn't think that's what happened. He believes a fine sends a different message than a reprimand does, relative to that. Mr. Browning stated that there was an infraction of the rules, and a fine would send the right message.

Dr. Steinbergh stated that when she first reviewed this case, her feeling was it should be dismissed, but Dr. Burdge did violate the Code. The Board audits about 2% of its licensees, and most of those audited do document their CME. It's unfortunate that Dr. Burdge was unable to document his CME, but he signed his renewal application that said that he did the CME. This is the violation for which he is being reprimanded. Dr. Steinbergh stated that it concerns her, in this particular case, that this is a reportable action; however, it was a violation. This is the minimum sanction that the Board has agreed upon as a Board, in many, many meetings. Dr. Burdge has admitted to his error and is willing to accept the punishment. She thinks that the Proposed Order is appropriate.

Dr. Bhati reminded the Board that several years ago the Board had a Chairman of a Surgery Department sitting before it with a CME violation. In that case his license was suspended for 30 days. Dr. Bhati stated that a reprimand and \$1000 fine is the minimum sanction for CME violations.

Dr. Garg stated that he remembered that case as well, and none of the Board members enjoyed suspending that license. But he believes that physician's attitude was different. That physician thought that he was the professor and he does the teaching and doesn't need CME. Dr. Garg stated that he may be wrong in his recollection. But the question is that the Code has been violated and that is why the Board is imposing a fine. The Board also has to see how the Code was violated. Was it on purpose? Dr. Burdge did make up most of the missing hours in the next three months, although he is still short 1.5 hours. So, when it comes to that, there is a code violation, but was it out of ignorance? Dr. Garg stated that he believes that there is enough here for leniency.

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

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

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Dr. Davidson	- nay
Dr. Robbins	- nay
Dr. Garg	- aye
Dr. Steinbergh	- nay

The motion failed.

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

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

The motion carried.

DAVID A. HOXIE, M.D.

Ms. Sloan directed the Board's attention to the matter of David A. Hoxie, M.D. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DAVID A. HOXIE, M.D. DR. BUCHAN SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Kumar stated that the permanent revocation, as proposed in the Report and Recommendation, is appropriate. The main focus of Dr. Hoxie's statements continues to be that he has never been arrested or pled guilty to anything other than traffic violations; however, on January 8, 1985, Dr. Hoxie pled nolo contendere to one misdemeanor count of being under the influence of alcohol and a controlled substance, PCP. Despite repeated comments and arrests, Dr. Hoxie continues to say that he has never been arrested or pled guilty to possession of drugs. Dr. Kumar stated that he doesn't believe that Dr. Hoxie is reliable or understands the gravity of what he did. Under those circumstances, a permanent revocation is appropriate.

Dr. Steinbergh concurred, stating that Dr. Hoxie intentionally continues to misrepresent his criminal

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history and is unwilling to accept responsibility. As Ms. Murphy states in her Report and Recommendation, Dr. Hoxie is not trustworthy and cannot handle the responsibility of an Ohio license. Dr. Steinbergh stated that it would be very difficult, if not impossible, for the Board to regulate him in any way, even if it felt that he was re-educable. Dr. Steinbergh stated that Dr. Hoxie's poor character leaves her to agree that his license should be permanently revoked.

Dr. Talmage left the meeting at this time.

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

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

The motion carried.

JEFFREY THOMAS JONES, P.A.

Ms. Sloan directed the Board's attention to the matter of Jeffrey Thomas Jones, P.A. She advised that no objections were filed to Hearing Examiner Clovis' Report and Recommendation. She advised that Dr. Garg did not serve as Secretary in this matter and may participate in discussion and voting.

Ms. Sloan continued that a request to address the Board has been timely filed on behalf of Mr. Jones. Five minutes would be allowed for that address.

Mr. Jones was accompanied by his attorney, Eric J. Plinke.

Mr. Plinke stated that the matter before the Board is a remand order on a case the Board debated in June. He stated that he appreciates the Board's efforts both last month and this month in addressing the appropriate concerns Mr. Jones had.

Mr. Jones thanked the Board and Ms. Clovis. He stated that he read over the Proposed Order and is here again this month to say that he will abide by the new Proposed Order and continue in his efforts with OPEP and the Medina County probation. Mr. Jones stated that he has abided by all of the rules, and continues to do above and beyond what is required of him.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

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Mr. Perry stated that he would recommend, without hesitation, that the Board adopt the Hearing Examiner's Report and Recommendation on Remand.

Mr. Perry stated that he understands that in June he did come across as something of an advocate for Mr. Jones, and he supposes that that is partly true. Mr. Perry stated that the main point he was trying to make was that the Board should judge this case on its substance rather than its appearance. In doing that, he guesses that he did sound like he was taking Mr. Jones' side. Mr. Perry stated that he was a criminal prosecutor for seven years, and his philosophy was that, as a State's attorney, it was his duty to do the right thing to the right person for the right reasons. He does still tend to think that way.

Mr. Perry continued that his primary concern in this case was the "treatment in lieu" program. In June he described it as being a legal fiction. As he said before, the program is good for those people who it was truly intended to benefit, but it is prone to abuse in the criminal justice system. He believes that the Board sees that here. The Judge and some lawyers tried to stretch it to fit some facts that it doesn't really fit, and ended up making the Board's job harder. The point he wanted to make is: Is the Board going to treat this case as it really is, or by what some judge and some lawyers decided to call it.

Mr. Perry stated that the second concern he had in this case was the Board Order addressing issues that have no factual basis in the record. When the Board looks at what he did in the weight room in 1991, it was so far removed from what he was doing in the emergency room in 2004, there isn't a concern.

Mr. Perry stated that, as in every case, the Board must consider punishment and the need for rehabilitation. Did Mr. Jones do wrong? Yes. Does he need to be punished? Absolutely. Does he need to be rehabilitated? Well, not really. By struggling to craft the terms to address this steroid issue, the Board is really increasing his punishment by trying to deal with something that's really not there. The Proposed Order on Remand is a lot simpler, and hopefully the Board can feel comfortable that it's a non-issue.

Mr. Perry recommended that the Board approve the Report and Recommendation on Remand, as written.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JEFFREY THOMAS JONES, P.A. DR. BHATI SECONDED THE MOTION.

Dr. Garg stated that the Report and Recommendation is crafted appropriately.

Dr. Bhati commented that the Report and Recommendation is acceptable to both parties.

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

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

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

The motion carried.

Mr. Dilling stated that Mr. Perry's representation is both consistent with the Board's mission and operations. Mr. Perry acted as an advocate for the State and brought forth the right facts. That's his job, and the Board appreciates that.

Mr. Dilling stated that he also appreciates Ms. Clovis bringing this case back in 30 days, as was represented to the Board in June.

TOM REUTTI STARR, M.D.

Ms. Sloan directed the Board's attention to the matter of Tom Reutti Starr, M.D. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

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

Mr. Starr was represented by his attorney, Elizabeth Y. Collis.

Ms. Collis stated that Dr. Starr appeared before the Board in August 2001 on an impairment issue. The Board issued an Order, and Dr. Starr has followed that Order for the past three years. Ms. Collis stated that she believes that Ms. Murphy clearly and accurately outlined in her Report and Recommendation that Dr. Starr has participated with OPEP. There was testimony and documentation from Barry Farrier of OPEP at the hearing showing that Dr. Starr has complied with OPEP, has attended A.A. meetings, Caduceus meetings, and has taken his sobriety very seriously.

Ms. Collis stated that she would like Dr. Starr to explain, so that the Board can hear in his words what took place on November 26, 2003, and about the inadvertent ingestion of a medication that he took that is in violation of this agreement. The important thing for this Board to note, though, is that Dr. Starr takes his agreement very seriously. The next morning after he found out that he had taken this, he immediately called his monitor and self-reported. He called Ms. Gilbert at the Board office and left a message on her voice mail, and Ms. Gilbert testified at hearing that, yes, he, in fact, self-reported. He came to his probationary meeting with Mr. Albert and Ms. Bickers and self-reported to the Board. The screen that was taken the day after he took this medication even came in negative. Many probationers might say that they were going to wait to see if it came up positive, and if it does, then they'll call the Board. Dr. Starr didn't do that. He was on the phone immediately. Ms. Collis stated that that's what the Board wants to see with people who are under an agreement. If they make the mistake, they're the ones coming to the Board, and

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the Board isn't going to them.

Dr. Starr thanked the Board, and stated that he would like to explain what happened. He was called out of town briefly to see his son in Indiana, who has trouble with alcohol problems. He left at 8:00 a.m. and spent the whole day with his son. On his way back he was hit with a bout of abdominal cramping, which he has from time to time. He had to stop two or three times to have a bowel movement, and it was difficult to drive. He opened his glove compartment, wondering if he had anything he could take. He was really looking for an Imodium or something like that. He had, from several years ago, a Donnatal there, and it didn't even occur to him at the time that Donnatal contains phenobarbital.

Dr. Starr stated that his monitoring physician knows that he gets abdominal discomfort and cramping from time to time, but he got to thinking about a half hour after he took the Donnatal that it's got some phenobarbital in it and he knows that it's likely to possibly show up, although the drug was two or three years old. He reported it to his monitoring physician as soon as he got back to town the next morning. He also called OPEP and he called the Board.

Dr. Starr stated that the drug didn't show up in his urine screen. It was only 45 mg of phenobarbital, but it might have been too old to show up.

Dr. Starr stated that his ingestion was completely inadvertent and an accident, and wasn't on purpose at all. He did transgress the rules, and he realized it right away and called and reported himself.

Ms. Sloan asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that, as Dr. Starr and his counsel stated, Dr. Starr did immediately report taking this drug, after he realized that it had phenobarbital in it. The evidence at hearing was that, other than perhaps not understanding the requirements of his consent agreement that he not have any medication other than what a physician prescribes for him, and about the incident about him not responding to the phone calls from OPEP was that, perhaps, he did not have a clear understanding of that. He did, technically, violate his consent agreement, and for that there should be some penalty. Ms. Albers stated that she agrees with the Proposed Order in this matter.

DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF TOM REUTTI STARR, M.D. MR. BROWNING SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Egner spoke in support of the Proposed Order, and commented that this case shows that the Board has a system that works. Dr. Egner stated that she thinks it is great that Dr. Starr self-reported, but she believes that there are some things that Dr. Starr can learn from this incident. When you are an impaired physician, whether under a Board Order or not, keeping drugs in your glove compartment is not a good idea. Taking drugs that are years old is not a good idea. And when you are impaired and under an order, not being fully aware of what drug you're taking and what impact it might have is a very bad idea. Dr. Starr did the right

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thing, calling and reporting what he did. She added that she's glad that he did, otherwise there may be a very different Board Order.

Dr. Bhati stated that Dr. Starr did self-report and realizes his mistake. The Proposed Order is the minimum the Board can offer him, and he would agree with the Proposed Order.

Dr. Steinbergh stated that she agrees with Dr. Egner. She finds it inappropriate that a chemically dependent physician would keep medications in a glove compartment, not knowing what they are or that they had phenobarbital in them. He should have known that. Dr. Steinbergh stated that Dr. Starr needs to learn that lesson. He shouldn't be taking medications without a physician's prescription, he should know what he is taking, and he probably shouldn't have any medications in his car.

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

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

The motion carried.

Dr. Talmage returned to the meeting at this time.

KAREN M. VOSSLER, M.T.

Ms. Sloan directed the Board's attention to the matter of Karen M. Vossler, M.T. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members; however, the objections were not filed in a timely manner. The Assistant Attorney General has indicated that he has no objections to admitting these objections into the record.

DR. STEINBERGH MOVED TO DENY THE ADMISSION OF THE OBJECTIONS, AS THEY WEREN'T SUBMITTED ON TIME. DR. BHATI SECONDED THE MOTION.

Dr. Buchan stated that, since the Assistant Attorney General doesn't have a problem with the Board admitting these objections, he doesn't either. He stated that he understands deadlines, but he also understands that, in the matter before the Board, the Board should have all information possible.

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

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

The motion failed.

DR. BUCHAN MOVED TO ADMIT MS. VOSSLER'S OBJECTIONS. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Ms. Sloan advised that the objections will be admitted into the record.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF KAREN M. VOSSLER, M.T. DR. DAVIDSON SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Kumar stated that, if you read Ms. Vossler's objections, you're convinced even more that she shouldn't be allowed a massage therapy license in Ohio. This process started from Ms. Vossler's not providing the Board with her Social Security number. She contends that for religious reasons she cannot provide one;

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however, there is evidence on the record that claiming religious reasons is no legal exception for the requirement that a Social Security number be provided. Dr. Kumar stated that what bothers him even more is that Ms. Vossler is bartering her services. She's probably not reporting for income tax purposes because she is not getting money for her services and does not have a Social Security number.

Dr. Kumar stated that, for those reasons, he supports the Proposed Report and Recommendation.

Dr. Egner stated that she believes it is a logical conclusion that Ms. Vossler should not have a license. She has every right not to believe in the system or participate, but the consequences of not participating in the system and under the rules is that she cannot have a massage therapy license. That's the consequence to Ms. Vossler's beliefs. She doesn't think that the Board is infringing unfairly upon Ms. Vossler.

Dr. Steinbergh stated that she also thinks that if Ms. Vossler doesn't agree with Ohio's form of government, then she has a couple of choices. She can go to the Legislature to change the law, or if she totally disagrees, she can find another country that will meet her particular social needs. Dr. Steinbergh stated that this society is made up of laws and rules.

Dr. Bhati agreed with both Dr. Egner and Dr. Steinbergh.

Dr. Steinbergh stated that she does agree with the Report and Recommendation.

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

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

The motion carried.

At this time the Board took a brief break. When it reconvened, Dr. Egner was absent.

TOM REUTTI STARR, M.D.

Mr. Dilling advised that during the break, Dr. Starr made a request. The Order the Board approved is to go into effect in 30 days from the mailing of the Board's Order. Dr. Starr has requested that he be permitted to begin serving his suspension immediately, rather than in 30 days.

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DR. STEINBERGH MOVED TO GRANT DR. STARR'S REQUEST TO BEGIN THE SUSPENSION PERIOD IMMEDIATELY. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

KAREN M. PARADIES, M.D.

Ms. Sloan advised that by letter of January 14, 2004, the Board notified Dr. Paradies that it proposed to take disciplinary action against her license to practice medicine and surgery in the State of Ohio based on allegations contained in the letter. The notice was mailed to Dr. Paradies' address of record but proper service was not obtained. Accordingly, on March 29, April 5, and April 12, 2004, a notice was published in the *Cincinnati Enquirer* advising Dr. Paradies of the Notice of Opportunity for Hearing and its contents. The notice also advised that Dr. Paradies had thirty days from the last date of publication to request a hearing. No hearing request has been received from Dr. Paradies and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Clovis, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE JANUARY 14, 2004 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DR. PARADIES, AND TO ADOPT MS. CLOVIS' PROPOSED FINDINGS AND PROPOSED ORDER IN THE MATTER OF KAREN M. PARADIES, M.D. MR. BROWNING SECONDED THE MOTION.

Ms. Sloan stated that she would now entertain discussion in the above matter.

Dr. Steinbergh stated that Dr. Paradies suffers from extreme chemical dependence, and she violated the Board's April 2003 Order, which included a stayed permanent revocation. The Proposed Order of

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permanent revocation is appropriate in this case.

Dr. Bhati stated that he agrees with Ms. Clovis' statement, "(t)his unfortunately compels the conclusion that the threat of severe consequences will not deter Dr. Paradies from relapsing again."

Dr. Buchan stated that the Order stands on its own merits, and is well done. He spoke in support of the Proposed Order.

A vote was taken:

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

The motion carried.

Dr. Bhati left the meeting at this time.

CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

MANJU BAJPAI, 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. STEINBERGH MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. BAJPAI. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye

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Dr. Steinbergh - aye

The motion carried.

Dr. Egner returned to the meeting at this time.

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

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

The motion carried.

GARRETT MICHAEL CONNORS, 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. GARG MOVED TO SEND THE CITATION LETTER TO DR. CONNORS. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

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Dr. Steinbergh - aye

The motion carried.

JEFFREY JAMES FIERRA, 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. FIERRA. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Bhati returned to the meeting at this time.

BENJAMIN L. GILL, D.O. – CITATION LETTER

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

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

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

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Dr. Garg - abstain
Dr. Steinbergh - aye

The motion carried.

STEVEN FRANKLIN GREER, M.D. ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

DR. GARG MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. GREER. DR. BHATI SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

TIMOTHY E. HEYD, M.D. – CITATION LETTER

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

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

Vote:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye

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

The motion carried.

JEFFREY DAVID NEIDHART, M.D. – CITATION LETTER

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

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

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

The motion carried.

PAUL PO-TSANG YANG, 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. GARG MOVED TO SEND THE CITATION LETTER TO DR. YANG. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

RATIFICATION OF CONSENT AGREEMENTS

PAUL FRANK HEYSE, M.D.

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

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

The motion carried.

JAMES MARTIN MCGINNIS, D.O.

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

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

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Dr. Steinbergh - aye

The motion carried.

Mr. Dilling advised that there may be additional consent agreements for ratification later in the meeting. He asked that the matter be held open until the other agreements are ready for presentation to the Board.

DR. GARG MOVED TO TABLE THE TOPIC OF CONSENT AGREEMENTS.

DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

PERSONAL APPEARANCES

BERT DAVID COLLIER, JR., M.D.

Dr. Collier appeared before the Board pursuant to his request for release from the terms of the Board's Order of June 13, 2001.

In response to Dr. Bhati's questions, Dr. Collier stated that he made a mistake, and he thinks that he learned something from the mistake. Dr. Collier commented that he doesn't claim to be perfect.

Mr. Browning asked Dr. Collier what he learned.

Dr. Collier stated that he learned that you absolutely have to obey the law.

Dr. Kumar stated that it was his understanding that Dr. Collier was not reviewing the nuclear scans himself. Someone else was reviewing those scans and reporting on them.

Dr. Collier stated that he is not trying to say in any way that he is not guilty and did not commit a violation of Section 1001, which is lying to a federal agent, but the statement Dr. Kumar just made is not correct. He reviewed every scan.

Dr. Kumar asked whether Dr. Collier has changed his practice. Dr. Collier stated that, at this point, he is not practicing. At the time of the incident of concern to the Board, Dr. Ali Isitman, who was an unlicensed physician hired by the Medical College of Wisconsin before Dr. Collier arrived, would review studies with the residents, but he never dictated a report. Dr. Collier stated that he would always see the scans at some time. The issue came up from the fact that Dr. Isitman was signing reports. Dr. Collier commented that he doesn't want to talk about minutiae here, but Dr. Isitman never did the official interpretation.

In response to further questions by Dr. Kumar, Dr. Collier stated that he was most recently practicing in Kuwait. He just returned from there about a year ago, and he has been looking at a position at Ohio State.

Dr. Bhati asked Dr. Collier what he plans to do.

Dr. Collier stated that he would hope that he could get a position on the faculty at Ohio State. He discussed

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it with Dr. John Olsen, head of nuclear medicine there. He doesn't have an offer yet, but he has a chance.

DR. BHATI MOVED TO RELEASE DR. COLLIER FROM THE TERMS OF THE BOARD'S ORDER OF JUNE 13, 2001. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

SILVANA A. SABATO, L.M.T.

Ms. Sabato appeared before the Board pursuant to her request for release from the terms of her July 1, 1999 Consent Agreement.

In response to Dr. Buchan's questions, Ms. Sabato advised that her date of sobriety is June 1996. She is currently working at a hospital full-time. She's not doing quite as much massage anymore because she has shoulder and arm pains.

Dr. Buchan asked whether the consent agreement helped her with regard to her sobriety maintenance.

Ms. Sabato stated that she thinks so. She added that she made up her mind that after her DUI that that was it. She was serious about it, and serious about the consequences.

Dr. Buchan asked where Ms. Sabato goes from here.

Ms. Sabato stated that she has a group called Circle of Friends. It's a spiritual group, basically, because she's a very spiritual person. That's what keeps her together.

DR. BUCHAN MOVED TO RELEASE MS. SABATO FROM THE TERMS OF HER JULY 1, 1999 CONSENT AGREEMENT. DR. BHATI SECONDED THE MOTION.

Mr. Albert advised that Ms. Sabato has been a perfect probationer. Everything has always been on time. He wished her luck.

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Dr. Talmage asked Ms. Sabato how many massages she can physically do in one day with her sore shoulder.

Ms. Sabato stated that she used to do five a day, but she doesn't think that she can do five anymore. She would probably do three maximum. Ms. Sabato stated that she doesn't do massage every day. She works full-time at a hospital. She does massage on the side.

Dr. Garg asked how long the sessions are.

Ms. Sabato stated that they're an hour. She advised that she wouldn't want to do massage as her sole means of making a living.

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

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

The motion carried.

ANDREW SCHNEIDER, M.D.

Dr. Schneider appeared before the Board pursuant to his request for release from the terms of his May 13, 1999 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Schneider stated that he is doing very well. He practiced in the emergency rooms of Mt. Carmel and Mt. Carmel East for too many years. When this happened in 1998, he stopped doing ER. He worked in a few urgent care centers. In January 2002 he opened up his own urgent care facility. Dr. Schneider stated that he loves the medicine part of it, he's learned about the administrative part of medicine, the insurance contracts, etc. He loves talking to the patients.

Dr. Schneider remarked that the paperwork is difficult, but he's hired people to handle that for him. It was very difficult at first because he was working a lot of hours. They're open about 350 hours a month, and he was doing about 80% of those. During the past year he actually hired his former boss, and now he's only doing half the shifts. Life is much, much better doing half the shifts.

Dr. Steinbergh asked how Dr. Schneider is keeping up with his recovery.

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Dr. Schneider stated that he's learned a lot about himself through recovery, thanks to the program and thanks to the Medical Board. His recovery has to come before everything else.

Dr. Schneider added that he has four children, and after working in the ER so long, doing nights for the last ten years, he began to wonder why he brought four children into the world. At this point, working urgent care, he has a much different perspective on things. He sees a different population of patients and that's much better.

Dr. Schneider stated that it's still hard for him to be a boss. He has a hard time disciplining employees. That's why he hired a very strong office manager, who is more in charge of the office than he is. He stated that he is ultimately the boss, but she makes the day-to-day decisions as far as the other employees go.

Dr. Schneider stated that when he first came into the program, Ms. Gilbert and everyone told him that this is not an adversarial process, but he still saw it as that. Through the last five and a half years, meeting with the Committee, he felt that they really cared about him. Dr. Schneider stated that there are some very special people on that committee. He stated that at one point, Mr. Albert gave him his card and phone number and actually told Dr. Schneider to call him any time of day if anything came up. On the way home from that meeting he got tears in his eyes because that action showed genuine concern. Dr. Schneider stated that he's learned that these people really do care about impaired practitioners, and he believes that the Board has done a good job of picking the people they have.

Dr. Schneider stated that he has talked with Ms. Bickers about some improvements that he thought could be made to the program to help physicians out, and he would be very much interested in staying involved with Ms. Bickers and Mr. Schmidt in some ideas that he's had. He's seen things from the other side, where some people get away with some things that they shouldn't get away with.

Dr. Garg asked what some of his suggestions were.

Dr. Schneider stated that, while waiting for their meetings, it would be nice for the probationers to be in a room where they could talk about recovery with each other, and not be in the reception area, where it's a little difficult to talk.

Dr. Schneider added that he also got to know a lot of policemen and firemen while working in the ER, and when their contract included random urine screens, a lot of these people stopped doing what they were doing. They weren't addicts, but they were recreational users, but just the threat of a random screen made these people stop and improve their lives. Dr. Schneider stated that he realizes that there are a lot of legislative things going on, but if there were that threat to doctors, he believes the Board could save a lot of doctors.

DR. BHATI MOVED TO RELEASE DR. SCHNEIDER FROM THE TERMS OF HIS MAY 13, 1999 CONSENT AGREEMENT. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert

- aye

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Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Egner asked whether Dr. Schneider suffered any relapses during his probationary period.

Dr. Schneider stated that he had no relapses. He's had over 220 consecutive urine screens, and he thinks that it's very important for him to continue doing urine screens. He explained that if a doctor in his position is ever involved in a malpractice case and is deposed, the attorneys will go after him like a shark, and he'd better have objective data to show that he's okay.

Mr. Dilling advised that Ms. Bickers is not present today, but she left information that stated that Dr. Schneider needs to submit his A.A. logs. He noted that Dr. Schneider did submit a letter advising that he doesn't have his A.A. logs for April, May or June, and giving the reasons. He asked Dr. Schneider to go over that reason with the Board.

Dr. Schneider advised that on June 19th, his family was invited to Lake Erie to teach the kids to water ski. When his 14-year-old jumped in the water, their 13-year old dog also jumped in. Dr. Schneider stated that the dog was having problems swimming, so he jumped in the water to get the dog out. His wallet got wet, and he always kept his log in his wallet. Dr. Schneider noted that every log until this time has been perfect. He put all of his papers out to dry with weights on them, but when the driver gunned the engine, his papers flew all over the place, into the lake. Dr. Schneider stated that he has always made copies of his log, but only after the third month was done. He doesn't have that log. He has been going to the same meetings for years, and he talked with others who attend those meetings about reconstructing his logs. He subsequently talked with Ms. Bickers who advised him to write the letter of explanation. She advised that, if the Board required a letter, statement or affidavit from people at these meetings, he could attempt to get that after this meeting.

Dr. Steinbergh stated that after all these years of probation, she believes the Board can accept his explanation.

Dr. Schneider stated that he will continue to go to the meetings, and added that they are his lifeline.

Dr. Buchan asked whether there is anything besides attending meetings and doing drug screens that Dr. Schneider does to maintain his sobriety.

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Dr. Schneider stated that he prays. He's always put his kids and his job and everything else first. What he's learned mostly is to put his recovery first, otherwise he's no good for his kids, his wife or anyone else. He added that, even after 5½ years it's still a struggle at least half the days of the week. This comes into your mind at least half the days of the week. The scariest thing to him was when he was at the police station and they fingerprinted him, and they put that leg shackle on him. His therapist has suggested that, if he ever thinks about using again, to visualize that leg shackle. Dr. Schneider stated that you can go to 50 meetings and hear a lot of things, and nothing makes sense, and every once in a while someone says something, certain words, that hits home. Someone said to him once that addicts tend not to play out the whole tape. They look at a certain situation, and say, well, "I'll feel great if I take these pills. I'll feel great for four hours." but they don't look at the end of the tape where they're now addicted and struggling to get more and everything. So, playing out the whole tape, remembering to do that, helps in times of struggle.

Dr. Schneider added that he never used to ask for help. He's better at asking for help from people now.

PHILIP A. STARR, II, D.O.

Dr. Starr appeared before the Board pursuant to his request for release from the terms of the Board's Order of July 11, 2001. If approved, release from probation would become effective July 31, 2004.

In response to Dr. Garg's questions, Dr. Starr stated that he is doing very well. Right now he is the Osteopathic Family Practice Residency Director at St. Joseph Hospital in Warren. He was interim director since November 2003, and full-time since April 2004. He has five residents right now.

In response to further questions by Dr. Garg, Dr. Starr stated that he does use his experiences a lot in his teaching of residents, both in just realizing the global teachings about telling the truth and making sure that procedures are done properly, and the reasons that there are laws. He also used his experience to educate himself. He took a narcotics course at Case Western Reserve, and he has the booklet from that and he uses it in his teaching to make sure the residents are kept up-to-date as to the laws. He also uses the State Board website, as well, making sure that they review that from time to time.

Dr. Bhati stated that it appears that Dr. Starr has done everything the Board asked of him. He asked whether Dr. Starr has any questions of the Board.

Dr. Starr stated that he does not.

DR. BHATI MOVED TO RELEASE DR. STARR FROM THE TERMS OF THE BOARD'S JUNE 13, 2001 ORDER. DR. GARG SECONDED THE MOTION.

Dr. Garg asked whether this experience has been useful to Dr. Starr.

Dr. Starr stated that it has.

Dr. Steinbergh thanked Dr. Starr for teaching the young physicians, adding that that is critical to the Board.

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

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

The motion carried.

YAZEED M. ESSA, M.D.

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

In response to Dr. Garg's questions, Dr. Essa stated that he has gone through the terms of his Consent Agreement and he does understand all of it. He explained that he was convicted of a DUI, which took place in October 2002. There was one DUI. In November he got into a car accident near his home, and he didn't get cited or anything there, but he thinks that that's how the initial DUI came up. Somebody called the Board and that's how the cycle got started. Then he was ordered to go to Glenbeigh in March of this year. He did the 28-day course, and has been doing what he's been told since then.

Dr. Garg asked how the course was.

Dr. Essa stated that it was hard being away from home and being out of his realm, but it was very educating. He learned a lot more than he thought he knew about alcohol and drug use. It was an eye-opener.

Dr. Kumar asked whether Dr. Essa thought that he had an alcohol problem.

Dr. Essa stated that he thinks that he abused alcohol in the past. To that extent, it's a problem. As far as whether or not he thinks he's an alcoholic, he's still trying to sort that out. He knows that he's abused alcohol in the past, and he knows that he has to abide by what he needs to do, which is abstain and go to all the meetings and do the drug tests and do everything he needs to do.

In response to further questions by Dr. Kumar, Dr. Essa stated that he does not take Antabuse or any preventive medication. He is basically just going through the aftercare treatments.

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Dr. Garg asked whether the 28-day course found that he was impaired.

Dr. Essa stated that Glenbeigh's diagnosis would be impairment, because if you do the 28-day course, that's the reason. That was basically what they said.

Dr. Steinbergh asked when Dr. Essa last had a drink.

Dr. Essa stated that it was November 6, 2003.

Dr. Steinbergh asked whether Dr. Essa's being present during the previous personal appearances gives him a sense of the time it takes to recovery and acceptance of the process.

Dr. Essa stated that he thinks that he has a good sense of the whole disease process. He doesn't know that you ever recover, but he does appreciate it.

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

Dr. Steinbergh stated that it sounds to her as though Dr. Essa is realistic about things. She stated that she thinks that this is early on in his experience, and he's still struggling with the diagnosis. Dr. Steinbergh stated that if Dr. Essa maintains the course that has been set for him, he will be successful. She believes that he will accept it in time. Dr. Steinbergh stated that she is a believer that there are degrees of severity of the illness, and she hopes that he will be successful at managing this and preventing relapse.

Dr. Bhati stated that he's a little disturbed. Unless people realize that they do have a problem, the chances of them getting into trouble is increasingly higher. Dr. Bhati stated that he's not quite sure that, after spending 28 days in treatment, Dr. Essa got what he needed.

Dr. Essa stated that what he does understand is that he can never drink again, regardless of the State Medical Board mandates. He should never drink again. With his personality, etc., he should not have anything to do with alcohol. This was an eye-opener for him. Dr. Essa stated that it may be a personal thing about him not wanting to wear the label of an alcoholic, but he knows that he can't drink again. He knows that he has to think about that every day. It's not that he went for 28 days and was hard-headed or resistant. In fact, he was pretty open the whole time. He knows what he needs to do and there's no turning back. He's not going to leave five years from now and say, "this is done, I can drink again." It's been way to expensive a process, financially, as well as everything else: His family, the burden it's placed on his practice. It's not something that he can do.

Dr. Bhati stated that the Board is here to help him.

Dr. Essa stated that he understands that.

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In response to Dr. Buchan's questions, Dr. Essa stated that he has a wife and two children. He thinks that he can't drink again because on some occasions when he drank, his judgment was impaired. He's done stupid things, obviously, like driving while intoxicated. He thinks that, looking back and reflecting on some of the other things he's done when he's been drinking, in the bigger picture there's no reason to do it. It's all negative. There's nothing positive that comes out of it. It's not that important to him; it's not an important part of his life. He didn't drink daily or anything like that. It's sort of like getting burned with fire, he knows it's pretty, but he knows it hurts and he's not going to go back to it.

Dr. Buchan stated that Dr. Essa has a lot on the line and he'll be with the Board for a long time; but the Board-ordered evaluation says that Dr. Essa is an alcoholic, and he wants Dr. Essa to be able to say that and understand it, not just intellectually, but in his heart. There's just too much on the line for him. Label or no label, the fact of the matter is that, in that disease model, that's what he has to contend with right now. Dr. Buchan stated that he wishes Dr. Essa all the best.

In response to Dr. Egner's questions, Dr. Essa stated that he graduated in 1999. Concerning whether he drank too much in college and medical school, Dr. Essa stated that he would say that there were occasions when he drank too much, but the thought never occurred to him that he might have a problem with alcohol. It was just the way things were. He didn't think he had a problem then, but now he does.

Dr. Egner expressed concern that Dr. Essa won't realize the extent of his problem until he relapses. She stated that it might take a relapse for him to realize that he doesn't have control over his illness yet. Dr. Egner noted that Dr. Essa saw probationers released by the Board today. The previous appearance didn't have a relapse, but he was unusual. Dr. Egner warned Dr. Essa not to look at Dr. Schneider and think that that will be him five years from now. She stated that she hopes it is, but the people who come here and the struggle that they have is intense, and he must accept that.

Dr. Steinbergh stated that Dr. Schneider's struggle was great, and he still admits to it. This is unusual because five years later, when they're released, most probationers feel that they are in control of it, but Dr. Schneider is one doctor who admits to the fact that every day he still sees it as a struggle. It's true that he's not relapsed, but he's really had to work hard not to relapse, and he knows that he's going to have to work hard for the rest of his life.

Dr. Davidson stated that it's more than just not drinking.

Dr. Essa stated that he understands that.

Ms. Sloan asked whether Dr. Essa views alcoholism as a disease.

He stated that he does definitely.

Dr. Bhati stated that the Board members have been through this many times, and he urged Dr. Essa to think about what the Board members have said.

Dr. Essa stated that he will.

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A vote was taken on Dr. Garg's motion to continue Dr. Essa under the terms of his May 12, 2004 consent agreement, with future appearances before the Board Secretary or designee:

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

The motion carried.

JEFFREY S. HOLLADAY, L.M.T.

Although scheduled, Mr. Holladay did not make his initial appearance before the Board, pursuant to the terms of his April 15, 2004 Consent Agreement.

Dr. Talmage advised that he has proposed to surrender his license. He doesn't want to bother with the whole process, and he will surrender his license.

MELANIE E. JUNGBLUT, M.D.

Dr. Jungblut made her initial appearance before the Board, pursuant to the terms of her April 15, 2004 Consent Agreement.

In response to Dr. Davidson's questions, Dr. Jungblut stated that she is doing well. She has had a chance to review her consent agreement and is prepared to work with the Board.

Dr. Bhati asked whether Dr. Jungblut has any questions of the Board.

Dr. Jungblut stated that the only thing that is of concern to her is that she has to rely on other people to turn their paperwork in. She understands that this is part of her responsibility, but it is the only thing that scares her. She stated that she did have to send one letter to someone who hadn't submitted the required report in a timely manner.

Dr. Davidson stated that periodically people have to change for that reason. It's rare.

Dr. Jungblut stated that when she was told that her license could be taken away if the reports weren't

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received, she got nervous.

Dr. Steinbergh stated that the Board will work with her. She asked how Dr. Jungblut's medications and psychotherapy are going.

Dr. Jungblut stated that they're going fine. She sees her psychiatrist every 28 days. She's currently taking three medications: Seroquel, Serzone and Geodon, which she was on prior to her hypomanic episode in November. What happened at that point is that she was put on Strattera for 80 days, and that precipitated that hypomanic episode, so they took her off the Strattera. She had been rock-solid stable before then and has been rock-solid stable since. Had it not been for this process, her psychiatrist would have been seeing her every three to four months because she has been stable. Dr. Jungblut stated that her psychiatrist informed her that she has the mildest form of this disease, which is really good news.

In response to further questions by Dr. Steinbergh, Dr. Jungblut stated that she works about 45 hours per week, and that can go up if call is busy. In her spare time, she does crafts – sewing and floral arranging. She also has a five-year-old son who takes up 95% of her free time.

Dr. Steinbergh stated that, considering her illness and the medications she's on, it seems that she needs to slow down a little bit. In terms of the number of hours she works and her responsibilities at home, Dr. Steinbergh stated that she is concerned that Dr. Jungblut is overburdened.

Dr. Jungblut stated that she's actually comfortable with her current life. She's had the opportunity to be on the medication for quite some time – over a year – so she's had enough time on the medication to feel if she's overburdened or not. Dr. Jungblut added that her boss has been extraordinarily supportive. If she needed to go to part-time work, she could, but it would be a strain on the office. It's not something that she's interesting in doing.

Dr. Steinbergh asked whether Dr. Jungblut's husband gives her feedback in terms of his perception of her.

Dr. Jungblut stated that he does, and added that he'll be the first one to tell her if there's a problem. She added that he's almost hypersensitive after this happened.

In response to Dr. Kumar's questions, Dr. Jungblut stated that her husband is not a physician. At her practice, New Beginnings Pediatrics, there are four physicians and one nurse practitioner. They are all full-time. She added that her boss has been very understanding about her having to come make Board appearances. She stated that he has been much more supportive than she would have anticipated any boss being.

In response to Dr. Garg's questions, Dr. Jungblut verified that she has been under treatment for a year. She stated that she never had a true manic episode prior to the one in November. She was seeing her psychiatrist initially for ADD and depression. He suspected that she was bipolar based on the cyclic nature of her depression and the fact that she got a little irritable on a couple of the antidepressants she was on. The suspicion was there, but wasn't confirmed until she had the hypomanic episode.

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DR. BHATI MOVED TO CONTINUE DR. JUNGBLUT UNDER THE TERMS OF HER APRIL 15, 2004 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. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

DAVID P. SPEARS, D.O.

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

In response to Dr. Bhati's questions, Dr. Spears stated that he has reviewed his Consent Agreement. He doesn't have any questions; he thinks he understands it and can live with it. Concerning his relationship between himself and the Board, Dr. Spears stated that he had a different experience with the West Virginia Board. He was a little concerned that his Ohio license was suspended without a prior interview.

In respect to Dr. Steinbergh's questions, Dr. Spears stated that his license is still suspended. During his suspension he has been working in the same residency program in Marietta, Ohio. He has done the last month of his suspension in West Virginia, doing rotations in his residency program that they don't have at the Marietta hospital. He added that he's been working in West Virginia for the past several months. He's also been maintaining his meeting schedule. He had a meeting with the West Virginia Board and presented them with the Ohio Consent Agreement.

Mr. Dilling stated that Dr. Spears is only suspended from practicing in Ohio. He's not suspended from practicing in West Virginia. The Board doesn't regulate the training programs.

Dr. Steinbergh asked whether Dr. Spears is under a training certificate.

Mr. Dilling stated that he's not. She added that he's practicing in West Virginia.

Dr. Spears stated that he has a training certificate in West Virginia.

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In response to Dr. Garg's questions, Dr. Spears stated that, at the end of this month, he'll be in the beginning of his second year of residency. The residency program is supportive of him.

In response to Dr. Kumar's questions, Dr. Spears stated that the program didn't create a special spot for him. It has always had a rotation in West Virginia. Residents from Ohio spend about four months there.

Dr. Buchan asked Dr. Spears what triggered his last relapse.

Dr. Spears stated that it's a relapsing disease. He's tried to take the best he could from his experience. He's had a difficult time with recovery, and has spent a good amount of time in treatment. He doesn't consider his relapse a total loss. It's almost been like a springboard for him to do the things that he needs to do to stay in recovery.

Dr. Buchan noted that Dr. Spears hit the bottom in 2001, and was climbing back up when he relapsed. He asked whether Dr. Spears thinks he'll make it this time.

Dr. Spears stated that he thinks that he has the level of responsibilities in place and things in place so that, hopefully, if something like this happens again, it will be caught quickly, the same way it was this time. He advised that he's not under the impression that he can say today that he will never use drugs again for the rest of his life. He knows he's not going to today. That's the best he can do.

In response to further questions by Dr. Buchan, Dr. Spears stated that his support system includes OPEP, aftercare at Shepherd Hill, and he has a sponsor in Atlanta as well as in West Virginia. He attends a minimum of meetings three days per week. Dr. Spears stated that, being a resident, making those meetings was quite difficult the month before last, but so far, so good. He has a lot of faith that this is doable. But it's been very difficult.

Dr. Buchan asked whether Dr. Spears has family where he is now.

Dr. Spears stated that he's divorced, but he does have a good support program. He has a lot of friends in the program, and he's very close to his parents, who also live in West Virginia.

Dr. Buchan stated that the Board believes that he can do it, but he is worried with Dr. Spears' earlier mention of "the next time." That kind of thinking worries him because he doesn't want Dr. Spears to have a "next time." Dr. Buchan stated that it's not the end of the world if Dr. Spears loses his Ohio license, but that could happen.

In response to Dr. Garg's questions, Dr. Spears stated that he doesn't have a DEA. His residency director is also acting as his monitoring physician through OPEP. Everyone is aware of his situation. It's no secret.

In response to Dr. Egner's questions, Dr. Spears advised that he did college, medical school and residency all in a row, with the exception of his drug treatment at the end of his second year in medical school in 2001. He started his residency program in June 2003. He started his program early because he actually

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finished late because he was in treatment for six months. They wouldn't allow him to go back to medical school for another three months. Basically, he was about a year behind, and technically he started eleven months late rather than a month early.

Dr. Garg asked whether the medical school arranged that.

Dr. Spears stated that he did that independently, although the school was supportive of him at that time. .

In response to further questions by Dr. Egner, Dr. Spears stated that the residency program did know his history when they took him. He relapsed during Christmas break of the year he started his residency program. He got the drugs off the street, he never wrote prescriptions. He only relapsed on one occasion, but he did buy the drug off the street.

Dr. Egner commented that Dr. Spears is very different from the other young physician the Board saw today. It's very severe. He had a heroin addiction; he was buying drugs off the street. He must have wanted those drugs more than anything else in the world.

Dr. Spears stated that that's true.

Dr. Egner continued that Dr. Spears will be in a profession where there are so many temptations. She's not saying that he can't do it or that he shouldn't, but the temptations he will come across in his lifetime in medicine, whether it be with drugs or ethics, are just tremendous, and he really has to have a firm hold on who he is.

Dr. Spears stated that he certainly wouldn't be the person he is without addiction in his life. He thinks he's the person he's become because of this thing he's struggled with. He thinks he's a much better person for it. He doesn't know who he'd be if he wasn't an addict.

Dr. Steinbergh asked whether Dr. Spears has ever had a break, other than when he was in treatment. She stated that most physicians who are chemically dependent get their licenses suspended for 90 days and they take time out, part of which is for introspection and working on their issues and so forth. Dr. Spears is telling the Board that he hasn't had that time out.

Dr. Spears stated that that's not true. He was off work for 90 days. Prior to the Board's suspension he was off work for 90 days, after his relapse and during his treatment time he was out for 90 days. His relapse was in December. He entered treatment in early March, and he was off for all that time. He was off from the end of December until the beginning of April.

Dr. Steinbergh asked whether he's ever had any time out to take a look at himself outside of the inpatient program.

Dr. Spears stated that he just tries to follow the program's recommendations. He doesn't try to make any decisions on his own. If the program recommended that he take more time off, as they did before, he would have done so. After he was out of treatment he was off for one month and then he went back to

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work. The number of hours he worked varied from month to month. He tried to maintain a 40-hour work week, that's what was recommended to him. Unfortunately, that sometimes doesn't happen. He does take call at night, but he usually gets the next day off if he takes call at night.

In response to Dr. Garg's questions, he stated that he gets the whole day off after a night on call. He advised that that is the same for all residents in his program.

Mr. Dilling asked Dr. Spears to talk a little bit about the six months of treatment that he underwent.

Dr. Spears stated that there are phases. Initially you go through the evaluation phase. Then they make a recommendation. Shortly thereafter, maybe a week later, you're on the on-campus phase of the program where, basically, you spend your entire day in step meetings and also in what's called process groups where you basically talk about the way you feel about things and the things that have happened to you and where you want to go in your recovery. It's a little more emotionally detailed than it normally is in the everyday 12-step meeting. That goes on for some time, depending on how hard you are to brainwash. Dr. Spears commented that he did need his brain washed at that time. He added that, for him, some of the biggest issues were addiction as a disease versus a moral issue. He really thought it was a moral issue and was beating himself up a lot over the things he'd done because of, or as a result of, addiction. It took a lot of time for him to accept addiction as a disease and to convince himself that there was something that he could do about it to treat himself. That took a while for him because he was in a pretty bad place when he first went there.

In response to Dr. Garg's questions, Dr. Spears again stated that he felt this was a moral issue, and that bothered him. He was a Western European art major. After he graduated from high school he moved to Holland, and that's where he started to use heavily. He stated that part of it was the people he knew there, and the fact that he was predisposed to addiction. His father was an addict, as was his father's father.

Dr. Talmage asked whether drugs were freely available in Holland.

Dr. Spears stated that they are.

Dr. Egner stated that the Board's concern is that Dr. Spears has a consent agreement that took effect April 15, that requires a 90-day suspension. Technically, he is abiding by that suspension by going to West Virginia and working there, but that really was not the intent. The Board wants him to follow the Consent Agreement by the letter of it and the intent. She added that she's not telling Dr. Spears that he can't do what he's doing, because he can. He's not in violation because he's not in Ohio. But the purpose behind the suspension is for him to really reflect and get it together. The Board knows that it generally takes time to do that. Dr. Egner stated that her and Dr. Steinbergh's point is that Dr. Spears really has not taken the time since his last treatment to reflect. She added that, maybe for Dr. Spears that will work.

Dr. Steinbergh agreed.

Dr. Egner stated that her concern is that there is a purpose for the 90-day suspension, and Dr. Spears hasn't taken advantage of it or done what the Board feels is necessary for the impaired physician.

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In response to Dr. Bhati's questions, Dr. Spears stated that he will finish his West Virginia rotation at the end of August. After that, he will have to sit out some time. If he doesn't have his license reinstated in Ohio, he'll have to sit out some time.

Dr. Kumar stated that, technically he can apply for a license tomorrow.

Mr. Albert advised Dr. Spears that he can look around the room, and these are all nice people, but he's a young man who got off on the wrong foot, and the Board members are very intolerant of relapses. Dr. Spears has been given a chance to do his probation, but he really needs to work the program. Mr. Albert stated that he has seen young people like Dr. Spears lose their Ohio licenses forever. He noted that Dr. Spears will be on probation for a minimum of five years, and he will need to really work his probation. He has a big responsibility and will have to work if he wants to keep his Ohio license.

Dr. Spears thanked Mr. Albert.

DR. GARG MOVED TO CONTINUE DR. SPEARS UNDER THE TERMS OF HIS APRIL 15, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BHATI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

In response to Board members concerns about Dr. Spears participating in the residency program rotation in West Virginia, Mr. Dilling advised that many physicians who have lost their Ohio licenses, whether by suspension or revocation, are practicing in other states. He stated that, from a technical point of view, Dr. Spears is not in violation of his agreement by practicing in West Virginia.

Several Board members expressed disapproval of the Ohio residency program for allowing Dr. Spears to continue practicing in West Virginia after the Ohio Board suspended his license. Dr. Kumar suggested that the Board ask that those in charge of that program provide an explanation to that effect.

Dr. Talmage stated that, if a physician whose Ohio license is suspended has licenses in other states, they

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can practice in those states. He commented that the Board doesn't ask them what they were doing during the suspension. In this instance, Dr. Spears volunteered the information.

Dr. Robbins expressed concern that Ohio would suspend an individual's license to protect the public and another state will allow that person to practice.

Dr. Talmage stated that other States' boards don't have to do what the Ohio Board does.

Dr. Egner stated that her vision of the future is that Dr. Spears will relapse and come back to the Board and say that he never really got it, and part of the reason is that he went right back into medicine and didn't take the time I needed. She commented that the Board has heard that story many times.

Mr. Dilling stated that this is worth looking into because the Board may wish to word its agreements differently in the future.

Dr. Bhati suggested that Mr. Dilling look into this matter and bring a recommendation back to the Board.

RATIFICATION OF CONSENT AGREEMENTS

DAVID EWIN ERIKSEN, M.D.

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

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

The motion carried.

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

Thereupon at 4:41 p.m. the July 14, 2004 session of the State Medical Board of Ohio was duly adjourned.

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We hereby attest that these are the true and accurate minutes of the State Medical Board of Ohio, meeting on July 14, 2004, as approved on August 11, 2004.

Anquetette P. Sloan, President

Lance A. Talmage, M.D., Secretary

(SEAL)

July 15, 2004

MINUTES

THE STATE MEDICAL BOARD OF OHIO

July 15, 2004

Anquetette Sloan, President, called the meeting to order at 8:10 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: Patricia J. Davidson, M.D. Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Andrew F. Robbins, Jr., M.D., Anand G. Garg, 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: Anant R. Bhati, M.D.

Also present were: Thomas A. Dilling, Executive Director; Diann K. Thompson, Assistant Executive Director; Mark Wayda, Chief of Executive Staff; Shannon F. Baldwin, Executive Staff Attorney; Rebecca J. Marshall, Enforcement Attorney; Rebecca J. Albers and John Fulkerson, Assistant Attorneys General; Joan K. Wehrle, Coordinator for Assessment and Development; and Barbara Jacobs, Public Services Administrator.

EXECUTIVE SESSION

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

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

The motion carried.

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

Dr. Buchan joined the meeting during the executive session.

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PROBATIONARY REPORTS

Ms. Sloan referred the Board to the Compliance Staff's reports of conferences with probationers on May 10-11, 2004. He noted that all probationers are in compliance.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH ROBERT M. BENSON, M.D.; DAVID T. BROCK, D.O.; SCOTT M. CAMPBELL, M.D.; KAREN A. CLEMENCY, M.D.; STEVEN W. CRAWFORD, M.D.; GARY F. GLADIEUX, M.D.; JEROME D. HOMISH, D.O.; BAK C. KIM, M.D.; ROBERT F. LINN, D.O.; ERIC W. LOTHES, M.D.; ADAM S. MARTIN, M.D.; JOANNE POJE, M.D.; STEPHEN R. PORTER, M.D.; JAMES M. ROSSELIT, D.O.; MARK E. SENIOR, D.O.; SUZANNE M. SMITH, L.M.T.; AND MICHAEL J. STANEK, D.O. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Steinbergh complimented the Secretary and Supervising Member and the staff on the detail of the information contained Probationary Reports.

PROBATIONARY REPORTS AND PROBATIONARY REQUESTSTIMOTHY A. GOODEN, M.D.

The staff's report of office conference and Dr. Gooden's requests for permission to continue his probationary terms while he is in Alabama and approval of a new supervising physician were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. GOODEN ON MAY 10, 2004. DR. STEINBERGH FURTHER MOVED TO GRANT DR. GOODEN'S REQUEST FOR PERMISSION TO CONTINUE HIS PROBATIONARY TERMS WHILE HE IS IN ALABAMA, AND TO APPROVE TERRY L. ALLEY, M.D., TO SERVE AS DR. GOODEN'S NEW SUPERVISING PHYSICIAN. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ANN V. GOVIER, M.D.

The staff's report of office conference and Dr. Govier's requests for an increase in work hours to 40 hours per week, permission to participate in an on-call schedule for one night each week, reduction in saliva testing to once a week and discontinuation of psychotherapy were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. GOVIER ON JUNE 7, 2004. DR. STEINBERGH FURTHER MOVED TO DENY DR. GOVIER'S REQUESTS. DR. ROBBINS SECONDED THE MOTION.

Dr. Steinbergh stated that she was concerned about documentation in this case. She noted that the Secretary and Supervising Member were not in support of Dr. Govier's request, and she would move to accept the compliance staff's report but deny the requests because the Secretary and Supervising Member were not in support of them. Dr. Steinbergh stated that she had asked that a copy of a letter from Dr. Flowers, the psychiatrist treating Dr. Govier be distributed to the Board. Dr. Flowers indicates that Dr. Govier no longer needs psychologic care, and pointed out that Dr. Govier would soon have two years of continuous sobriety. Dr. Flowers is growing increasingly uncomfortable with the Board's mandating the frequency of psychologic treatment while ignoring her recommendations. Dr. Steinbergh stated that she thought that the Board should have this letter for documentation. She added that she asked Dr. Talmage and Mr. Albert about this case, and she added that she feels the Board needs to discuss it.

Mr. Albert stated that Dr. Govier has had a long experience with alcohol dependency. She's had two relapses, one when she was on therapeutic leave from Shepherd Hill. In January Dr. Govier was permitted to increase her work hours from 20 per week to 30 per week. Then two months ago the Board made a major change in her agreement, allowing her to do full operative procedures as an anesthesiologist. Now she shows up with five more requests, one of which is to decrease her saliva testing requirement from daily to once per week. Mr. Albert stated that he told Dr. Govier he'd review her requests and talk to her again when she comes back for her next appearance. He was subsequently informed by Dr. Govier that her requests have the support of her treatment team. Mr. Albert stated that he doesn't feel comfortable

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granting Dr. Govier's request after the Board just made a major change in the consent agreement two months ago. He also commented that Dr. Govier is very manipulative.

Dr. Steinbergh asked whether there was some concern about depression.

Mr. Albert stated that there is. Dr. Govier is in the midst of a child custody battle, she's having a lot of problems with her divorce. Mr. Albert stated that, with all due respect to her treatment team, he doesn't think she's quite ready. He'd like to wait another three months and see how things go.

Mr. Albert stated that those making requests at office conferences are told up front whether or not the Secretary and Supervising Member are going to support the request. They are informed that denial of such requests is reportable to the National Practitioner Data Bank (NPDB). After hearing that, Dr. Govier decided to withdraw her requests, but shortly thereafter changed her mind and asked that her requests be presented to the Board. He stated that he's not going to recommend that the Board grant her requests at this time, and he doesn't believe that he'll be willing to support her request to reduce the number of saliva tests done to once a week.

Dr. Garg stated that Mr. Albert's opinion matters a lot because he is the one who meets with these individuals, and he has a lot of experience.

Dr. Talmage stated that the other concern they had was that she asked for the 30 hours because, ostensibly, if she did not have that permission, she would not be able to accept a job and the job would be given to someone else. He stated that he made a special effort that day to get everything on paper and get it to the Board the next day. When the staff called and told her employers that the Board had approved the 30-hour week, they were surprised that it had been done so quickly. So it was really not that urgent. Dr. Govier made it sound urgent. He agreed with Mr. Albert's assessment that Dr. Govier is very manipulative. He added that he suspects when he reads a letter like the one from Dr. Govier's psychologist, that Dr. Govier pressured the psychologist.

Dr. Talmage also agreed with Mr. Albert that in a few months he might be agreeable to reduce the number of saliva tests and psychotherapy sessions; but before then he wants to see a letter of support for that request from Dr. Govier's psychiatrist, whom she's mandated to see once a month. He stated that he's not willing to go with this letter from Dr. Flowers.

Dr. Kumar stated that he has extreme difficulty with the fact that the Board just gave permission for Dr. Govier to do operative anesthesia two months ago, and within two months she wants permission to reduce saliva testing prior to each work period to once a week or so. The Board needs a longer period of observation of a physician who has just returned to operative anesthesia. Regardless of the other requests, he is absolutely opposed to reducing saliva testing to once a week. He wants that continued to be done before every work period.

Dr. Davidson stated that it was an education for her that the Board's denying this request is reportable to both the Federation and the NPDB. That makes it a pretty high-stakes thing, and she questioned why Dr. Govier would do that. She noted that Mr. Plinke had indicated that the Board would receive letters of

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support from Phillip L. Borders, M.D., Richard N. Whitney, M.D., who initially had great concern about her, and Wendy T. Flowers, Ph.D. Dr. Davidson wondered whether the Board would support its decision if they all saw those letters and were able to tell Dr. Govier that they looked at everything given and still felt it was appropriate to deny.

Mr. Dilling stated that he believes that Dr. Govier didn't begin work again until February 2004. She doesn't have a long track record.

Mr. Dilling added that, if the Board does deny this, and designates a certain period of time which must pass before she can reapply, it might be appropriate to have her make an appearance before the full Board so that all of the members could ask her questions.

Mr. Albert stated that Dr. Govier's next regular appearance is in September. He suggested bringing her back before the Board in September.

Dr. Steinbergh stated that she has some concerns with Dr. Flowers' letter. She advised that the Board approved Dr. Flowers to serve as Dr. Govier's psychologist, but Dr. Flowers is now saying that she's uncomfortable with what the Board is requiring. She suggested that Dr. Flowers doesn't understand the process the Board goes through, the public protection concerns it has and the overall responsibility that it has. She only sees it from her perspective and doesn't see it from the Board's perspective. Dr. Steinbergh suggested sending Dr. Flowers a letter in response to hers, explaining the Board's responsibility.

Mr. Albert suggested bringing Dr. Govier in before the full Board for her next scheduled appearance.

Mr. Dilling suggested tabling the matter until September, rather than denying it.

Dr. Buchan spoke in opposition to tabling this matter. He stated that he believes the requests should be denied. He doesn't see any reason to prolong the discussion.

Dr. Davidson stated that some members have read the letters of support and some haven't.

Dr. Buchan stated that the Board has people that have spoken to this issue for which he has tremendous respect. He understands the manipulation the Board is being exposed to, and he doesn't want to respond to it in any other fashion than to deny. The Board is not comfortable with her requests, and it should stand on that ground and move forward.

Mr. Dilling stated that the Secretary and Supervising Member have received and reviewed all of the letters. The Board has delegated the task of reviewing those to the Secretary and Supervising Member. He added that the requests have been discussed extensively.

Dr. Kumar spoke in support of denying the request.

Mr. Albert again stressed that two months ago Dr. Govier had a major change in her probationary status.

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Dr. Robbins agreed with Dr. Buchan and Dr. Kumar, and stated that he would move to deny.

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

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

The motion carried.

Mr. Dilling asked whether the Board wants Dr. Govier to appear before the full Board in September. The Board members indicated that they did.

Dr. Robbins agreed with Dr. Steinbergh, stating that, having read the letter from Dr. Flowers, he also found it to be disconcerting.

Mr. Dilling asked whether the Board members want to see all the letters that come in in support of a request by a probationer.

Dr. Steinbergh stated that she would like to see the letters in cases where the Secretary and Supervising Member disagree with them. She added that anytime the Board wants to see such letters, however, they can call Ms. Bickers and she will provide them.

Mr. Albert gave the Board a brief explanation on how he and Dr. Talmage handle requests for changes in probation.

Dr. Steinbergh stated that the Board does often see cases like this where the probationer tries to push the envelope, and her approach is always in terms of prevention. Rather than being punitive, the Board wants to prevent another relapse. The Secretary and Supervising Member has the experience to know whether the person is ready for the change.

RICHARD M. HOFSTRA, M.D.

The staff's report of office conference and Dr. Hofstra's request for a reduction in alcohol and drug rehabilitation meetings was presented to the Board for consideration at this time.

DR. BUCHAN MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF

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CONFERENCE WITH DR. HOFSTRA ON JUNE 8, 2004. DR. BUCHAN FURTHER MOVED TO GRANT DR. HOFSTRA'S REQUEST FOR A REDUCTION IN ALCOHOL AND DRUG REHABILITATION MEETINGS TO A MINIMUM OF TWO MEETINGS PER WEEK WITH A MINIMUM OF TEN PER MONTH. DR. GARG SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LOUISE DELYTE MORRIS, P.A.

The staff's report of office conference and Ms. Morris' request for a reduction in her drug screen requirement was presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH MS. MORRIS ON JUNE 8, 2004. DR. STEINBERGH FURTHER MOVED TO GRANT MS. MORRIS' REQUEST FOR A REDUCTION IN HER DRUG SCREEN REQUIREMENT TO TWO RANDOM SCREENS PER MONTH. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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ASHOK V. PADHIAR, M.D.

The staff's report of office conference and Dr. Padhiar's requests for reduction in his appearance schedule, his drug screen requirement, his saliva testing requirement and his psychiatric session requirement were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. PADHIAR ON JUNE 7, 2004. DR. STEINBERGH FURTHER MOVED TO GRANT DR. PADHIAR'S REQUESTS FOR A REDUCTION IN HIS PSYCHIATRIC SESSIONS TO EVERY THREE MONTHS AND HIS BOARD APPEARANCE SCHEDULE TO EVERY SIX MONTHS. SHE FURTHER MOVED TO DENY DR. PADHIAR'S REQUESTS TO REDUCE HER URINE SCREENING OR SALIVA TESTING REQUIREMENTS. DR. GARG SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ROBERT R. SUMMERS, D.O.

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

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. SUMMERS ON JUNE 8, 2004. DR. STEINBERGH FURTHER MOVED TO GRANT DR. SUMMERS' REQUESTS FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS AND A REDUCTION IN HIS DRUG SCREEN REQUIREMENT TO TWICE PER MONTH. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

MICHAEL J. VJECHA, M.D.

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

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. VJECHA ON JUNE 8, 2004. DR. STEINBERGH FURTHER MOVED TO GRANT DR. VJECHA'S REQUESTS FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS AND A REDUCTION IN HIS DRUG SCREEN REQUIREMENT TO TWICE PER MONTH. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

PAUL W. WILSON, D.O.

The staff's report of office conference and Dr. Wilson's request for a reduction in his chart review requirement was presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. WILSON ON JUNE 7, 2004. DR. STEINBERGH FURTHER MOVED TO REDUCE DR. WILSON'S CHART REVIEW REQUIREMENT TO FIVE CHARTS PER MONTH. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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Vote:

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

The motion carried.

REGINALD O. WINDOM, M.D.

The staff's report of office conference and Dr. Windom's request for a reduction in his psychiatric session requirement were presented to the Board for consideration at this time.

DR. GARG MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. WINDOM ON JUNE 7, 2004. DR. GARG FURTHER MOVED TO GRANT DR. WINDOM'S REQUEST FOR A REDUCTION IN THE FREQUENCY OF HIS PSYCHIATRIC SESSIONS TO ONCE A MONTH. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:

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

The motion carried.

PROBATIONARY REQUESTS

MARK A. CAMPANO, M.D.

Dr. Campano's request for approval of a new practice plan, which would allow him to perform histories and physicals for a company called ExamOne, was presented to the Board for consideration at this time.

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DR. STEINBERGH MOVED TO APPROVE DR. CAMPANO'S NEW PRACTICE PLAN, WITH THE STIPULATION THAT CHARLES V. BARRETT, D.O., CONTINUES AS DR. CAMPANO'S MONITORING PHYSICIAN AND SUPPLIES QUARTERLY REPORTS. DR. STEINBERGH INDICATED THAT, SHOULD DR. CAMPANO WANT A NEW MONITORING PHYSICIAN, HE MUST SUPPLY THE NAME OF ANOTHER PHYSICIAN AND OBTAIN BOARD APPROVAL BEFORE HE BEGINS WORKING. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LYNNE E. ZEGIOB CHECK, M.D.

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

DR. KUMAR MOVED TO APPROVE TODD J. GATES, D.O., TO SERVE AS DR. CHECK'S TREATING PSYCHIATRIST AND SUPERVISING PHYSICIAN AND GARY B. KELLEY, Ph.D. TO SERVE AS DR. CHECK'S TREATING PSYCHOLOGIST. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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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' PROPOSED PRACTICE PLAN TO WORK, UPON COMPLETION OF HER RESIDENCY, IN A FELLOWSHIP IN COMMUNITY PSYCHIATRY AT THE UNIVERSITY HOSPITALS OF CLEVELAND, UNDER THE DIRECTION OF ROBERT J. RONIS, M.D. DR. GARG SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MARK S. MCALLISTER, M.D.

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

Dr. Steinbergh asked whether it is acceptable to have the treating psychiatrist also serving as supervising physician.

Mr. Dilling stated that the Board has done it before.

DR. GARG MOVED TO APPROVE GREGORY B. COLLINS, M.D., TO SERVE AS DR. MCALLISTER'S TREATING PSYCHIATRIST. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

JAMES M. MCGINNIS, D.O.

Dr. McGinnis' request for approval of a supervising physician was presented to the Board for consideration at this time.

Dr. Talmage stated that he has been apprised by Ms. Bickers that Dr. Kalo, Dr. McGinnis' nomination for supervising physician, is already the monitoring physician in Dr. McGinnis' Step 2 agreement, and that Dr. Kalo is also an employee of Dr. McGinnis.

DR. TALMAGE MOVED TO DENY APPROVAL OF MOHAMMAD M. KALO, M.D., AS DR. MCGINNIS' SUPERVISING PHYSICIAN. DR. STEINBERGH SECONDED THE MOTION.

Dr. Steinbergh stated that there's too much conflict of interest in this relationship. Dr. Kalo works for Dr. McGinnis and is already serving as his monitoring physician.

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

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

The motion carried.

venu G. MENON, M.D.

Dr. Menon's request for approval of a medical records course was presented to the Board for consideration at this time.

Dr. Steinbergh spoke in opposition to this request. She stated that the course is a risk management seminar, but is only a two-hour course, as compared to the Case Western Reserve University (CWRU)

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medical recordkeeping course, or its equivalent, that the Board generally approves. Dr. Steinbergh stated that the CWRU course is 13 ½ hours to 17 ½ hours, if they do two post-course reviews. The first course itself is 13 ½ hours, as opposed to 2 hours for the course being proposed. Dr. Steinbergh stated that she doesn't want to deny this course, but is not willing to approve it as complete fulfillment of the requirement. She doesn't think that it is extensive enough. If Dr. Menon wants to take this course, she would have no problem with that, but she would encourage Dr. Menon to take another course. The Board could suggest to him that there is another course coming up at CWRU.

Dr. Egner and Dr. Garg agreed that this course does not meet the requirements for complete fulfillment of the requirement.

DR. STEINBERGH MOVED TO APPROVE THE MEDICAL RECORDS COURSE, *THE WRITE STUFF; INSIGHTS ON DOCUMENTATION & NEWS YOU CAN USE*, AS PARTIAL FULFILLMENT OF PARAGRAPH A.4 OF THE BOARD'S ORDER OF MAY 14, 2003. SHE FURTHER MOVED THAT STAFF INFORM DR. MENON ABOUT OTHER COURSES THE BOARD HAS APPROVED IN THE PAST, SUCH AS CASE WESTERN RESERVE UNIVERSITY'S MEDICAL RECORDS COURSE.

Dr. Garg stated that the Board wants to approve a course that meets the requirements. This course does not meet the requirements. Therefore, should it be approved?

Dr. Talmage stated that Dr. Menon is asking for approval of this course, and he believes that Dr. Steinbergh's tack is exactly right. This course is acceptable but doesn't fulfill the entire requirement.

Mr. Dilling asked that the Board clarify what it wants Dr. Menon to have. He noted that this course tells the physician how to write a record, make sure that it's on paper, make sure that you document what you have done so that if somebody asks you in court, you have it down on paper. The CWRU course, which is 13 to 17 hours, must do something beyond that.

Dr. Egner stated that the whole focus of the course Dr. Menon presented is from a liability standpoint, whereas the CWRU course is patient care as well as liability. It comes from a different perspective.

Dr. Steinbergh stated that it is a more intensive course. She stated that if the Board points out the CWRU course to Dr. Menon, he would better understand what the Board wants.

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye

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

The motion carried.

JAMES E. STURMI, M.D.

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

DR. GARG MOVED TO APPROVE DR. STURMI'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO EVERY SIX MONTHS. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:

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

The motion carried.

REINSTATEMENT REQUESTS

LARRY JOHN LITTLE, M.D.

Dr. Little's request for reinstatement of his license to practice medicine and surgery, which was suspended by Board Order of January 14, 2004, was presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO GRANT DR. LITTLE'S REQUEST FOR REINSTATEMENT OF HIS LICENSE, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED IN THE BOARD ORDER OF JANUARY 14, 2004. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:

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

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

The motion carried.

JOSEPH W. FISCHKELTA, P.A.

Mr. Fischkelta's request for reinstatement of his registration as a physician assistant, which was suspended by Board Order of February 11, 2004, was presented to the Board for consideration at this time.

DR. GARG MOVED TO GRANT MR. FISCHKELTA'S REQUEST FOR REINSTATEMENT OF HIS P.A. REGISTRATION, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED IN THE BOARD ORDER OF FEBRUARY 11, 2004. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LICENSURE

PHYSICIAN ASSISTANT APPLICANTS

At this time the Board considered applications for registration as physician assistants.

DR. GARG MOVED TO APPROVE THE APPLICANTS LISTED IN LICENSURE EXHIBIT (A) FOR REGISTRATION AS PHYSICIAN ASSISTANTS, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

P.A. UTILIZATION PLANS

At this time the Board considered a number of P.A. Utilization Plans submitted for Board approval.

Dr. Robbins referred to the P.A. Utilization plan submitted by Charles Capito, M.D., and noted that a letter from the Board to Dr. Capito indicates that the P.A. should see no more than 25 patients per day. He asked how the Board arrived at that number.

Dr. Egner stated that the Board has a long history of limiting patients to that number.

Dr. Steinbergh stated that the Board has felt that 25 patients in an 8-hour day allows the P.A. to see about 3 patients per hour.

Mr. Dilling agreed that that has been the general guidance after discussion early on in the P.A. process over the years. However, the Board has had cases where it has approved the P.A. to see more patients on an individualized case-by-case basis, dependent upon the supervising physician and P.A.s coming in and saying that they can handle more for specific reasons. In some cases, the P.A. will work ten-hour days.

DR. GARG MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY: ADVANCED DERMATOLOGY & SKIN CARE; CHARLES CAPITO, M.D.; MAYFIELD CLINIC; OSU RADIOLOGY LLC; PORTAGE ORTHOPEDICS GROUP; AND FLOYD TRILLIS, M.D., CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. GARG SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

Dr. Steinbergh noted that there are additional plans contained in the table file.

DR. GARG MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY FAMILY MEDICAL GROUP; PHILIP LEPKOWSKI, M.D.; AND DIGESTIVE SPECIALISTS, INC. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

VOTE:

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

The motion carried.

PHYSICIAN LICENSURE APPLICANTS

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

DR. GARG MOVED TO APPROVE THE APPLICANTS LISTED IN LICENSURE EXHIBIT (B) FOR ENDORSEMENT LICENSURE, 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. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye

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Dr. Steinbergh - aye

The motion carried.

JUNE 2004 PMLEXIS RESULTS

At this time the Board reviewed the results of the June 2004 PMLexis.

DR. GARG MOVED TO APPROVE THE RESULTS OF THE JUNE 2004PMLEXIS (EXHIBIT [C]), AND TO CERTIFY AS PASSING AND FIND ELIGIBLE FOR LICENSURE THOSE RECEIVING A SCORE OF 75 OR GREATER ON THE EXAMINATION, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED 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. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ACUPUNCTURIST APPLICANT

At this time the Board considered applications for registration as acupuncturists.

DR. GARG MOVED TO APPROVE THE APPLICANTS LISTED IN LICENSURE EXHIBIT (B) FOR REGISTRATION AS ACUPUNCTURISTS, 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. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye

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

The motion carried.

ANESTHESIOLOGIST ASSISTANT APPLICANTS

At this time the Board considered applications for registration as acupuncturists.

MR. BROWNING MOVED TO APPROVE THE APPLICANTS LISTED IN LICENSURE EXHIBIT (D) FOR REGISTRATION AS ACUPUNCTURISTS, 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. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Davidson left the meeting at this time.

JUNE 2004 COSMETIC THERAPY EXAMINATION RESULTS

At this time the Board reviewed the results of the June 2004 cosmetic therapy examination.

DR. GARG MOVED TO APPROVE THE RESULTS OF THE JUNE 2004 COSMETIC THERAPY EXAMINATION, AND TO CERTIFY AS PASSING AND LICENSE THOSE RECEIVING A SCORE OF 75 OR GREATER ON THE EXAMINATION, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED 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. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JUNE 2004 MASSAGE THERAPY EXAMINATION RESULTS

At this time the Board reviewed the results of the June 2004 massage therapy examination.

DR. GARG MOVED TO APPROVE THE RESULTS OF THE JUNE 2004 MASSAGE THERAPY EXAMINATION, AND TO CERTIFY AS PASSING AND LICENSE THOSE RECEIVING A SCORE OF 75 OR GREATER ON THE EXAMINATION, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED 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. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Robbins noted that the Cincinnati school had more individuals fail the examination than pass it. He asked what is done in cases like this. He added that, if he were running that school, he would re-evaluate.

Mr. Dilling stated that the Board is still in the process of not only re-evaluating the schools but re-evaluating the examinations as well. The Board is reaching the point where it has an exam that more accurately reflects the teaching going on in the schools.

Mr. Wayda advised that, starting with the December 2004 examination, the Board will advise the schools that they will be held accountable for the exam results of their graduates. A procedure is in place for

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identifying schools and notifying them of poor outcomes. There are rules and the schools will be held accountable.

Dr. Robbins stated that the Board can do that for the massage schools and the cosmetic therapy schools, but not the medical schools.

Mr. Dilling stated that that is correct. The Board of Regents has authority over the medical schools. The ACGME has certain authority over the schools, but the Medical Board does not. He added that he doesn't know of any state where its medical board has authority over the medical schools.

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

REVISED PROCEDURE – REINSTATEMENT FOLLOWING DISCIPLINARY ACTION

At this time the Board considered a document, a copy of which shall be maintained in the exhibits section of this journal (Exhibit E), containing the revised procedures for reinstatement following disciplinary action. Mr. Dilling stated that the Executive Committee reviewed the procedures adopted in 1999, and made comments to update the document.

DR. STEINBERGH MOVED TO APPROVE THE DOCUMENT ENTITLED “REINSTATEMENT FOLLOWING DISCIPLINARY ACTION.” DR. GARG SECONDED THE MOTION. A vote was taken:

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

The motion carried.

PROBATIONARY AND INTERIM MONITORING DISCUSSION PAPER

Mr. Dilling directed the Board's attention to the proposed discussion paper on probationary and interim monitoring, a copy of which shall be maintained in the exhibits section of this journal (Exhibit F).

MR. BROWNING MOVED TO APPROVE THE DISCUSSION PAPER ON PROBATIONARY AND INTERIM MONITORING. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ADMINISTRATIVE REPORT

Mr. Dilling reviewed his written report, a copy of which shall be maintained in the exhibits section of this journal (Exhibit G), with the Board.

In response to Board member questions, Mr. Dilling, with the assistance of Board staff, explained the processes used in obtaining voluntary surrenders or application withdrawals.

REPORTS BY ASSIGNED COMMITTEES

EXECUTIVE COMMITTEE

Mr. Dilling advised that the Committee discussed three different agenda topics for the Board's retreat, which will hopefully take place in October: 1. minimal standards issues; 2. QIP, and 3. overview of complaint/disciplinary process.

Mr. Dilling stated that his preference is topic number 1, which is something that the Board discusses from time to time, and the public discusses on an increasing basis around the country.

Mr. Dilling noted that the number 3 topic has been discussed in various ways in the past. However, processes do change over times, and they change because of resource issues, staffing issues, etc.

Dr. Kumar stated that topics 1 and 2 have many common topics. He suggested combining topics 1 and 2 for the retreat.

Mr. Dilling stated that he doesn't believe there is a way to deal with both topics adequately during a one-day retreat. If the Board chooses topic 1, it will get some of topic 2, but it will only be for about an hour. There's no way to combine the three and do them justice, and it's impossible to put on three in-depth retreats in a year.

Dr. Garg commented that the Board never finishes the agenda it has for a retreat, and he spoke against

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putting too much on it.

Dr. Kumar commented that if the Board doesn't finish it's discussion during the retreat, it can continue the discussion on another Thursday session of the Board.

Dr. Garg stated that topic 3 is very important, and said that he would place it as the number 1 topic.

Dr. Steinbergh spoke in favor of topic 1, stating that it is a huge, huge issue for the Board. She added that she did think that part of topic 2 could be discussed with topic 1, but she understands Mr. Dilling's desire to do an in-depth discussion on each topic. She stated that her feeling about QIP is that it would be a very good experience for the Board members to sit with the QIP and give the QIP panel members a sense of how the Board handles minimal standards issues. However, she believes that the Secretary and Supervising Member spend time in discussions with the QIP panelists, and the panelists may be getting more education than she knows about.

Dr. Egner commented that the Board has had a lot more minimal standards cases over the past two years than it had the previous years.

Dr. Buchan stated that the Board could highlight topic 1, and added that he does believe that the Board is seeing more cases in that area, but the real challenge of that is the securing of medical experts. The Board might include a topic on developing methods by which it can identify and secure experts so that the Board isn't sitting on cases.

Mr. Dilling stated that that is a good suggestion. He added that he mentioned at the Executive Committee level that one of the persons he's trying to get who has expressed interest is David Henderson, the Director of the North Carolina Board, which has a pretty good reputation. He stated that he thinks it would be good to see how that Board does things and how it's attacking some of the same issues. The North Carolina Board has also expressed an interest in seeing how Ohio does things.

DR. GARG MOVED TO CHOOSE TOPIC 1 AS ITS OCTOBER 2004 RETREAT TOPIC.

DR. BUCHAN SECONDED THE MOTION. All members voted aye. The motion carried.

Mr. Dilling and Mr. Wayda at this time updated the Board on the staff's activities relating to the Board's budget for FY06/07.

Dr. Kumar asked whether the Board will need to raise fees. Mr. Wayda stated that he doesn't believe that the Board will need a fee increase for the budget.

LEGISLATIVE LIAISON COMMITTEE

Mr. Browning stated that the Legislature is out of session, and there is no report for this month.

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LICENSURE COMMITTEE

Dr. Garg advised that, under the Five-Year Rule Review process, the Committee reviewed the Chapter 6 rules and approved technical changes to the rules.

DR. STEINBERGH MOVED TO DIRECT STAFF TO FILE THE CHAPTER 6 RULES WITH JCARR AND TO PROCEED WITH THE RULES HEARING PROCESS. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Garg stated that the Committee reviewed applications for four graduates of non-ACGME schools, all of whom requested that the Board consider their previous training and experience as being equivalent to the required 24 months of training through the second year level. Dr. Garg stated that the Committee reviewed the credentials of each applicant and recommends approval of all, based on equivalency of their previous training and experience to 24 months of training through the second year level.

Dr. Garg stated that the first physician, Carlo DiLorenzo, M.D., graduated from medical school before 1984 and worked in Italy until 1988. Dr. DiLorenzo is currently a professor of pediatrics at Children's Hospital in Pittsburgh, PA. He has been Board Certified in pediatrics and has recently been Board Certified in pediatric gastroenterology. He was recertified in 2004.

Dr. Garg stated that the second physician, Hazem Abdel Moneim, M.D., is a urologist from Egypt. He practiced for four years in Egypt up until 1999. Then he did training in Montreal from 2000 until July 2003. He is a kidney transplantation clinical fellow at the Cleveland Clinic. He completed twelve months of U.S. training in June 2004. Considering his experience in research and his work in the United States, the Committee recommends approval.

Dr. Garg stated that the third physician is Manikum Moodley, M.D., a pediatrician from South Africa. He worked in South Africa from 1977 until 1982. Dr. Moodley is a fellow of the Royal College of Physicians of South Africa, and he did a fellowship at the Royal College in England from October 1986 until September 1988. He has been working in British Columbia, and is Assistant Professor in pediatric neurology in Saskatoon. Dr. Garg stated that the Committee recommends approval.

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Dr. Garg continued that the last application the Committee reviewed is for Murali Sundaram, M.D., a diagnostic radiologist from Sri Lanka. He graduated from medical school in 1968. He did his training through the Royal College in the United Kingdom from 1969 to 1975. He worked in St. Louis, Missouri from February 1975 until July 2001. Since then he has worked at the Mayo Clinic. He has licenses in Arizona, Minnesota and Illinois. He's also an examiner for the American Board of Radiology in the United States.

DR. STEINBERGH MOVED TO FIND THE PAST TRAINING AND EXPERIENCE AS BEING EQUIVALENT TO 24 MONTHS OF APPROVED TRAINING THROUGH THE SECOND YEAR LEVEL FOR THE FOLLOWING APPLICANTS: CARLO DILORENZO, M.D., HAZEM ABDEL MONEIM, M.D., MANIKUM MOODLEY, M.D., AND MURALI SUNDARAM, M.D. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

PRESCRIBING COMMITTEE

Dr. Davidson advised that she reported to the Committee on the last meeting of the Nursing Board's Committee on Prescriptive Governance (CPG).

Dr. Davidson advised that the Compassionate Care Task Force (CCTF) has submitted its final report, and that report was discussed by the CPG in that one of the recommendations was that the Nursing Board seek authority for CPT holders, which are Advance Practice Nurses with prescriptive authority, to prescribe Schedule 2 drugs. The discussion of the members of the CPG was mostly against that, as the problem of prescription drug abuse is huge, and you'd have to double the Nursing Board's staff to handle the enforcement and investigations that would follow. Dr. Davidson stated that she assumes that the Medical Board will be involved if the Nursing Board does decide to seek the authority recommended.

Dr. Davidson stated that the CCTF did have some other recommendations that impacted the Board, and Mr. Schmidt attended the last meeting and submitted his report. Dr. Davidson stated that the CCTF consisted of 18 physicians, 25 groups altogether. She stated that Mr. Dilling did a good job in educating those present as to what the Board's role was and how the Board has worked with the Federation to

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influence the USMLE testing content to include some pain issues.

Mr. Dilling stated that there are a number of different issues in the CCTF final report that the Board has been asked to discuss. Dr. Davidson, as Chair, has said that over the course of this year those items should be discussed so that in follow-up meetings at the end of the year the Board can show that it did address the issues.

Dr. Davidson commented that, as she sat back and looked at this year's progress, several of the members came to the Task Force with the idea that the Medical Board was the problem. There would be better pain control and management if the Medical Board didn't have restrictive rules. They came in with the express agenda of tearing down the Board's rules on pain and pain management. They didn't end up doing that, and it was a vindication of the Board's rules. It was shown that the rules had a purpose and were fair. They realized that there may be some irrational fear on the part of physicians about prescribing.

LIMITED BRANCH COMMITTEE

Dr. Buchan stated that the Committee had three action items.

The Committee reviewed the requests for a certificates of good standing from Antonelli College in Cincinnati, Ohio, and the Tennessee School of Massage to teach massage therapy. After reviewing the schools' documentation, the Committee recommended approval of both requests.

DR. GARG MOVED TO GRANT A CERTIFICATE OF GOOD STANDING TO THE ANTONELLI COLLEGE AND TO THE TENNESSEE SCHOOL OF MASSAGE. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Buchan stated that the Committee also reviewed a request for approval of Daniel Aronson, M.D. to be an instructor of a laser training class. Dr. Buchan stated that he believes such individuals must meet the burden of proving that they are reasonably expert in the area for which they are seeking approval as an educator. The Committee looks at things like experience, training, and documented CME. Dr. Aronson did not submit reasonable information to allow the Board to make the determination that he would be an

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adequate trainer.

DR. GARG MOVED TO DENY DR. ARONSON'S REQUEST FOR APPROVAL AS AN INSTRUCTOR IN A LASER TRAINING CLASS. DR. DAVIDSON SECONDED THE MOTION.

A vote was taken:

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

The motion carried.

P.A. COMMITTEE

Dr. Talmage advised that the Committee reviewed a number of supplemental utilization requests.

Central Ohio Cardiology

The above-captioned's request for its P.A.s to perform noninvasive cardiovascular studies in an office setting, utilizing 20% onsite, 35% direct and 45% offsite supervision, with the P.A. observing the physician perform 100 procedures and the physician observing the P.A. perform no less than 100 procedures to determine competency.

Dr. Talmage noted that this application is different in that it requests 45% offsite supervision. This issue was addressed by Bruce L. Auerbach, M.D. Dr. Auerbach is a solo practitioner. Dr. Talmage noted that one of the technical difficulties of Dr. Auerbach's application was that he specified a particular P.A. That would not allow him to train others. Dr. Auerbach was willing to modify that. However, the Committee felt that the safety of the procedure under offsite supervision, when the physician would be 20 to 30 minutes away in the event of an emergency was untenable. The Committee recommended denying the request.

DR. TALMAGE MOVED TO PROPOSE TO DENY CENTRAL OHIO CARDIOLOGY'S P.A. SUPPLEMENTAL REQUEST ON THE BASIS THAT THE DANGER OF THE PROCEDURE REQUIRES ONSITE SUPERVISION. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Naum Medical Associates

Dr. Talmage stated that the above-captioned's request for its P.A.s to perform duties with onsite and offsite supervision, seeing new patients and new conditions and implementing treatment plans that have been discussed with the physician over the phone was considered by the Committee. The Committee recommends denial on the basis that the request is not in compliance with the Board's rules.

DR. TALMAGE MOVED TO PROPOSE TO DENY NAUM MEDICAL ASSOCIATES' REQUEST ON THE BASIS THAT THE REQUEST DOES NOT COMPLY WITH THE BOARD'S RULES. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Cleveland Clinic Dept. of Orthopedic Surgery

Dr. Talmage advised that the Clinic requested the following: to allow its P.A.s to perform arthrocentesis of the knee, in an office setting, utilizing 100% onsite supervision with the P.A. observing the physician perform no less than 25 procedures and the physician observing the P.A. perform no less than 25 procedures to determine competency; and to allow its P.A. to inject into the knee joint for both traumatic effusions and arthritic effusions of the knee joint, in a hospital setting, utilizing 100% onsite supervision with the P.A. observing the physician perform 25 procedures and the physician observing the P.A. perform

no less than 25 procedures to determine competency.

Dr. Talmage stated that the Committee was addressed by Dr. Bergfeld, who also addressed the Board in the previous afternoon's session. Dr. Talmage stated that Dr. Bergfeld presented his argument for approval to the Committee, who voted four to two to deny both requests, based on the complication and the possibility of a bad outcome.

DR. TALMAGE MOVED TO PROPOSE TO DENY THE CLEVELAND CLINIC DEPT. OF ORTHOPEDIC SURGERY'S REQUEST ON THE BASIS THAT THE PROCEDURES REQUESTED ARE COMPLEX AND CARRY A HIGH POTENTIAL FOR COMPLICATIONS. DR. GARG SECONDED THE MOTION.

Dr. Garg stated that he thought that Dr. Bergfeld's presentation was good, but he's still not convinced. He stated that he has had these injections, and he feels that they are complicated procedures. Patients go to see an orthopedic surgeon to have the procedure done. He doesn't believe that the procedures are within the scope of practice for P.A.s or any non-specialist. He commented that the patient takes months to get an appointment with a certain specialist, and goes with great expectations that the specialist will be doing the procedure, and then somebody else walks in and does it. Dr. Garg stated that he doesn't think that that's appropriate, and he doesn't see any way in which it would enhance the medical care or better the medical care of the patients in this state.

Dr. Steinbergh stated that she also voted against denying this. She noted that she has routinely voted to deny these types of procedures, but she was convinced by Dr. Bergfeld that it was a safe procedure from his perspective. Dr. Bergfeld sees all new patients with the P.A. He makes the decision to do these Synvisc injections, he would be there the first time that the P.A. would be doing either procedure on a patient, and he would prescribe the number of injections that would need to be done. The patient would come back for two or three visits, and after those injections the physician would have a follow-up appointment with the patient to see how that treatment plan went. At any time, if the patient has not had a good response, or has not done well with the injection, the physician, of course, would come in and see the patient. Otherwise, the P.A. would do it.

Dr. Steinbergh stated that Dr. Bergfeld talked about the anterior approach to the knee and with no major vessels or nerves in that compartment, he felt that it was a safe procedure for P.A.s. Dr. Steinbergh noted that they do include their educational module with the application.

Dr. Garg stated that Dr. Bergfeld indicated in his address that it takes about 15 minutes. Dr. Garg stated that he has undergone these procedures, and the whole thing takes about a minute.

Dr. Talmage stated that Dr. Bergfeld was talking about the setup, positioning.

Dr. Garg stated that the doctor doesn't set up. There's no big thing to it.

Dr. Buchan stated that Dr. Bergfeld is an esteemed orthopedist and did a very nice job espousing the merits of P.A.s, and he agrees with many of Dr. Bergfeld's beliefs. Dr. Buchan added that he equates this intra-

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articular injection process, the level of anatomy appreciation, the technique itself, and the expertise required, with surgical procedures. He believes it is necessary to be that good at that procedure. If that procedure is done poorly, the ramifications are significant. If Synvisc injections are inappropriately placed, the probable failed outcome of that procedure is a surgical outcome. Dr. Buchan stated that the expertise required borders on surgical expertise. Because of that he voted to deny the request. Intra-articular injections at any level are just not in the scope of practice of P.A.s. Dr. Buchan continued that these injections are done on narrow, arthritic joints, requiring higher levels of expertise.

Dr. Kumar stated that he looked at this from personal experience also. He does work with a nurse who was a P.A., and he has mixed feelings about this. He does not have his nurse practitioner do those things independently. He's always there and doing the procedures himself. He utilized that person, essentially, to help him do things. Dr. Kumar stated that one of his concerns is that this is a surgical procedure, and he is concerned about a surgical procedure being done by a non-physician.

Dr. Kumar stated that efficacy issue was what completely swayed him against allowing this procedure, because Dr. Bergfeld talked about it taking 15 minutes. When asked why it takes so long, the Committee was told that he has to prep and all that. It was pointed out that the P.A. or others can prep the patient. It takes only a minute or so to do the procedure itself. Dr. Bergfeld didn't seem to accept that way of changing his practice. Dr. Kumar stated that one factor in Dr. Bergfeld's favor is that they are no longer injecting steroids. More and more they are injecting hyaluronic acid, which has fewer negatives effects on the bones, joints and cartilage. Dr. Kumar stated that, despite that, he believes it is safer for the physician to perform the one-minute procedure, and noted that there are only three or four such procedures done by Dr. Bergfeld a day.

Mr. Dilling stated that he sees this procedure as being within the P.A.'s scope of practice. The Board might feel that it's not proper for the P.A. to perform this procedure, but he did want to make it clear that physicians have the authority to ask for its P.A.s to do this procedure. He noted that Dr. Buchan has given some rationale as to why the Board would propose to deny.

Mr. Dilling commented that the Clinic would probably request a hearing, at which time the Hearing Examiner will question whether it is inappropriate because P.A.s can never reach this level of training or education. Is it inadequate that the P.A.s are only doing 25 directly observed, compared to a resident who would have this extra education and do 50 of them? The Hearing Examiner will ask those kinds of questions. Then, if it comes back to the Board, and the Board still feels it should be denied, it will go to the court, as it has in the past, and the court will ask for the reliable, probative and substantial evidence that the Board has that says that P.A.s cannot do this procedure, based upon what the doctor says and what you are saying. The Clinic will come in and say it's done around the country. The Board has no studies to show that the P.A.s cannot do this adequately and that there is a problem health wise in these 48 other states. Mr. Dilling stated that there will be a significant burden placed. Mr. Dilling stated that he wants to make sure that the Board understands where this is headed.

Dr. Steinbergh stated that when she listened to Dr. Bergfeld the previous day, she was thoroughly convinced that the physician who comes before the Board to plead his case is one who firmly believes that this procedure is going to be done appropriately by his P.A. That comes with the P.A.s education, training,

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the years the physician has spent with the P.A., and the comfort level that the physician has with the technical ability of the P.A. Dr. Steinbergh stated that she believes that if the Board approaches that physician, who appears to be a quality physician, wanting a good outcome for his patient, accepts this technical assistance from the P.A. and believes firmly that that P.A. is going to approach this appropriately and that they, as a team, are going to get a good outcome, she can appreciate how that could work. That's why she voted the way she did.

Dr. Steinbergh stated that the Committee also discussed with Dr. Bergfeld that the Board makes policy, and that it's important for the Board to gauge how this is going to go in the State of Ohio. Will the Board always get the same standard of care by the orthopedist who wants his or her P.A. to do this procedure? The Board has more to think about than just that particular team. Dr. Steinbergh added, however, that she was convinced about that particular team. She stated that, even concerning the stress testing that earlier came before the Board, she has been convinced that, perhaps, that procedure is safer than she believes it is. Why does the physician want to do that procedure in his office with a P.A.? The years of experience and so forth that comes with that relationship is what brings these people to the Board asking that the P.A.s be allowed to do the procedure.

Dr. Steinbergh stated that her basic feeling has always been that this is the practice of medicine and the physician ought to be doing it. If the P.A. wants to be able to do this, he or she should go to medical school. P.A.s are meant to be "assistants." It's up to the Board to decide at what level that "assist" should be. In this particular case she felt that the P.A. was, in fact, assisting the physician, and she feels that the procedure itself, under these conditions, was going to be appropriate.

Dr. Garg stated that he has a few points to make. Dr. Garg stated that he still believes that this procedure should be done by an orthopedist. He added that he believes anyone can be trained to do anything, so that's not an argument. Dr. Garg stated that cortisone injections are different from Synvisc injections. They're only given one week apart. The orthopedic surgeon felt that that's the easiest joint to work with. Dr. Garg stated that he's not an orthopedist and doesn't claim to be, but he doesn't agree with that statement. Dr. Garg stated that the knee joint is a very difficult joint to inject. That's the reason many primary care physicians who inject joints will not do the knee joint or shoulder joint. Those are two very difficult joints. You're not dealing with a normal anatomy. You're dealing with a very abnormal anatomy and you're reaching a stage that will determine whether knee replacement is necessary. Dr. Garg stated that he agrees with Dr. Buchan on this. It doesn't take that long, setting up and all that. It doesn't matter what procedure is done – the physician doesn't set up. The physician does the procedure. To say that it saves the physician 15 minutes of time is not a valid argument. It takes less than two minutes to give the injection. Setting up and all that is done by the staff. Dr. Garg stated that he doesn't see any wisdom in allowing a non-physician to do the procedure.

Dr. Garg addressed the role of the Board members. He stated that if the Legislature wants to pass certain rules and laws, the Board must obey and apply them. But on medical grounds, you go to an institution, you go to a specialist because you think he's a specialist and is very well trained and you want the procedure done by the specialist, but then you have it done by someone the specialist has trained. Dr. Garg stated that that's not what the patient wants, and that's not the proper way of practicing medicine. Dr. Garg stated that those are his reasons and arguments for wanting to deny the request.

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Mr. Dilling stated that he was only giving the Board the legal perspective of what was going to happen. He noted that Dr. Garg just said that anybody can be trained to do this. The Board heard from an orthopedic surgeon from the Cleveland Clinic who said that, after 25 procedures, with direct supervision, he can allow P.A.s to do what he described as the simplest of the injections. Mr. Dilling stated that that is what he heard, and that is what the court's going to hear.

Mr. Dilling continued that the Legislature has indicated that it thinks that this idea should be contemplated. The Legislature has given the Board some discretion, but has also given the burden of reliable, probative and substantial evidence as to why such procedures are inappropriate for P.A.s. He stated that the Board must understand that the reason that the Legislature is going to change the law to take the discretion from the Board is because the Board hasn't been able to meet the burden in some cases.

Dr. Garg stated that if the Legislature wants to change the law and take it out of the Board's hands, that's fine. But as a Board member, he looks at what his responsibility is. All the time the Board talks about standards issues. What is the proper medical care for the citizens of Ohio. He looks at that as his responsibility. Dr. Garg stated that he doesn't think that P.A.s performing these procedures is appropriate.

Dr. Garg continued that when he said that anybody can be trained, he's not talking about knee injections, he's talking about any procedure. Whatever you want to teach anybody, whether it has to do with medicine or otherwise, if you show a person something often enough, the person will learn. Why are doctors even needed if you can teach anyone anything?

Dr. Egner stated that she wants to respond in a more general way. For her, the problem is that when physicians go through their training, it is all-encompassing. It is all of the systems, all of the specialties. Then you decide where you're going to have your interest in your practice and you get further training. That's where doctors come from. That's what they're used to. That's how they think it is best to train. P.A.s, as Dr. Bergfeld said the previous day, started out as medics. Then they became more formally trained, but in a very primary care general way. Every month the Board spends all of this time not talking about P.A.s practicing in a primary care settings, but getting more and more specialized. Yet, when the Board has talked with educators of P.A.s, when it's talked to the people who are certifying them, they're not interested in becoming more specialized. They're not interested in taking it into that direction. Yet the Board is constantly being forced to do it when they don't have a system in place that really trains them in a more specialized fashion. That's her problem with it. Dr. "A" says, "I'm going to train my P.A. to do this special procedure," and Dr. "B" says, "I'm really good at training to do this special procedure." Dr. Egner stated that that's not a good way to train someone. Dr. Robbins isn't allowed to choose somebody and say, "I can make an ophthalmologist out of you." He might be able to do that, but that's not the best way to make an ophthalmologist. Dr. Egner stated that that's her problem with P.A.s. They want to become more and more specialized, but their overall organization and their educational system is not in line with that. Dr. Egner stated that it is a poor way to educate people when getting down to specific procedures. They ought to have more support from the people who train and certify them.

Dr. Talmage stated that his experience in the military has been with orthopedic P.A.s during Desert Storm, who were extraordinarily valuable and extraordinarily skilled. Dr. Talmage stated physicians are trained to

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recognize what procedure needs to be done, how to do it and how to follow it up. Some of the best surgeons he knows are not the technically best people he has ever seen. They have good hands, but they don't have great hands. Their expertise comes in knowing when to operate, what to do during the operation, then how to follow-up afterwards. This is exactly where the P.A. fits in. The physician analyzes, diagnoses, makes the decision of what to do. The technical procedure can be taught. The job that's hard is to decide when to do it.

Dr. Garg commented that, more important is knowing when not to do it.

Dr. Talmage stated that the actual technical procedure is not that difficult, and that is where the Board is dealing with P.A.s. They are doing the technical procedures that physicians have decided need to be done to benefit the patient. Dr. Talmage stated that the Committee questioned how many procedures would be needed for the P.A. to learn the procedure, and he commented that if someone hasn't learned it after doing it ten times, he or she will probably never learn it. Dr. Talmage stated that he thinks that the technical part of it can be delegated. The judgment part of it is something the physician should never delegate.

Mr. Albert stated that he was impressed with what Dr. Garg had to say. You're not injecting into a normal knee. You're injecting it into damaged cartilage and a damaged knee, where there are problems.

Dr. Steinbergh agreed, but stated that when she was in her residency in pediatric infectious diseases, she did spinal taps on tertiary tuberculosis. These spinal cords have been entered many times, are very fibrotic and very hard to do; but as residents, they were taught to do that. She stated that, at a certain point, the person that you're training will recognize it. The brain signals the finger, the needle goes in, and the finger tells the brain, "yep, I'm in the right place." That's something that is taught. If the person has considerable knowledge of anatomy, that person will be successful with that procedure. Dr. Steinbergh stated that the P.A., because of his appreciation of anatomy, will learn that technique and when he or she is doing the procedure will know whether or not he or she is in the right place. Then it takes the intellectual honesty of that person to say, "I'm not sure about this and I'm going to consult with the physician." Dr. Steinbergh stated that that's where the team comes into play. She added that she was convinced that Dr. Bergfeld relied and could rely on that P.A. to make that level of judgment.

Dr. Garg stated that if that is the criteria, the Board shouldn't be denying any procedure because any physician who requests the procedure, comes with the statement that he has trained his P.A. Why is the Board wasting its time discussing these? He added that, if the Board is concerned about what the courts or the Legislature will do and not about what it feels is right, what is proper medical care, then the Board shouldn't be wasting its time.

Dr. Robbins stated that Dr. Egner's point regarding the National organization for P.A.s is a very important point. They are narrowly focused and they are not pushing this to the next level. He added that Dr. Talmage's point is excellent. He stated that he has said all along, he can teach a lot of people to do eye surgery. They don't have to be physicians. But, as a general rule, it has been his feeling that the impetus for this is economic, not patient care. Dr. Robbins stated that he will say that to his grave. You remove the economic input in this, you will not see these requests to this Board or to the Legislature. It will turn 180 degree around and the argument will be made that physicians should be doing this and not P.A.s.

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Dr. Robbins stated that he agrees that the Board will have to do what the Legislature tells it to do; but it has been his feeling, and it will be his feeling forever, that he could never make the case that it's better patient care to have someone that he's trained do the procedure rather than him.

Dr. Buchan stated that he does believe that the expertise required does parallel surgical expertise for the reasons previously discussed. Secondly, you only have a finite number of injections possible. You only have the opportunity to inject this joint, or any joint, two or three times. It seems that you want to take your best shot each of those two or three times. You want the best expert doing the job each time.

Dr. Buchan stated that, on a clinical note, primarily he has a surgical practice and people come to him who have had injections for a particular pathology and now seeing him for a surgical procedure. Dr. Buchan stated that he suggests that he inject them first because he's not sure about the expertise of the referring physician to hit the right spot. The ramifications of a failed or poorly placed injection are severe.

Mr. Browning stated that he is in support of denial.

Mr. Browning left the meeting at this time.

Dr. Garg asked Dr. Buchan if he finds that there are patients who don't need surgery after he injects them.

Dr. Buchan stated that he does.

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

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- nay
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- nay

The motion carried.

REPORT OF FEDERATION PROGRAM COMMITTEE

Dr. Steinbergh stated that the Program Committee met in Dallas about two weeks ago and did a presentation on adult learning and what expectations should be. The Committee also reviewed past annual meetings, attendance, etc. They talked about stimulating attendance. Dr. Steinbergh stated that she addressed the issue of finances and budget problems in states and how the Federation should enhance its support to Medical Boards in terms of sending members.

