

July 13, 2005

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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**July 13, 2005**

Patricia J. Davidson, M.D., President, called the meeting to order at 1:00 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Raymond J. Albert, Supervising Member; Nandlal Varyani, M.D.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Kamala Saxena, M.D., and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Lance A. Talmage, M.D., Secretary; and David S. Buchan, D.P.M. The following did not attend the meeting: Andrew F. Robbins, Jr., M.D., Vice-President; Carol L. Egner, M.D.; and Anquetette Sloan.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director in charge of Public Services and Licensure; Lori S. Gilbert, Assistant Executive Director in charge of Investigations, Compliance & Enforcement; Mark R. Blackmer, Marcie P. Pastrick, Sallie J. Debolt, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, Kathleen S. Peterson and Charles A. Woodbeck, Enforcement Attorneys; Lauren Lubow, Senior Executive Staff Attorney; Lawrence Pratt, Kyle C. Wilcox and Tara L. Berrien, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore and Annette Jones, Disciplinary Information Assistants.

EXECUTIVE SESSION

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

VOTE:	Mr. Albert	- aye
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

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

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Dr. Talmage and Dr. Buchan joined the meeting during the executive session.

The following joined the meeting after the executive session: R. Gregory Porter, Chief Hearing Examiner; Patricia A. Davidson, Hearing Examiner.

MINUTES REVIEW

**MR. ALBERT MOVED TO APPROVE THE MINUTES OF JUNE 8-9, 2005. DR. KUMAR SECONDED THE MOTION.** A vote was taken

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and order 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 matter of: Daniel Howard Brumfield, M.D. A roll call was taken:

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

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

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

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

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

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

DANIEL HOWARD BRUMFIELD, M.D.

Dr. Davidson directed the Board's attention to the matter of Daniel Howard Brumfield, M.D. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

Dr. Davidson advised that, after the Report and Recommendation had been filed by the Hearing Examiner, Assistant Attorney General Wilcox and Dr. Brumfield filed a joint motion to admit additional evidence to the record. That motion and the evidence were previously distributed to the Board members for review. She asked whether the Board wished to accept the additional evidence into the hearing record.

**DR. STEINBERGH MOVED TO ACCEPT THE ADDITIONAL EVIDENCE INTO THE HEARING RECORD. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

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Dr. Steinbergh - aye

Dr. Davidson - aye

The motion carried.

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

Dr. Brumfield thanked the Board for allowing him to address it today. He apologized to the Board for the need to appear before it once again. He thanked Ms. Murphy for her recommendation of a stayed revocation and subsequent suspension of his license, as opposed to a complete revocation. He also thanked her for the recommendation of a psychiatric evaluation, for he believes that this is the crux of his problem.

Dr. Brumfield stated that he sincerely wants to be a productive and responsible member of society, as well as of the medical community. Dr. Brumfield stated that he wishes to share with the Board the differences in the person who sits before it now. His recent inpatient stay at Glenbeigh has disclosed, and with their help he has realized, the faulty thinking processes that have engendered his disease. He has realized the absence of and need for religion in his life. He has recently been baptized and continues counseling with his pastor. Dr. Brumfield stated that he prays that, with God's help, he will heal this process of information that has interfered with his ability to process information correctly. He hopes that he will be able to retrain his thinking with this help, allowing him to make the right choices in every day life, as well as controlling his disease.

Dr. Brumfield stated that he has totally embraced his A.A. family, and is currently attending 90 meetings in 90 days, after his discharge. He's obtained two sponsors, one of whom is a recovering physician to enable his thought processes on a professional level, as well as a lay sponsor with whom he is diligently working the 12-step program.

Dr. Brumfield continued that, even though his training has been in the medical field, his employment has been limited by his disease. He's applied to every hospital in the Columbus, Dayton and Cincinnati regions, without success, for a medical technologist position. Until recently, he was employed as an engineer's assistant at \$10 an hour, which allowed him to at least put food on his table. He has applied for positions with insurance agents, hospital laboratories, as well as Burger King, with minimal success. He is currently working as a traveling medical technologist, on assignment in Nebraska for three months, where he continues nightly A.A. meetings. Fortunately, with this employment, he is once again able to obtain health insurance and will begin psychiatric counseling after August 1, when this insurance goes into effect.

Dr. Brumfield stated that he was very fearful of appearing before the Board today at the risk of antagonizing the Board more than he already has, but he would be doing an injustice to those for whom he is financially responsible if he did not at least attempt to minimize the impact of his disease on the innocent victims of his disease. His wife, children and in-laws have all financially helped him. Dr. Brumfield stated that he is willing to prove himself to the Board and the medical community by doing whatever is deemed

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necessary. He's willing to undergo daily urine screens, ongoing psychiatric counseling or any other task that the Board requires to allow him to practice medicine again in the future. Dr. Brumfield stated that he humbly asks consideration of a reduction of the suspension, and retroactive credit for the time already served.

Dr. Brumfield again apologized, and stated that he knows that amends are more than just asking for forgiveness, but also improving his worth to the Board. Dr. Brumfield thanked the Board for its time.

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

Mr. Wilcox stated that he thinks that, given Dr. Brumfield's track record and his lack of trustworthiness, the Board would have a very difficult time in monitoring his treatment and recovery. Mr. Wilcox stated that the Board would be perfectly justified in permanently revoking Dr. Brumfield's certificate to practice and, in fact, should do so. Mr. Wilcox noted that Dr. Brumfield has gone to great lengths in the past to flat out deceive and lie to the Board regarding his prior drug abuse.

Mr. Wilcox continued that, should the Board see fit to allow Dr. Brumfield to continue to work for reinstatement of his license, he would strongly urge that the Board order Dr. Brumfield to random urine screens at least three times a week, and not twice as in the Proposed Order. Mr. Wilcox commented that it is his understanding that cocaine stays in the system for up to 48 hours. He doesn't think that two tests weekly are sufficient.

Mr. Wilcox stated that he knows that the Board has a tendency to want to work with impaired physicians, but Dr. Brumfield should be put on notice that if he gets one more shot, it will be his last opportunity to work with the Board. Mr. Wilcox also spoke against reducing the proposed suspension in any way.

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

Dr. Davidson stated that, before she entertains general discussion, she would like to direct the Board's attention to a motion filed by Mr. Wilcox. She noted that Mr. Wilcox has requested that the Board ratify the determination of the Secretary and Supervising Member that there was clear and convincing evidence that Dr. Brumfield had violated the terms of his consent agreement and, therefore, his continued practice of medicine constituted a danger of immediate and serious harm to the public, as provided in the consent agreement. She referred the Board to Mr. Wilcox' motion in their agenda materials, and allowed them time to consider the motion.

**DR. STEINBERGH MOVED TO AMEND THE FINDINGS OF FACT BY ADDING FINDINGS THAT:**

**1. THE SECRETARY AND SUPERVISING MEMBER, AT THE TIME THEY MADE THE**

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**RECOMMENDATION TO SUMMARILY SUSPEND THE LICENSE OF DR. BRUMFIELD, HAD CLEAR AND CONVINCING EVIDENCE THAT DR. BRUMFIELD HAD VIOLATED THE TERMS OF HIS CONSENT AGREEMENT, AND,**

- 2. THEREFORE, HIS CONTINUED PRACTICE OF MEDICINE CONSTITUTED A DANGER OF IMMEDIATE AND SERIOUS HARM TO THE PUBLIC, AS PROVIDED IN THE CONSENT AGREEMENT.**

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

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

The motion carried.

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

Dr. Steinbergh stated that Dr. Brumfield has a long history with this Board, with multiple relapses. She noted that the Report and Recommendation permanently revokes Dr. Brumfield's license, stays the revocation, and imposes a minimum two-year suspension. It includes monitoring conditions, should Dr. Brumfield come back, and a probationary period of five years.

Dr. Steinbergh stated that she would certainly not be in favor of reducing the suspension period. She added that, if the Board wants Dr. Brumfield to return to practice at some point, it has to be very severe this time. He has to be out of practice for several years, and he has to want to come back into practice. He must demonstrate his sobriety for several years. She stated that she is interested in hearing what other Board members have to say, but she again stated that she is not in favor of reducing suspension time, but would recommend increasing the period of suspension and requiring Dr. Brumfield to demonstrate his competency before he returns to practice. She stated that the Proposed Order requires Dr. Brumfield to pass the SPEX for reinstatement if he is out of practice for more than two years. She commented that she believes that the Board should require Dr. Brumfield to take the SPEX, regardless of how long he is out of practice.

Dr. Steinbergh continued that, as far as urine screens, she is not opposed to requiring Dr. Brumfield to submit three samples a week for testing. She noted that, otherwise, the Proposed Order is a basic order for

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chemically dependent physicians. Dr. Steinbergh stated that this is not the time to be lenient with Dr. Brumfield. If the Board is not tough this time, he won't succeed.

Dr. Buchan stated that this is very difficult. He feels badly for Dr. Brumfield. The Board gave him an opportunity and, obviously, he wasn't able to capitalize on that opportunity. He noted that Dr. Brumfield deceived the Board members, his colleagues, his community, his medical director and his hospital. Dr. Buchan stated that it is his sense that Dr. Brumfield's issue is more significant than the maintenance of his medical license; it's one of survival, as a man, as a father, and as a husband. Dr. Buchan stated that he was moving more towards simplifying Dr. Brumfield's life and letting him focus on what's really important to him. Dr. Buchan stated that he just doesn't believe Dr. Brumfield any more. He added that he was moving more toward revocation. He feels that it's time for Dr. Brumfield to simplify and get on with the matters that are more important. Dr. Buchan stated that he can't believe that Dr. Brumfield is going to come back to the Board in any kind of rehabilitative form. Dr. Buchan stated that this may be the death sentence for his medical career, but if Dr. Brumfield has a heart for service, he'll move into a different area of service, but not as a physician.

Dr. Buchan commented that he wants to hear what other Board members felt. He again stated that he's not interested in leniency at this point. His posture coming to the Board meeting today was one for revocation.

Dr. Kumar stated that he's not for leniency at all in this case. Actually, he's troubled by the fact of how Dr. Brumfield deceived the Board in the past. He thinks that needs to be brought home. When Dr. Brumfield relapsed before, he gave the Board a cute story about inhaling his nebulizer for respiratory problems, and the nebulizer was where he used to store the cocaine. He went to the extent of sending the nebulizer for an examination by a lab to prove that there was cocaine in it. Dr. Kumar stated that going to the extent of coming up with such a story tells him that there's more involved than simply lying. Dr. Kumar stated that that really troubles him, and he has a real problem with this case for that reason. Dr. Kumar stated that he is more in favor of a permanent revocation. He added that he knows that the Board should give people a chance, but he noted that Dr. Brumfield deceived the Board, and he also may have deceived his own counsel and family members. Dr. Kumar stated that he's worried about the way Dr. Brumfield took that particular type of action instead of simply saying that he relapsed.

Dr. Varyani stated that he agrees with Dr. Kumar, but he believes that someone who is chemically dependent should get one final chance. Dr. Varyani stated that, for that reason, he leans towards Dr. Steinbergh's suggestion.

Dr. Steinbergh stated that she suggested something different from Dr. Buchan. She noted that Dr. Buchan and Dr. Kumar both suggested revocation.

Dr. Varyani stated that he is in favor of a longer suspension. He does not believe the Board should be lenient, but he wants to give Dr. Brumfield one last chance.

Dr. Saxena stated that she's also in favor of giving Dr. Brumfield a last chance.

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Dr. Davidson stated that she would speak in favor of Dr. Buchan's motion. She understands him to be in favor of revocation, as opposed to permanent revocation. This would put the ball in Dr. Brumfield's court, as far as getting his life back in order. He would be asked to save himself, to concentrate on his sobriety. He would not be a licensed a physician, but could reapply some day down the line. Dr. Davidson stated that the Board had Dr. Brumfield in the Board's best recovery program and Dr. Brumfield lied and fooled the Board members. She stated that this was the best treatment and monitoring the Board could give him. She added that she thinks of the people who submitted affidavits on Dr. Brumfield's behalf, believing he was in recovery. Dr. Davidson stated that she has learned a lot in this case, and that is to trust, but verify. Cocaine is a very, very addictive drug. She acknowledged Dr. Buchan's comments that Dr. Brumfield is now fighting for his life. She stated that she doesn't think that Dr. Brumfield needs to worry about the Board and his medical license right now. Dr. Davidson spoke in support of revocation.

Dr. Kumar stated that he earlier suggested "permanent revocation," but he meant to say "revocation."

Dr. Steinbergh asked Dr. Buchan whether he was suggesting "revocation" or "permanent revocation."

Dr. Buchan stated that he was speaking in favor of "revocation." Dr. Buchan stated that the ball is in Dr. Brumfield's court now. The Board did its best, and will continue to do its best for the citizens of the State. In this particular scenario, however, it's all up to Dr. Brumfield. Dr. Buchan added that his prayer would be that Dr. Brumfield succeed. He added that there is enough compassion around the table to wish that upon him, but now it's all up to Dr. Brumfield. He recommended that Dr. Brumfield get well and then maybe come back, should that be what he chooses to do.

**DR. BUCHAN MOVED MODIFY THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF REVOCATION. DR. KUMAR SECONDED THE MOTION.**

Mr. Browning stated that he understands the intentionality of deceit in this and why that's a difference. He doesn't fundamentally understand the difference between this case and a host of cases the Board has had where people have relapsed multiple times. The Board has gone the third round, which is usually the last and final round. Mr. Browning stated that it is his sense that this is a person with a serious problem, and it's reasonable to revoke. He wouldn't be in favor of revoking permanently. He added that Dr. Steinbergh made a good point about the length of time, and suggested that, if the Board does do something short of revocation, he would be for a suspension period of two years and a month, which would require Dr. Brumfield to take the SPEX. Mr. Browning added that he has questions about Dr. Brumfield's ability to pass the SPEX.

Dr. Steinbergh stated that she was considering a suspension longer than that.

Mr. Browning stated that the point is that two years and a day and he'd have to take the SPEX.

Dr. Steinbergh stated that she doesn't think recovery will happen in two years, and she doesn't think a two-

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year suspension is sufficient in this case. This proposed amendment puts the onus on Dr. Brumfield now. If Dr. Brumfield's license is revoked, the Board has no authority to monitor. If he ever decides to come back, he will have to provide to the Board documentation of years of monitoring and doing what he needs to do.

Dr. Buchan stated that Mr. Browning has a point in the Board's being consistent with its actions, but he noted that this is just several months after a previous Board Order. He believes there is fundamentally enough difference in this case, and he's interested in Dr. Brumfield's success.

Dr. Steinbergh stated that she thinks that she does believe that the Board needs to encourage chemically dependent physicians to be healed, but the amount of deception in this case concerned her. This is a case different from the others. There has been tremendous deception to the Board in this case. Dr. Steinbergh stated that she's in agreement with Dr. Buchan's evaluation and his approach.

Dr. Kumar stated that the only difference he sees between a revocation and the current Proposed Order is that Dr. Brumfield would be monitored by the Board and the Board would have to spend its resources to do so.

Dr. Steinbergh agreed, and stated that with a revocation, the Board wouldn't have to do that.

Dr. Kumar stated that there has to be some increased penalty for the way the deception occurred, and that is his concern. With a revocation he will have to get himself clean and come back and prove it to the Board. At the time he reapplies, the Board could impose monitoring conditions.

Dr. Talmage left the room during the previous discussion.

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

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF DANIEL HOWARD BRUMFIELD, M.D. DR. VARYANI SECONDED THE MOTION.** A vote was

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taken:

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

The motion carried.

#### FINDINGS, ORDERS AND JOURNAL ENTRIES

##### SAMMY ANNA GREENSPAN, M.D.

Dr. Davidson advised that, by letter of May 2, 2005, the Board notified Dr. Greenspan that, due to the fact that Dr. Greenspan has not engaged in the active practice of medicine for more than two years, it proposed to approve her application for restoration of her certificate to practice medicine and surgery provided that she take and pass the Special Purpose Examination (SPEX) or specialty board recertification examination. Said notice was mailed via certified mail, return receipt requested, to Dr. Greenspan's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. However, no hearing request has been received from Dr. Greenspan and more than 30 days have elapsed since the mailing of that notice. This matter was presented to the Board for final disposition.

Dr. Davidson advised that, as this was a licensure matter, both the Secretary and Supervising Member may participate in the discussion and vote.

**DR. STEINBERGH MOVED TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, GRANTING DR. GREENSPAN'S REQUEST FOR RESTORATION OF HER CERTIFICATE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO HER PASSING THE SPEX OR HER BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF MAY 2, 2005, THE DATE OF THE BOARD'S NOTICE. DR. KUMAR SECONDED THE MOTION.**

Dr. Steinbergh stated that, based on the record, the Order is appropriate. Dr. Greenspan was offered the option of requesting a hearing and chose not to do so. Dr. Steinbergh added that Dr. Greenspan has not practiced medicine for two years, and, therefore, the SPEX or recertification examination requirement is appropriate.

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

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VOTE:

Mr. Albert	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

SHAGUFTA A. KHAN, M.D.

Dr. Davidson advised that, by letter of May 2, 2005, the Board notified Dr. Khan that, due to the fact that Dr. Khan has not engaged in the active practice of medicine for more than two years, it proposed to approve her application for restoration of her certificate to practice medicine and surgery provided that she take and pass the Special Purpose Examination (SPEX) or specialty board recertification examination. Said notice was mailed via certified mail, return receipt requested, to Dr. Khan's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. However, no hearing request has been received from Dr. Khan and more than 30 days have elapsed since the mailing of that notice. This matter was presented to the Board for final disposition.

Dr. Davidson advised that, as this was a licensure matter, both the Secretary and Supervising Member may participate in the discussion and vote.

**MR. ALBERT MOVED TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, GRANTING DR. KHAN'S REQUEST FOR RESTORATION OF HER CERTIFICATE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO HER PASSING THE SPEX OR HER BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF MAY 2, 2005, THE DATE OF THE BOARD'S NOTICE. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Steinbergh commented that, as she understands it, Dr. Khan did pass the SPEX on May 9, 2005.

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

VOTE:

Mr. Albert	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye

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Dr. Davidson - aye

The motion carried.

Dr. Talmage returned to the meeting at this time.

RICHARD ALAN WEISS, M.D.

Dr. Davidson advised that, by letter of April 13, 2005, the Board issued its Notice of Opportunity for Hearing to Richard Alan Weiss, M.D., based on a disciplinary action by the Division of Medical Quality of the Medical Board of California against Dr. Weiss' California medical license. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. However, no hearing request has been received from Dr. Weiss and more than 30 days have elapsed since the mailing of that notice. This matter was presented to the Board for final disposition.

Dr. Davidson asked whether any member of the Board wished to make a motion to enter a finding that there was reliable, probative and substantial evidence to support the allegations contained in the April 13, 2005 notice.

**MR. BROWNING MOVED TO FIND THAT THE SECRETARY AND SUPERVISING MEMBER HAD RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE APRIL 13, 2005 NOTICE OF OPPORTUNITY FOR HEARING. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Davidson asked whether any Board member wished to propose an order for adoption by the Board.

**DR. KUMAR MOVED TO ENTER AN ORDER OF REVOCATION OF DR. WEISS' LICENSE, EFFECTIVE IMMEDIATELY.**

Dr. Kumar stated that the facts are that the Board initially took an action against Dr. Weiss for lying on his

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renewal application. The action before the Board at this time involves an alleged minimal standards of care issue in California. Dr. Kumar stated that, as he reviews the California record, he does find that there were significant problems with the way Dr. Weiss handled cases. He noted that Dr. Weiss appeared to be ineffective in follow-up care. At this time the Board doesn't know the exact details. Dr. Weiss has not asked for a hearing. A revocation, rather than a permanent revocation, is appropriate at this time.

Dr. Steinbergh stated that Dr. Weiss' license is currently suspended, pursuant to the Board's Order of October 13, 2004. The April 13, 2005 citation was a bootstrap of a California action. She asked whether it would be appropriate to just continue the current suspension.

Ms. Jacobs explained that Dr. Weiss had two separate actions. The October 2004 action was based on a California action. Subsequently, he had a second action in California. What is before the Board at this time is a bootstrap of the second California action.

Dr. Steinbergh asked whether the second California action was totally different from the first.

Mr. Woodbeck explained that the April 2004 action was based on the fact that Dr. Weiss lied on his Ohio renewal application regarding the fact that there had been accusations filed in California.

Dr. Steinbergh asked whether the Board considered the findings of the California Board in October.

Dr. Kumar stated that it did not. He added that the minutes of that Board meeting were very clear. Comments made went to Dr. Weiss' lying on his application. The Board didn't know what the California Board would do about its investigation, and it didn't have any information on exactly what the issues were in California. The only information the Board had was that an action had been initiated. Now Dr. Weiss is before this Board for a different reason, a minimal standards issue. Dr. Kumar stated that California found significant minimal standard violations, and he agrees with their findings. Since Dr. Weiss did not request a hearing, a revocation is appropriate.

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

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

The motion carried.

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CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSIONJABIR KAMAL AKHTAR, M.D. – CITATION LETTER

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

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

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

The motion carried.

MARK ANDREW BANKS, 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.

**MR. BROWNING MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF MARK ANDREW BANKS, M.D., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

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Dr. Davidson - aye

The motion carried.

PHILIP L. CREPS, 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. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. CREPS. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

KEVIN DALE MCKEE, 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. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. MCKEE. DR. SAXENA SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

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

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

The motion carried.

AMY JANE CHAHO, 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. CHAHO. DR. SAXENA SECONDED THE MOTION. A vote was taken:**

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

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Dr. Davidson - aye

The motion carried.

ROBERT STANLEY COLEMAN, JR., M.D. – CITATION LETTER

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

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

VOTE:	Mr. Albert	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

JANICE ELECTA GREEN DOUGLAS, 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. SAXENA MOVED TO SEND THE CITATION LETTER TO DR. DOUGLAS. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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ROBERT MARTIN STANG, 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. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. STANG.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

GREGORY MICHAEL THOMAS, M.D. – CITATION LETTER

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

Dr. Talmage stated that he had a conflict of interest in this case and could not serve as Secretary. He advised that Dr. Davidson served as Acting Secretary.

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

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

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The motion carried.

RATIFICATION OF CONSENT AGREEMENTS

JASON VICTOR CHURCH, M.D.

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

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

The motion carried.

CAROL DOMER, C.T.

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

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

The motion carried.

NIKOLAI VASIL PIDHORODECKYJ, M.D.

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



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Dr. Steinbergh - aye  
Dr. Davidson - aye

The motion carried.

BRUCE JEFFREY MERKIN, M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. MERKIN. DR. SAXENA SECONDED THE MOTION.**

Dr. Steinbergh stated that this case involves a physician with multiple relapses in actions in other states. The proposed consent agreement grants him a license and places him on probation for a minimum of five years.

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

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

The motion carried.

JOHN RUSSELL OGDEN, M.D.

Dr. Steinbergh stated that she has questions about this case. She noted that this is a resident physician who's been evaluated for impairment. It's been determined that this physician is not chemically impaired, but he's used drugs experimentally. She stated that she believes his behavior has been very unprofessional, and she has tremendous concerns about this particular consent agreement. Dr. Steinbergh commented that the agreement calls for a suspension of 180 days and requires him to take a prescribing course. She stated that she thinks he ought to be required to take a course in professional ethics or professionalism. He should also be required to take a course on keeping medical records. Dr. Steinbergh stated that this physician hasn't learned in his education that if you're going to prescribe for others, you need to keep a medical record. He's guilty of a lot of different things in here. He prescribed for other people, experimented with drugs. Even though he's been assessed as not being impaired himself, she thinks that this individual is a very high risk.

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Dr. Steinbergh stated that she doesn't think that the Board has to do anything immediately since he's not been deemed as being chemically dependent. She added that she thinks that the Board needs to be a little bit tougher in its consent agreement right now and make a stand on this young person. The Board may, in fact, be saving him at some point.

Ms. Marshall advised that the agreement the Board has is the agreement that the Board must consider at this time.

Dr. Davidson commented that the window is closing before this individual is eligible to apply for a full license.

Dr. Steinbergh asked whether Dr. Ogden is starting his fourth year.

Ms. Marshall stated that she's been told that he is a fourth-year neurosurgery resident.

Dr. Steinbergh asked whether he will be applying for a license in a month.

Ms. Marshall stated that, to her knowledge, he has not made an application for a license.

Dr. Steinbergh stated that if Dr. Ogden hasn't been assessed as being chemically dependent, she doesn't see the problem with tabling this for a month and drawing up a new consent agreement, if other members of the Board agrees with her.

Dr. Davidson stated that Dr. Ogden may not go for it.

Dr. Varyani commented that Dr. Ogden admits to having used marijuana a few times.

Dr. Steinbergh stated that he has some significant problems here. She stated that, if anything, the addition of a couple of courses will help this physician survive. She's concerned that Dr. Ogden doesn't get it.

Dr. Davidson commented that Dr. Ogden might argue that these were instructions that he didn't get in his residency when he made these infractions early on, but that he hopefully got as he progressed in his residency.

Dr. Steinbergh stated that she just sees this case as being a little different, and she personally doesn't like it. She stated that she thinks that Dr. Ogden is a risk.

Dr. Davidson agreed.

Dr. Steinbergh stated that her suggestion won't make it so much tougher for Dr. Ogden. It will just expose him to the other courses and maybe drive it home to him. A simple prescribing course isn't going to do it for Dr. Ogden.

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Dr. Davidson indicated that she, as president, had to make the call on this consent agreement, and she felt that this one made a lot of sense to go with, given the information the Board had.

Dr. Steinbergh asked whether those who negotiated the agreement thought to propose adding other courses.

Ms. Gilbert cautioned the Board against discussing negotiations. She stated that the Board must make its decision based upon the consent agreement before it. If the Board chooses to reject this Consent Agreement, staff can go back and discuss further terms.

Dr. Saxena noted that the program director will be sending the Board quarterly statements of Dr. Ogden's progress.

Dr. Steinbergh stated that she doesn't disagree with anything in the consent agreement, but she think that he needs a bit more education.

Mr. Browning stated that it seems that the fundamentals are in place. He added that Dr. Steinbergh has a good idea, but the Board can't offer it right now, so the Board should vote on what is before it.

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

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

The motion carried.

KENT ROBINSON, M.D.

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

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

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Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

GARY W. WALTZ, M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. WALTZ. DR. BUCHAN SECONDED THE MOTION.**

A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

PATRICK CONRAD WINANS, M.D.

**DR. STEINBERGH MOVED TO ACCEPT DR. WINANS' VOLUNTARY RETIREMENT FROM THE PRACTICE OF MEDICINE AND SURGERY. DR. SAXENA SECONDED THE MOTION.**

A vote was taken:

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

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The motion carried.

GRADY B. CAMPBELL, M.D.

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. CAMPBELL. DR. BUCHAN SECONDED THE MOTION.**

Dr. Steinbergh stated that this was also a case of a very unprofessional action by this physician, who purposely mislabeled chest x-rays in order to make it appear that he understood what he was doing. He intentionally mislabeled them and possibly delayed diagnosis of a metastatic lung cancer case. The Agreement suspends Dr. Campbell's license for a definite period of 90 days, requires him to complete community service, and to complete a course dealing with professional, personal ethics.

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

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

The motion carried.

RICHARD GRAHAM DAY, M.D.

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

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

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The motion carried.

PERSONAL APPEARANCES

RAMACHANDRA K. PUDUPAKKAM, M.D.

Dr. Pudupakkam appeared before the Board pursuant to his request for release from the terms of the Board's Order of October 9, 1996.

In response to Dr. Davidson's questions, Dr. Pudupakkam stated that he is doing very well.

In response to Dr. Steinbergh's questions, Dr. Pudupakkam stated that he has learned his lesson to watch the economic part of his medical practice, and not just the patient part. Regular audits done through the hospital have also been a great help to him. Mistakes found were pointed out and he immediately made corrections. He has learned a lot. It has been a good experience for him, and he thinks he's learned a lot about how to be responsible, not just for patient care, but also for the financial part of his practice.

In response to further questions by Dr. Steinbergh, Dr. Pudupakkam stated that he is very happy where he is now, employed at St. Mary's hospital. He stated that they have been very kind, helpful and cooperative. He will continue to practice medicine the way he has been doing.

**DR. STEINBERGH MOVED TO RELEASE DR. PUDUPAKKAM FROM THE TERMS OF THE BOARD'S ORDER OF OCTOBER 9, 1996. DR. SAXENA SECONDED THE MOTION.**

Dr. Kumar stated that Dr. Pudupakkam commented that he is paying more attention to billing. He stated that the previous issue was that he was billing for services that he never performed.

Dr. Pudupakkam stated that the documentation of what he has been doing is also being supervised by the hospital. Tests ordered have been documented. He stated that documentation was the problem he ran into before. Dr. Pudupakkam stated that he has learned his lesson to document the procedures he performs and to code them appropriately.

Mr. Browning stated that Dr. Pudupakkam was convicted of a felony for knowingly making, causing be made false, fictitious and fraudulent statements. He stated that this is a huge problem, costing the taxpayers of this state millions of dollars in Medicaid fraud. It's really important that Dr. Pudupakkam understands this. He can't do that.

Dr. Pudupakkam stated that it was not done knowingly. He didn't want to go to trial against the facts, so he had to plead guilty. That, of course, did cause him to lose his license. Dr. Pudupakkam stated that he understands the ramifications of that particular problem. He's learned his lesson and it will never happen again.

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

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

The motion carried.

ROBERT A. BERKMAN, M.D.

Dr. Berkman made his initial appearance before the Board, pursuant to the terms of the Board's Order of July 14, 2004.

In response to Dr. Kumar's questions, Dr. Berkman stated that he is doing well. He isn't currently practicing. Dr. Berkman stated that he now realizes that the information he was given at the time he entered into the drug company's scheme was wrong. Unfortunately, as he was advised by the Federal Prosecutor, there was nothing at the time that he could have read that would advise him of the problem. The information was published in March, a year and a half ago. Dr. Berkman stated that that doesn't obviate the problem. He understands the problem and accepts it, but, unfortunately, it's a very significant problem. It's been an overwhelming problem for him as an individual, and it has obviously affected thousands of his colleagues also.

Dr. Kumar stated that he understands the drug company's stance at the time of the incident, but he questioned how Dr. Berkman could not recognize that those were free samples for which he shouldn't charge.

Dr. Berkman stated that he truly believed that he had a written contract with the pharmaceutical company. There was a comment that came up at the Board level that he had placed labels on the material. Dr. Berkman stated that he never placed labels on the material. These were corporate labels trademarked with the logo of AstraZeneca that they put on their product to prove to him that it was billable material. That's why the Federal judge sent the Board a personal letter stating that he felt that the culprit was the pharmaceutical company and the representatives. Dr. Berkman stated that that doesn't absolve him of accepting what was presented as part of their marketing scheme. He stated that he did that, and he accepts responsibility for that. Dr. Berkman stated that the information was only transmitted to himself and to his urological colleagues from the American Urological Association in March 2003, which came out as a result of a letter of guidance that came to the pharmaceutical industry from the OIG, advising the

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pharmaceutical industry that discounts given to physicians, pharmacies and hospitals, must be given in terms of price and not product. What was offered to him, historically, was a discount in terms of product. That's what they did nationally. Dr. Berkman stated that, unfortunately, he was wrong, and he's accepted responsibility for that. He's learned that one must not believe everything one is told..

In response to Dr. Davidson's questions, Dr. Berkman stated that he has been reinstated, but he is not practicing. The problem is that his insurance company massively raised his rates because of this incident, even though they had not had one paid claim. That was the reason they did it. Unfortunately, when he went to the hospital where he primarily practiced, his privileges had been rescinded on the basis that they felt that, even though the evidence was presented to the contrary, and the Federal judge also sent them a personal letter, that he had placed stickers on the product. Dr. Berkman stated that he states under oath that he never placed one sticker on the product. The sales representatives did that.

Dr. Steinbergh asked whether a member of Dr. Berkman's staff placed the stickers.

Dr. Berkman replied that the pharmaceutical representative, unbeknownst to him, went to his staff and told them to put stickers on. He did it with them. Dr. Berkman added that, had he been aware of that, he would never have permitted it. He was personally accused of putting stickers on the samples. He was not aware that his staff did it until he was advised by the federal investigators afterwards. They did not consider that an issue.

In response to Mr. Browning's questions, Dr. Berkman stated that he is effectively out of practice. He hopes that that is not permanent. He still teaches, and he's been asked to give grand rounds at the University. He does that intermittently. Dr. Berkman stated that he would love to return to practice, he enjoyed practicing, it was his life. It's not an economically tenable position right now.

Dr. Kumar commented that the state has a fund that was developed for physicians who have difficulty in getting malpractice insurance.

Dr. Berkman questioned whether the state has such a fund.

Dr. Kumar stated that he understands that there was some provision created for that purpose. He suggested that Dr. Berkman look into that.

Dr. Varyani stated that he believes that was an idea, but he doesn't believe that it's been developed yet. No one has funded it.

**DR. STEINBERGH MOVED TO CONTINUE DR. BERKMAN UNDER THE TERMS OF THE BOARD'S ORDER OF JULY 14, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.**

Mr. Albert asked Dr. Kumar to explain about the special fund.

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Dr. Kumar stated that the money that was sitting in the Joint Underwriters Account was moved over into a new account that was to be possibly utilized to help physicians who can't find insurance.

Mr. Albert stated that he hadn't heard of that. He added that every month the Board runs into doctors who are unable to get insurance, or will have to pay a lot of money for it.

Dr. Berkman stated that it's really an incomprehensible amount in terms of attempting to secure it. By the time he's done, to initiate practice again would probably run close to a quarter of a million dollars. That's the problem. It's not a function of lack of desire, it's a function of the realities of life.

Mr. Albert stated that that's awful high. He added that he has talked with a lot of doctors who have had their premiums increased, and they've never been that high.

Dr. Berkman stated the issue is that, to start practice again, would require that he secure tail insurance, that had previously been given to him for free because he had had an excellent record with the company. To go back would cost him \$75,000. If he was in practice, and his health and ability continued, he would have hoped to have practiced through age 70. The problem is that he would then have to secure tail insurance again, not to mention the increased costs that would accrue on a yearly basis as a result of the problem that he had. It makes it economically untenable, unfortunately.

Dr. Berkman stated that the issues of the practice of medicine were truly never economic for him. He was the only physician as a urologist to maintain privileges at OSU East after every other urologist left. He did it because he enjoyed the practice of medicine, he loved it. It was never an economic issue to him. He's lost all of that.

Mr. Albert asked whether the hospital could take Dr. Berkman on under its policy.

Dr. Berkman stated that it could, if it so chose, but it's very difficult for the hospital to be able to do it when another hospital, for whatever reason, terminated and eliminated his privileges.

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

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

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The motion carried.

STEPHEN R. GIORDANO, D.O.

Dr. Giordano made his initial appearance before the Board, pursuant to the terms of his June 8, 2005 Consent Agreement.

In response to Dr. Davidson's questions, Dr. Giordano stated that he's doing very well. He's back to work, in an internal medicine residency in Cleveland. It's going very well. He was out of practice for about nine months, and that was hard.

Dr. Steinbergh noted that Dr. Giordano has changed from an anesthesia specialty to internal medicine. She asked Dr. Giordano to tell the Board about his recovery.

Dr. Giordano stated that it's going very well. He attends three meetings a week, does his urine screens, he has a very strong network, and he's actually enjoying his recovery. He has no problem. He also has good family support. Dr. Giordano stated that he's very thankful to be back in practice; it was tough being off.

Dr. Steinbergh asked whether Dr. Giordano is feeling healthy.

Dr. Giordano stated that he is. He added that it's been stressful being off and then starting back up and going into internal medicine after anesthesia, but things are progressing very smoothly. It's like riding a bike, he picked it back up pretty quickly. Dr. Giordano added that he thinks that the program is happy with his progress. He's enjoying it.

Dr. Kumar stated that the Board doesn't want him to pick up the bike if he's taking Fentanyl again.

Dr. Giordano stated that he's not around that anymore, fortunately. He stated that he thinks that that's one of the reasons that the Board was adamant that he leave anesthesia, and he's thankful for that.

Dr. Giordano stated that, initially, to be honest, he wasn't happy with that. He wanted to try to get back into anesthesia; but now, after a period of time of seeing what happens to people, he's seen many friends who have gone back and been around the drug and have relapsed. The impact of that is so significant that, after seeing it happen so many times, he didn't want to be back in that position again. It probably took six, seven months, but after that time he accepted it and felt that it was the best decision. He's thankful to the Board, because he doesn't think that he would have willingly done that initially.

Dr. Steinbergh commented that it won't be just Fentanyl.

Dr. Giordano stated that he understands that.

Dr. Davidson asked whether Dr. Giordano is able to share and be open with his peers.

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Dr. Giordano stated that he attends Caduceus meetings, and they're very helpful. A lot of physicians in his group also went through the 28-day program with him. They meet before the Caduceus meeting, they're pretty close. They've stuck together and helped each other through it. As far as his residency, he hasn't chosen to open up to everybody in the program. His program director knows, as does some of the other staff. He thinks that his chief resident knows that something has happened in his past, and he told his chief that he would discuss the matter in time. Dr. Giordano commented that he was given the day off to meet with the Board, and the chief resident didn't ask a lot of questions about it, but wished him luck.

Dr. Giordano stated that he thinks he fell into a pretty good place. It's a perfect environment, a perfect sized hospital with the right amount of compassion and not a lot of malignancy. He feels that he has been very fortunate.

Dr. Buchan noted that Dr. Giordano indicated that it was tough to be off for those nine months. He asked whether it was tougher before that. He stated that the reality is that this is a huge life change for Dr. Giordano.

Dr. Giordano stated that at the time there were a lot of things going on in his life. He tries not to sit around and think about why it happened. At first he tried to come up with excuses as to why it happened, but now he thinks it's better to accept the fact that it was in him, it happened, it needed to be dealt with. He's glad that it was dealt with. The repercussions could have been worse, and they could have been better; but he's back on the right track. That's as far as he thinks about it now. He doesn't try to figure out whether he was unhappy with his job, with Cleveland or whatever. It happened, and it's that simple. If he tries to think it through and make it anymore complex than that, he's not going to come up with any better answer.

Dr. Buchan stated that he understands that, but he doesn't have any sympathy for Dr. Giordano's time out of practice. He added that it was necessary for Dr. Giordano.

Dr. Giordano agreed.

Dr. Steinbergh commented that Dr. Giordano needs to remember that it's a long process.

Dr. Giordano commented that it's a life-long process.

**DR. STEINBERGH MOVED TO CONTINUE DR. GIORDANO UNDER THE TERMS OF HIS CONSENT AGREEMENT OF JUNE 8, 2005, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

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Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye
Dr. Davidson	- aye

The motion carried.

LEROY P. RISE, M.D.

Dr. Rise made his initial appearance before the Board, pursuant to the terms of his April 13, 2005 Consent Agreement.

In response to Dr. Davidson's questions, Dr. Rise stated that he is doing well. He has been doing some research during the period of his license suspension.

In response to Dr. Steinbergh's questions, Dr. Rise stated that he is currently in Columbus. He stated that it's been a tough year, to say the least. It's also been a difficult past few months getting into recovery, realizing that there are some issues in his life with which he couldn't have dealt himself. Dr. Rise commented that he wishes that the problems could have been dealt with an easier way, but he does believe that he had to deal with them. A lot of it had to do with the psychiatric issues for which he is now being treated.

Dr. Rise continued that currently he is working in the orthopaedics department. Originally, he was part of the six-year research program anyway. He was scheduled to do his research after his third year, but he's been given the opportunity to complete it now, while his license is suspended. Dr. Rise stated that it's not ideal in that he wishes he had had some time to set it up and prepare for it, but it's going well. They've stood behind him 100%, and it's been quite a journey the last year. Dr. Rise enumerated the various research projects he is currently working on.

Dr. Kumar asked whether he has contact with patients in his research.

Dr. Rise stated that he only works on cadavers.

In response to further questions by Dr. Steinbergh, Dr. Rise explained that his day-to-day recovery involves he and his wife talking about what's been happening and how he's doing. It involves the typical outline: he goes to four meetings a week, aftercare, Caduceus, weekly urine screens. He also has a sponsor with whom he's working through the steps. He is currently at Step 2. Dr. Rise stated that the biggest thing is just being aware of what's been going on inside him and his life, and understanding the diagnosis of bipolar and understanding how that works and being able to see his moods change, and what's going on.

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Dr. Rise continued that he does see a psychiatrist, and is being medicated for his condition. He takes Lomitol, Wellbutrin and Lexapro.

**DR. STEINBERGH MOVED TO CONTINUE DR. RISE UNDER THE TERMS OF HIS CONSENT AGREEMENT OF APRIL 13, 2005, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

After a short break, the meeting reconvened with Dr. Buchan, Mr. Browning and Dr. Kumar out of the room.

#### LICENSURE, PROBATIONARY REPORTS AND PROBATIONARY REQUESTS

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

There were no requests to consider a matter separately.

**DR. SAXENA MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT "A", THE P.A. APPLICANTS LISTED IN EXHIBIT "B", AND THE P.A. UTILIZATION PLANS SUBMITTED BY THE FOLLOWING: CATHERINE HAYES, D.O.; KETTERING BARIATRICS; MENORAH PARK CENTER FOR SENIOR LIVING; NEPHROLOGY ASSOCIATES OF DAYTON; PASTOR MEDICAL GROUP, DOCTORS FOR ADULTS, INC.; NEWBURY FAMILY PRACTICE; CENTER FOR ADVANCED ORTHOPAEDICS; CLEVELAND CLINIC DEPT. OF PULMONARY & CRITICAL CARE MEDICINE; KATHERINE JOHNSON, M.D., INC.; SUSHI MEHROTRA, M.D.; AND VASCULAR &**

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**ENDOVASCULAR SPECIALISTS OF OHIO. DR. SAXENA FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH: MICHAEL TODD ADAMS, M.D.; MARK A. BANKS, M.D.; ROBERT M. BENSON, M.D.; DAVID T. BROCK, D.O.; SCOTT M. CAMPBELL, M.D.; KAREN A. CLEMENCY, M.D.; ROBERT R. DAIBER, M.D.; DAVID C. ERNST, M.D.; MARY JO FOOTE, P.A.; GEORGE V. HASSINK, M.D.; MARK S. HOPKIN, M.D.; JORDAN E. HOPKINS, M.D.; KANDHASAMY KANNAPIRAN, M.D.; ERIC W. LOTHES, M.D.; HARRY P. NGUYEN, M.D.; SHARADCHANDRA PATEL, M.D.; DALE PRATT HARRINGTON, D.O.; JAMES M. ROSSELIT, D.O.; MARC H. SCHWACHTER, M.D.; MARK E. SENIOR, D.O.; LEONARD K. SMITH, M.D.; SUZANNE M. SMITH, M.T.; MICHAEL J. STANEK, D.O.; MICHAEL CRAIG WARREN, D.O.; TAMARA D. WILLINGHAM, M.T.; AND GREGORY S. ZINNI, M.D. DR. SAXENA FURTHER MOVED TO ACCEPT THE RECOMMENDATIONS OF THE SECRETARY AND SUPERVISING MEMBER REGARDING REQUESTS MADE BY THE FOLLOWING PROBATIONERS: ASHOK V. PADHIAR, M.D.; MICHAEL J. VJECHA, M.D.; AND KELLI D. WAHL, M.T. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

#### PROBATIONARY REQUESTS

##### ANTHONY E. DANIACHEW, M.D.

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

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON MAY 17, 2005. DR. STEINBERGH FURTHER MOVED TO APPROVE DR. DANIACHEW'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO ONCE A YEAR, AND TO REDUCE DR. DANIACHEW'S PSYCHIATRIC AND COUNSELING SESSIONS TO ONCE A YEAR. DR. VARYANI SECONDED THE MOTION. A vote was taken:**

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

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

The motion carried.

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' REVISED PRACTICE PLAN THAT WOULD ALLOW HER TO PROVIDE PSYCHIATRIC SERVICES IN THE EMERGENCY ROOM AT ST. VINCENT CHARITY HOSPITAL, AS PART OF HER FELLOWSHIP PROGRAM. DR. SAXENA SECONDED THE MOTION.** A vote was taken:

VOTE: Mr. Albert - aye  
Dr. Talmage - aye  
Dr. Varyani - aye  
Dr. Saxena - aye  
Dr. Steinbergh - aye  
Dr. Davidson - aye

The motion carried.

JULIA RUFFIN, D.P.M.

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

**DR. STEINBERGH MOVED TO APPROVE JERRY L. TITKO, D.P.M., TO SERVE AS DR. RUFFIN'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED ON A MONTHLY BASIS. DR. SAXENA SECONDED THE MOTION.** A vote was taken:

VOTE: Mr. Albert - aye  
Dr. Talmage - aye  
Dr. Varyani - aye  
Dr. Saxena - aye  
Dr. Steinbergh - aye  
Dr. Davidson - aye

The motion carried.

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MARY MEI-LING YUN, M.D.

Dr. Yun's request for approval of a change in mental health professionals was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. YUN ON JUNE 6, 2005. DR. STEINBERGH FURTHER MOVED TO APPROVE DR. YUN'S REQUEST TO CHANGE HER MENTAL HEALTH PROFESSIONAL FROM CARLA M. FAISON, LPCC, TO ANNIE LANG, MSW, LCSW. DR. SAXENA SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

REINSTATEMENT REQUESTS

CHARLES B. BERTANI, D.O.

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

Dr. Steinbergh stated that she had questions about this course.

Dr. Kumar stated that he also had questions about the way this course was devised. He stated that he felt that Dr. Bertani's problems were different from the issues for which this course was designed.

Dr. Steinbergh stated that one of her concerns is that Dr. Levine, who prepared the course for Dr. Bertani, lists a number of articles he would have Dr. Bertani read, and which would earn Dr. Bertani 14 hours of credit; however, it is unclear to her how much face-to-face contact Dr. Levine will have with Dr. Bertani.

Ms. Jacobs stated that she could check with Dr. Levine to determine that.

Dr. Steinbergh stated that the program looks a little loose to her. The Board previously approved 16 hours of course work at CWRU, and Dr. Bertani now has 14 hours more to complete. She noted that Dr. Levine

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indicates that he would have Dr. Bertani read a number of documents, which he will then discuss with Dr. Levine in two-hour sessions. Dr. Steinbergh stated that it is unclear as to whether Dr. Levine is talking about more than one two-hour session, and how the discussion will be done; i.e., phone, e-mail, or in person.

Ms. Jacobs suggested that the Board could clarify Dr. Steinbergh's issues with Dr. Levine, and set in writing the type of evaluation the Board requires.

Dr. Steinbergh stated that four hours of face-to-face discussion of the reading materials would be appropriate.

Dr. Talmage stated that he was reading Dr. Levine's description to mean two one-hour sessions. He suggested that, when reviewing such courses, the Board should decide how much face-to-face time there actually should be. What the Board feels is sufficient time will vary from case to case, depending on the ethics violation and its degree.

Dr. Talmage questioned whether two hours to discuss this list of books is sufficient.

Dr. Steinbergh asked how much can be accomplished in two hours. She suggested that the Board require two two-hour face to face sessions or four one-hour face to face sessions. She added that there needs to be in-depth discussion, face to face. The Board needs a report from Dr. Levine that says that the physician has accomplished 14 hours of education, he understands it, and that Dr. Levine feels that Dr. Bertani is dealing appropriately with it.

Ms. Jacobs stated that she could follow up with Dr. Levine and get specific information on how he will structure the face-to-face time. She asked whether she could take that to the Secretary and Supervising Member for their approval.

**DR. STEINBERGH MOVED TO SEEK CLARIFICATION OF CASE WESTERN RESERVE UNIVERSITY'S (CWRU) PERSONAL ETHICS COURSE FOR PRESENTATION TO THE SECRETARY AND SUPERVISING MEMBER FOR APPROVAL AS PARTIAL FULFILLMENT OF THE REQUIREMENTS OF PARAGRAPH 3.B OF DR. BERTANI'S CONSENT AGREEMENT OF NOVEMBER 12, 2003. DR. TALMAGE SECONDED THE MOTION. A vote was taken:**

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

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Dr. Davidson - aye

The motion carried.

SAMUEL R. GOSS, D.P.M.

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

Dr. Kumar stated that he didn't feel the course prepared by Dr. Levine addresses the problems that brought Dr. Goss to the Board's attention. The course appears to address conflict resolution, while Dr. Goss was found guilty of committing fraud. Dr. Kumar stated that the courses he takes needs to address more than resolving conflicts.

Dr. Steinbergh referred to Dr. Levine's letter, wherein he advises that his course "would focus on professional integrity, honesty, and principles of professionalism." She noted that Dr. Goss also did a professional ethics course with Dr. Homenko. Dr. Steinbergh indicated that she feels that Dr. Levine's course is appropriate.

Dr. Kumar stated that he hadn't noticed the other course. He added that he's not really sure that Dr. Levine actually looked at what Dr. Goss did.

Dr. Steinbergh stated that Dr. Levine's letter indicates that he does understand what Dr. Goss' infraction was. Dr. Steinbergh advised that she believes Dr. Levine understands what Dr. Goss did, and there was a conflict that Dr. Goss had to resolve.

**DR. BUCHAN MOVED TO APPROVE THE PERSONAL ETHICS COURSE, PREPARED BY STEPHEN B. LEVINE, M.D., AS FULFILLING PARAGRAPH 4 OF THE BOARD'S ORDER OF AUGUST 13, 2003. DR. STEINBEGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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MICHAEL PAUL PARKER, M.D.

Dr. Parker's request for approval of three CWRU courses was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE THE FOLLOWING COURSES, OFFERED BY CWRU, AS FULFILLING PARAGRAPHS 2.B, 2.C., AND 2.D., OF THE BOARD'S ORDER OF OCTOBER 13, 2004: "INTENSIVE COURSE IN CONTROLLED SUBSTANCE MANAGEMENT," "INTENSIVE COURSE IN MEDICAL ETHICS AND PROFESSIONALISM," AND THE "INTENSIVE COURSE IN MEDICAL RECORD KEEPING WITH INDIVIDUAL PRECEPTORSHIPS." DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Steinbergh noted that one problem with the courses is that the agenda includes a presentation by Tom Dilling, as Executive Director of the Board. She stated that CWRU will have to be notified of the change in the Board's Director.

RUSSELL JAMES RAUS, D.P.M.

Dr. Raus' request for approval of an assessor was presented to the Board for consideration at this time.

Dr. Davidson stated that Dr. Nigro's CV concerned her, and she questioned approval of this physician as an assessor.

**DR. STEINBERGH MOVED TO TABLE DR. RAUS' REQUEST, AND TO ASK DR. RAUS TO PROPOSE SOMEONE ELSE AS HIS ASSESSING PHYSICIAN. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried..

Mr. Browning returned to the meeting at this time.

THOMAS R. PICKETT, P.A.

Dr. Picket's request for reinstatement of his physician assistant registration was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO REINSTATE MR. PICKETT'S REGISTRATION AS A PHYSICIAN ASSISTANT, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS, AS OUTLINED IN THE BOARD'S ORDER OF JANUARY 14, 2005. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

ABDULHASSIB RASLAN, M.D.

Dr. Raslan's request for reinstatement of his license to practice medicine and surgery was presented to the Board for consideration at this time.

**DR. KUMAR MOVED TO REINSTATE DR. RASLAN'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS OF THE BOARD'S ORDER OF NOVEMBER 12, 2003. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### LICENSURE

##### GREGORY SCOTT FOSTER, D.O.

Dr. Foster's request for endorsement of his National Boards was presented to the Board for consideration at this time.

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

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

The motion carried.

##### BRUCE JEFFREY MERKIN, M.D.

Dr. Merkin's request for endorsement of his National Boards was presented to the Board for consideration at this time.

**DR. SAXENA MOVED TO APPROVE DR. MERKIN'S REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED**

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**AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

ROBERT J. VAN KIRK, JR., M.D.

Dr. Van Kirk's request for endorsement of Steps 1, 2 and 3 of the U.S.M.L.E. was presented to the Board for consideration at this time.

**DR. BUCHAN MOVED TO APPROVE DR. VAN KIRK'S REQUEST 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. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye
	Dr. Davidson	- aye

The motion carried.

JUNE 2005 PMLEXIS RESULTS

At this time the Board reviewed the results of the June 2005 PMLexis.

**DR. BUCHAN MOVED TO APPROVE THE RESULTS OF THE JUNE 2005 PMLEXIS, AND TO**

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**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.**

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

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

The motion carried.

#### JUNE 2005 COSMETIC THERAPY EXAMINATION RESULTS

At this time the Board reviewed the results of the June 2005 cosmetic therapy examination.

**MR. BROWNING MOVED TO APPROVE THE RESULTS OF THE JUNE 2005 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.**

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

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

The motion carried.

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JUNE 2005 MASSAGE THERAPY EXAMINATION RESULTS

At this time the Board reviewed the results of the June 2005 massage therapy examination.

**MR. BROWNING MOVED TO APPROVE THE RESULTS OF THE JUNE 2005 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. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

FREIBERG ORTHOPEDIC GROUP – SUPPLEMENTAL P.A. UTILIZATION PLANS

Dr. Davidson advised that the Board previously tabled the above-captioned group's applications for their P.A.s to perform duties pending receipt of the group's approval to abide by the conditions set forth in consent agreements the Board entered into with the Cleveland Clinic Foundation Department of Orthopedics and with Michalski Orthopedic Center, Inc. Freiberg Orthopedic Group has agreed to those conditions.

**DR. STEINBERGH MOVED TO APPROVE FREIBERG ORTHOPEDIC GROUP'S REQUEST FOR ITS P.A.S TO PERFORM ASPIRATION OF THE KNEE, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 30 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 30 PROCEDURES TO DETERMINE COMPETENCY. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

Dr. Davidson suggested that the Board approve the other three requests in one motion.

**DR. STEINBERGH MOVED TO APPROVE FREIBERG ORTHOPEDIC GROUP'S REQUEST FOR 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 30 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 30 PROCEDURES TO DETERMINE COMPETENCY; INJECTIONS OF CORTICOSTEROID INTO THE KNEE JOINT, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 30 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 30 PROCEDURES TO DETERMINE COMPETENCY; AND INJECTIONS OF VISCOSUPPLEMENTATION INTO THE KNEE JOINT, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 30 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 30 PROCEDURES TO DETERMINE COMPETENCY. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

#### ADMINISTRATIVE REPORT

Mr. Whitehouse advised that the Medical Board was not included in the consolidation proposal in the State's budget, as passed by the House and Senate.

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Mr. Whitehouse also reported on the progress of the Board's reorganization plan. He noted that, by and large, things are going well, and it's been well received. He also reported on the plans for the Board's retreat in September. Mr. Whitehouse stated that Board and staff members are being asked to complete a form indicating what the Board does well, what improvements are needed, and adding any appropriate comments or suggestions. Mr. Whitehouse stated that he will provide the Board with further information about the retreat at the August meeting. Following the retreat, Mr. Whitehouse stated that he'll present the Board with a strategic plan for the future.

Mr. Browning commented that it would be helpful to the Board to know what Mr. Whitehouse and the staff think the answers are. He stated that the Board has spent a good amount of time talking with Mr. Whitehouse about these things during the last few months, and he did his 30-day report to the Board. The Board would like to know what really comes to the top as the most significant priorities out of that process. He added that he's not asking for a response to that question now, but would like the staff to think about it.

Mr. Whitehouse advised that there are a number of decisions the Board will need to make concerning its priorities and what its main philosophies will be. Does the Board want to focus more on remediation or punishment? He indicated that these are things that will need a lot of thought and discussion. He hopes to begin that at the retreat.

#### REPORTS OF ASSIGNED COMMITTEES

##### LICENSURE COMMITTEE

Dr. Davidson stated that the Committee reviewed the applications of a number of physicians.

##### Manoj Kapoor, M.D.

Dr. Davidson advised that Dr. Kapoor's request for endorsement of Steps 1, 2 and 3 of the U.S.M.L.E. was presented to the Committee for consideration. Dr. Kapoor did not finish all three steps of the U.S.M.L.E. within the seven-year, and he asked that the Board consider that he had good case for not doing so and that it grant him an extension to ten years. Dr. Davidson noted that Dr. Kapoor has fallen two months over the limit. He failed Step 3 twice and passed on his third attempt. He is in his third year of residency at this time. Dr. Davidson advised that the Committee recommends granting Dr. Kapoor a waiver of the seven-year requirement.

**DR. DAVIDSON MOVED TO APPROVE DR. KAPOOR'S REQUESTS FOR WAIVER OF THE SEVEN-YEAR RULE, AND FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

Paul Thodiyil, M.D.

Dr. Davidson advised that Dr. Thodiyil's request that the Board find equivalency in his prior training and experience to the 24 months of graduate medical education, through the second year training, required by statute was considered by the Committee. It was noted that Dr. Thodiyil has the following training in the United States: Fellowship in foregut surgery, at USC Medical Center from July 2002 through June 2003, and a fellowship in minimal invasive surgery, at University Health Center of Pittsburgh from June 2003 through December 2004. She reviewed Dr. Thodiyil's resume and advised that the Committee recommends that the Board find equivalency and grant Dr. Thodiyil a license.

Dr. Kumar stated that he doesn't have a problem with the equivalency issue, but he does have a concern that almost one year of Dr. Thodiyil's training in the United States was 100% research, with no clinical contact at all. He wants to make sure that this is clear. It may appear that he has almost 21 months of training in the United States, but he really doesn't.

Dr. Steinbergh agreed, but added that she doesn't think that the Committee was considering that training in finding an equivalency.

Dr. Talmage noted that Dr. Thodiyil has almost 26 months of clinical training.

Dr. Kumar stated that the clinical training he received in the United States is limited. The Board has to find equivalency in his training in the United Kingdom.

Dr. Davidson stated that the Board has found equivalency in Royal College fellowship in the past.

Dr. Varyani stated that at one of his first Board meetings, the Board considered the licensure application of a physician who was basically a research fellow, with 5% clinical training and 95% non-clinical, and the Board granted him a license based upon his Royal College background.

Dr. Buchan expressed concern that this is a shift of thinking for the Board. He noted that in the past,

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fellowships have not been considered as residencies or U.S. training.

Dr. Davidson stated that this is definitely a shifting sands type of thing. She added that Dr. Robbins, as Chair of the Licensure Committee will be working on this.

Dr. Buchan again stated that U.S. training as a resident is different from minimal invasive surgery training as a fellow. The statutes require U.S. residency training, PGY 1 through PGY 2. Dr. Buchan stated that he would speak against granting a license without understanding more clearly where the Board is heading with these cases. He suggested waiting until Dr. Robbins completes his research and reports to the Board before proceeding with equivalency questions and moving into uncharted territory. He noted that a fellowship could be observation status. He's had people in his office who have observed for six months at a time, and sometimes 18 months, and they've done nothing except observe. He stated that it's good for them to have that information and knowledge, but they are in no way prepared for a U.S. license or standard of care.

Dr. Davidson stated that the Board has also looked at whether a fellow has held a training certificate as evidence of actual clinical, hands-on experience.

Dr. Talmage commented that he's licensed in Pennsylvania.

Dr. Buchan stated that the individual has an unrestricted license in Pennsylvania. That doesn't fit Ohio's statute requirement. He also understands the Royal College certification, and he thinks that that is important. However, in the scope of things, he's asking for the Board to find equivalency to 24 months of training, and if the Board licenses him, it's based upon the notion that there is equivalent training. Dr. Buchan stated that he doesn't think, personally, that Dr. Thodiyil has it. Dr. Buchan stated that he would speak against licensing. He suggested that the Board might table this matter until such time as the Committee reviews the situation.

Dr. Varyani reminded the Board of another case from a couple of months ago when the Board granted a license to an individual at the Cleveland Clinic who didn't have any U.S. training. He commented that things change with time, and that he was only granted one year of equivalency when he came to the United States.

Dr. Steinbergh suggested tabling this matter and asking for a review of last year's Board decisions on equivalency issues. The Committee should compare the types of training for which equivalencies have been granted equivalency in the past, and Dr. Robbins should address this in his report to the Board. She suggested that the Board might need to focus on this and get it done. If this Board wants to change the process of licensing by equivalency, there should be a set standard. She added that if any member of the Board is familiar with the training in the U.K., maybe that individual should speak out about what he or she has observed to convince the Board that it is equivalent. She stated that at this time she doesn't know that the Board has that expertise.

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Dr. Kumar stated that one thing he would like to add is that he doesn't like finding equivalencies in fellowships or, particularly, research fellowships, because fellows really don't get any actual clinical training.

Dr. Steinbergh stated that the training has to be approved by the ACGME, and fellowships are not. This is not a slot, and that's what the Board's looking for. If the Board isn't going to look for that, it has to devise some criteria to allow the Board to compare equivalencies.

Dr. Kumar commented that fellows don't even get a training certificate.

Dr. Steinbergh agreed, and expressed concern that the Board is picking and choosing equivalencies on an emotional basis rather than on a basis where there are criteria.

Dr. Varyani agreed, and stated that, if the Board is going to grant equivalencies, the Committee should recommend standards.

**DR. KUMAR MOVED TO TABLE DR. THODIYIL'S APPLICATION. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

John Carmen Vitaliti, M.D.

Dr. Davidson stated that the Committee reviewed Dr. Vitaliti's application for licensure. Dr. Vitaliti has indicated that he has not been engaged in the active practice of medicine since 1999. It was noted that Dr. Vitaliti did keep up with CME since that time, that he passed the SPEX in 2002, and that he was recertified in internal medicine in 2005. Dr. Davidson stated that the Committee recommends granting Dr. Vitaliti a license.

**DR. BUCHAN MOVED TO APPROVE DR. VITALITI'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. KUMAR**

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

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

The motion carried.

William M. Wolery, D.P.M.

Dr. Davidson advised that Dr. Wolery's application for restoration of his Ohio license, which lapsed in 1998, was considered by the Committee. Dr. Davidson noted that Dr. Wolery hasn't practiced since May 1997, due to disability. A recent physical examination shows no physical problems that would prevent him from practicing podiatry at this time.

Dr. Davidson advised that Ms. Rieve and Ms. Gilbert have done research to find an examination comparable to the SPEX for Dr. Wolery, but they were unsuccessful. Ms. Gilbert has located an assessment program at the University of California, San Diego School of Medicine (PACE), but that program costs at least \$6,000. Ms. Rieve located several intensive surgical CME programs, but they lack the assessment component of the exam.

Dr. Davidson stated that the Committee recommends that the Board approve Dr. Wolery's application, subject to completion of the Intensive Surgical Program located in Tucker, Georgia.

Dr. Buchan stated that it's difficult to establish a sense of this. He advised that the Tucker program is highly specialized and highly surgically oriented. Dr. Buchan stated that he doesn't think that it fits what the Board needs in this case, adding that it's all PGY 3 level material. He stated that Dr. Wolery needs something that is more of a podiatric equivalent to the SPEX. Dr. Buchan suggested that the Board might ask Dr. Wolery to do a mini-residency at an established residency program, or undergo a preceptorship for three to six months. Either would make more sense than the Tucker program.

Dr. Steinbergh asked whether the PACE program is similar to CPEP.

Ms. Gilbert stated that it is.

Dr. Steinbergh stated that the PACE program would be appropriate. She added that cost should not be a

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factor when talking about a professional license. Dr. Steinbergh stated that something has to be done to assure the Board that Dr. Wolery can practice appropriately.

Dr. Buchan commented that the PACE program is a seven-day program. He added that he's unfamiliar with that program.

Dr. Steinbergh stated that PACE would then make recommendations for training. If they assess him, they would have to send him some place for training.

Dr. Buchan stated that he would assume that the Board would receive a report from PACE, and could then act upon that report.

Dr. Kumar commented that the seven-day PACE program would be shorter and, in the long-run, less expensive than a three-month miniresidency.

Dr. Buchan stated that three months might be excessive. He stated that he doesn't know what this physician's training is. He doesn't have any information as to how Dr. Wolery is coming into the equation.

Dr. Davidson stated that the dilemma is what does the Board do when PACE comes back with its recommendation.

Dr. Steinbergh stated that the Board would have to enter into a consent agreement to monitor him. If PACE finds that the physician is reasonably up to speed, they'll make a recommendation for a practice plan. Dr. Steinbergh stated that someone who has been out of practice that long can't just come back and practice.

Dr. Buchan asked Ms. Gilbert whether Dr. Wolery is amenable to some kind of personalized plan, a preceptorship of some sort.

Ms. Gilbert stated that what she recalls from speaking with Dr. Wolery and his attorney was very much the tone that the Board was treating Dr. Wolery differently than it treats other people. They can't believe that there's never been another podiatrist out there who's been out of practice. Ms. Gilbert advised that Dr. Wolery was very much in favor of getting this before the Board for the Board to consider what might be appropriate. They had discussed the concept of Dr. Wolery doing a miniresidency, but he would need a license to do that, so the Board is still looking at putting him under a consent agreement before the Board really knows whether or not there is an issue about his ability to practice.

Dr. Buchan stated that, at first glance, he would guess that the PACE evaluation is an equivalent review. It's a seven-day test that costs \$6,000. Dr. Buchan stated that neither of those factors bother him. He stated that it's probably an appropriate amount of time to test Dr. Wolery's baseline. Based upon the PACE report, the Board may have to make a decision.

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Dr. Buchan stated that he also thinks that for Dr. Wolery to go in with some guy and hang out for a six-week or three-month period of time, and get a letter of recommendation from the doctor reviewing him, doesn't seem unreasonable to also establish a baseline. Dr. Buchan again stated that he doesn't feel the Georgia program is appropriate in this case.

**DR. STEINBERGH MOVED TO APPROVE DR. WOLERY'S REQUEST FOR RESTORATION OF HIS LICENSE TO PRACTICE PODIATRIC MEDICINE AND SURGERY, SUBJECT TO HIS SUCCESSFUL COMPLETION OF THE PACE PROGRAM OR SUCCESSFUL COMPLETION OF A MINI-RESIDENCY OR PRECEPTORSHIP APPROVED IN ADVANCE BY THE BOARD. MR. ALBERT SECONDED THE MOTION.**

Dr. Buchan added that he would be happy to meet with Dr. Wolery to discuss his options, should Dr. Wolery so choose.

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

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

The motion carried.

Jessica Whitley, M.D.

Dr. Davidson advised that Dr. Whitley's requesting that the Board waive the seven-year requirement for passing all three parts of the U.S.M.L.E. She passed Part III three months after the deadline. After graduating from medical school, she delayed her residency for three years to have a baby and to receive her masters in public health. Dr. Whitley advised that she was also told that if she registered to take Part III within the seven years, she would be within the time deadlines.

Dr. Davidson stated that the Committee felt that Dr. Whitley has shown good cause for not completing the exam sequence within seven years, and recommends granting her a license.

**DR. STEINBERGH MOVED TO APPROVE DR. WHITLEY'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS**

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**BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS.  
MR. ALBERT SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Pradeep Manikoth Nambiar, M.D.

Dr. Davidson stated that Dr. Nambiar's application for endorsement licensure was considered by the Committee. Dr. Nambiar is a graduate of a non-LCGME approved school and has not completed any U.S. training. He's asking the Board to consider his previous training and experience as being equivalent to 24 months of approved graduate medical education through the second year level.

**DR. STEINBERGH MOVED TO TABLE THIS APPLICATION, PENDING A REPORT FROM  
THE LICENSURE COMMITTEE. DR. SAXENA SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

EDUCATION, PUBLIC RELATIONS & RISK MANAGEMENT COMMITTEE

Dr. Davidson stated that staff has found money in the budget to publish the Summer/Fall 2005 issue of *Your Report*, and it will shortly be sent to the printers. It will be placed on the Board's website prior to the mailing.

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Dr. Davidson at this time advised that she is looking for volunteers to experiment with following the agenda by laptop computer. Board members who agree will be provided with the hardware and software to use at a future meeting.

Drs. Kumar, Saxena, Talmage and Steinbergh volunteered to participate.

#### LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Browning referred to the written report, a copy of which shall be maintained in the exhibits section of this journal. He noted that there are P.A. bills in both the House and the Senate. He advised that staff will prepare a review of both bills for the Board.

Mr. Browning also referred the Board to S.B. 160, legislation to require instruction in cultural competency to qualify to obtain or renew a certificate of registration to practice medicine and surgery or osteopathic medicine and surgery. Mr. Browning added that he has heard reports that physicians don't have what they need in the way of cultural competence.

Dr. Talmage commented that the A.M.A. has also been looking at this issue.

Mr. Browning stated that the Legislature is out of session for the summer and will be back in August.

#### LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed two new schools' applications for certificates of good standing, and recommends that the Board approve both.

**DR. STEINBERGH MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO TEACH MASSAGE THERAPY TO MIAMI-JACOBS CAREER COLLEGE, SPRINGBORO, OHIO BRANCH, AND THE NATIONAL INSTITUTE OF MASSOTHERAPY. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

P.A. COMMITTEE

Dr. Talmage advised that the Committee previously reviewed and tabled two supplemental utilization plans. The Committee was provided with additional materials for them this month.

Center Urology Associates

Dr. Talmage stated that the group's request that its P.A.s be permitted to perform biofeedback was tabled due to the Committee's concern for how these devices would be used. Clarification was received, along with a request that the Board allow both vaginal and rectal probes because of the facts that these can be used in males and that there are certain circumstances where vaginal sensors could not be used in women who have had vaginal surgery. Dr. Talmage stated that the Committee is recommending approval as follows:

**DR. TALMAGE MOVED TO APPROVE CENTER UROLOGY ASSOCIATES' REQUESTS FOR ITS P.A.'S TO PERFORM BIOFEEDBACK USING S.R.S. TYPE DEVICES, IN AN OFFICE SETTING, UTILIZING 50% ONSITE AND 50% OFFSITE SUPERVISION, WITH THE P.A. OBSERVING AN R.N. PERFORM 10 PROCEDURES, AND ONLY UNDER A PRESCRIPTION BY THE PHYSICIAN. DR. KUMAR SECONDED THE MOTION.**

Dr. Talmage stated that the Committee is only approving the use of S.R.S. devices. There was considerable discussion that other devices involving catheterization and so on could also be considered biofeedback devices. That is out of the scope of what is requested, but it would set a precedent that the Board would not necessarily be aware of in subsequent deliberations.

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

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

The motion carried.

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Blanchard Valley Women's Care

Dr. Talmage stated that the Committee reviewed the above-captioned group's request that its P.A.s be permitted to perform endometrial aspiration biopsy. He noted that previously the group hadn't specified "aspiration" type biopsies, and they could have been curette-type biopsies. The recommendation was to approve with the amendment that the P.A. would be identified on the consent for the procedure as being the one performing the procedure.

Dr. Davidson commented that they didn't really describe the procedure at all. They had the complications listed, but no description.

Dr. Talmage stated that this is a very simple procedure with a slight risk. He noted that the Board has approved P.A.s to insert IUDs, and those are harder to put in than it is to do the biopsy requested.

**DR. TALMAGE MOVED TO APPROVE BLANCHARD VALLEY WOMEN'S CARE'S REQUEST FOR ITS P.A.S TO PERFORM ENDOMETRIAL ASPIRATION BIOPSY, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY, WITH THE PROVISIO THAT THE P.A. BE IDENTIFIED ON THE PATIENT CONSENT FORM AS THE INDIVIDUAL PERFORMING THE PROCEDURE. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MINIMAL STANDARDS OF CARE COMMITTEE

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

Dr. Kumar advised that the Board has been asked to comment on the Ohio Department of Health's (ODH) "Updated Recommendations for HIV, HCV and HBV Infected Healthcare Workers, 2005." Based on a

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motion by Dr. Talmage following discussion, the Committee recommends that the Board suggest to ODH that they look to CDC guidelines for recommendations regarding the issue of reimmunization or failed immunizations for HBV infected healthcare workers.

Dr. Davidson suggested that the Board also review its own rules in this regard.

Dr. Kumar stated that he will look at the Board's rules to see whether or not revisions are needed.

#### CONSENT AGREEMENT COMMITTEE

Dr. Saxena reported on the Committee's discussions of the items on its agenda, as detailed in the Committee's minutes, a copy of which shall be maintained in the exhibits section of this journal. She advised that the Committee listened to a presentation by Ms. Bickers and Ms. Jacobs on how the Board could streamline the process in considering probationary and reinstatement requests. The staff made two proposals for the Committee's consideration. The Committee is prepared to recommend that the Board approve one of the proposals. Further discussion is needed on the second.

**DR. STEINBERGH MOVED TO AUTHORIZE THE SECRETARY AND SUPERVISING MEMBER TO PROVISIONALLY APPROVE: THE NUMBER OF CHARTS TO BE REVIEWED AND THE FREQUENCY WITH WHICH SUCH REVIEW IS TO OCCUR; TREATING PSYCHIATRISTS; SUPERVISING PHYSICIANS; AND PRACTICE PLANS. AUTHORITIES GRANTED WILL BE PRESENTED TO THE FULL BOARD IN ITS CONSENT AGENDA. DR. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Saxena stated that the Committee also discussed whether or not the Board should require monitoring physicians to be Board Certified in their specialty. Currently, the Board does not require that, and the Committee recommends that the Board continue as it has.

Dr. Steinbergh stated that the Board will encourage Board Certification, but will not require it.

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

Thereupon at 5:18 p.m. the July 13, 2005 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on July 13, 2005, as approved on August 10, 2005.



Patricia J. Davidson, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

