

July 12, 2006

MINUTES

THE STATE MEDICAL BOARD OF OHIO

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

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, David P. Katko, Karen H. Mortland, Kathleen S. Peterson, William J. Schmidt, Angela Scott, Charles A. Woodbeck and Lynn Zondorak, Enforcement Attorneys; Sheryl L. Maxfield, Damion M. Clifford, Steven C. McGann and Barbara J. Pfeiffer, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant.

EXECUTIVE SESSION

MR. ALBERT MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONFER WITH THE ATTORNEY GENERAL'S REPRESENTATIVES ON MATTERS OF PENDING OR IMMINENT COURT ACTION. 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
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

The Board came out of executive session, with Dr. Egner and Mr. Browning having joined the meeting during

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the executive session.

R. Gregory Porter, Chief Hearing Examiner; Patricia A. Davidson, Hearing Examiner, joined the meeting at this time.

MINUTES REVIEW

DR. STEINBERGH MOVED TO APPROVE THE MINUTES OF JUNE 14-15, 2006. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Buchan left the room at this time.

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Douglas Paul Bosack, M.D.; John R Hanagan, M.D.; Mitchell Edward Simons, M.D.; and Frank Murray Strasek, D.P.M. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Buchan returned to the room at this time.

Dr. Robbins asked Dr. Buchan whether he had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Douglas Paul Bosack, M.D.; John R Hanagan, M.D.; Mitchell Edward Simons, M.D.; and Frank Murray Strasek, D.P.M. Dr. Buchan replied that he had.

Dr. Robbins asked Dr. Buchan whether he 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. Dr. Buchan stated that he does understand.

Dr. Robbins 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 matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Robbins 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.

DOUGLAS PAUL BOSACK, M.D.

Dr. Robbins directed the Board's attention to the matter of Douglas Paul Bosack, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

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

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

Dr. Bosack thanked the Board for allowing him to appear. He also thanked the Hearing Examiner for her recommendation, which he felt was generous in view of the issues at hand in his past. He stated that, as the Board is aware, he's been battling his problems with bipolar disorder and alcohol use for about ten years now. He advised that he's hoping for a favorable decision by the Board today based upon the fact that he's had some changes in his treatment for bipolar disorder, made by his psychiatrist in Roanoke, Virginia. He stated that he has recently found a new psychiatrist in Canton, Ohio, where he's currently residing. Dr. Bosack stated that it seems that the addition of Lithium to his regimen about two months ago is having some benefit, which is part of the reason he's here today. Dr. Bosack stated that he had previously been feeling quite despondent and hopeless about his future as a physician, but he has definitely changed that opinion.

Dr. Bosack continued that he was at a hearing in June regarding his previous Consent Agreement, which was signed in October 2005. Dr. Bosack stated that, quite frankly, he does not even recall signing that agreement. He did not comply with the agreement. Dr. Bosack added that, certainly, he was at fault for that. Not having remembered even being involved in it sounds strange, but he thinks that it was based upon the fact that he felt despondent. He thought that a three-year suspension was interminable with regard to his future as a physician at that time, and he now feels differently about that.

Dr. Bosack stated that his hope today is to ask the Board to be generous enough to, perhaps, give him another chance, not by signing a consent agreement immediately, but by giving him enough time to see if further treatment for his bipolar disorder has an optimal effect, which could lead him to full sobriety. His plan for the immediate future is to start attending A.A. meetings in Canton. He's found a new physician to administer his medications since he left West Virginia, and he intends to follow up with a psychiatrist on a treatment basis.

Dr. Bosack again thanked the Board for meeting with him today.

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

Ms. Pfeiffer stated that there was no factual dispute about what was taking place in this case. From the evidence presented, Dr. Bosack has been in and out of treatment for alcohol-related issues for the past twelve years. His disciplinary history with the Board began in 1998 with a consent agreement, a subsequent violation, a hearing and adjudication order in 1999, reinstatement in 2001, and then in May 2005 a summary suspension was imposed. Dr. Bosack ultimately entered into a consent agreement in October 2005.

Ms. Pfeiffer stated that Dr. Bosack readily admitted to Ms. Bickers that he was not in compliance with any

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of the terms of the consent agreement. He readily admitted that at the hearing. She added that he was very pleasant and professional at the hearing. Ms. Pfeiffer stated that Dr. Bosack did make a comment that he'd been doing his best to abstain from alcohol. Ms. Pfeiffer stated that there's nothing to support that in the evidence. Dr. Bosack is not going to A.A. or N.A. and he's not going to Caduceus, as required by the consent agreement. Ms. Pfeiffer stated that that is a bit inconsistent with Dr. Bosack's testimony.

Ms. Pfeiffer referred to Dr. Bosack's testimony at hearing. She noted that there was discussion about Dr. Bosack's signing a consent agreement. Dr. Bosack testified that he could not in good faith sign a consent agreement because he didn't think that he was at that point in his life. He acknowledged that he's not at a point in his life where he felt he could maintain sobriety. He testified that the adjustments to his medications for the bipolar disorder, Lithium, had just been added about two weeks before. When asked how long he'd been treated with medication for the bipolar disorder, Dr. Bosack stated that, actually, the medication adjustments had all been made by Dr. Desai in Roanoke since the summer of 2005. He has been on medications since 1987. Ms. Pfeiffer commented that Dr. Bosack has been on medication for the bipolar disorder for about 19 years.

Ms. Pfeiffer advised that Dr. Bosack testified that bipolar disorder is generally treated with more than one drug and he had not had any other drugs added until recently. When asked whether, since he first came under the Board's auspices with the first consent agreement in 1998, his medication for bipolar had ever been adjusted to a level that's been able to let him maintain sobriety, Dr. Bosack testified "outside the treatment center, no." Ms. Pfeiffer commented that it sounds like the only time Dr. Bosack has been able to maintain his sobriety is when he's in a treatment center.

Ms. Pfeiffer continued that, when they talked about his relapse, she asked Dr. Bosack whether he could tell her how many times he had relapsed on alcohol since October 2005, when he signed the latest consent agreement with the Board. Dr. Bosack answered, "No. Many times." He testified that the most recent time he had consumed alcohol was about a week prior to the hearing.

When asked for clarification concerning the adjustments that he was trying with his medication, Dr. Bosack wasn't saying that at this point in time it's enabled him to be sober, but that there is a possibility that with future adjustments it may enable him to become sober. Ms. Pfeiffer stated that Dr. Bosack's answer was very sobering. His answer was that he wouldn't even say that he was optimistic. He stated that he would say that there is a possibility.

Ms. Pfeiffer stated that the Board will have to decide what to do with Dr. Bosack at this point in time. She noted that he's been in and out of treatment for alcoholism for twelve years, and has been treated for bipolar disorder for the past 19 years. He's not currently attending A.A. or Caduceus, and he's not in compliance with any of the terms of his 2005 Consent Agreement.

Ms. Pfeiffer stated that, with respect to the Board's disciplinary options, she asked the Board to think what might be the best procedurally. If the Board is considering revoking Dr. Bosack's license, versus permanently revoking it, he can come back in a year or two. If you revoke his license with no conditions for coming back for reapplication, there's probably not a lot the Board can do to prevent him from coming

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back in. If the Board permanently revokes his license, everyone knows what that means. If the Board revokes him with conditions, he would have to meet certain conditions, such as showing that he's been in treatment for a number of years, etc. Alternatively, the Board could permanently revoke his license, and indefinitely suspend his license for a minimum period of time, and give him conditions for reinstatement. Ms. Pfeiffer stated that she doesn't think that any interim monitoring conditions are appropriate for this doctor at this point in time. He's not agreeing to go to A.A., and he's not following through with it. Ms. Pfeiffer stated that, administratively, as the Board thinks through this, if it wants to leave the door open for Dr. Bosack to come back into practice, indefinitely suspending his license after a stayed permanent revocation would probably be administratively easiest for the staff and for everybody involved in order to possibly get him back in in the future.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF DOUGLAS PAUL BOSACK, M.D. MR. BROWNING SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that she really believes that Dr. Bosack is a bad bet. The Board is in favor of supporting physicians with chemical dependency and other areas of impairment in terms of psychiatric disease; but she thinks that the chances for Dr. Bosack to come back in a healthy way and be productive are slim. The Board has gone from the direction of many years ago, believing that permanent revocation was the way to go in issues like this, to a direction of imposing a revocation and allowing the licensee, after a period of years, to regain the license if they can demonstrate to the Board in some fashion that they've been sober and in control. The Board takes another look at them, requires a special examination to make sure that they're appropriate for medical care, and then the Board may require a practice plan where the Board can monitor the licensee closely. There are options.

Dr. Steinbergh stated that it's clear in this case that Dr. Bosack will have to be out a long time before he can be re-evaluated by the Board, whether it's under a revocation or some other form of discipline. Dr. Steinbergh stated that she's always in favor of a consideration of revocation, with some form of direction to the physician under which circumstances the Board would discourage him from reapplying. Dr. Steinbergh added, however, that a permanent revocation under a situation like this might be more appropriate. The Board has warned Dr. Bosack, and has issued two previous stayed permanent revocations. Dr. Bosack was under notice.

Dr. Steinbergh stated that she could go either way on this case. She added that she does have a lot of compassion for physicians who have this disease, but there comes a point where you have to say that the disease is such that, perhaps being a physician is not the appropriate thing to be in life.

Dr. Egner stated that she is not in favor of revocation in this case. She doesn't see any purpose in it. It leaves the door open for the Board to be rather vulnerable. She noted that, in the record, Dr. Bosack says that he could come back in two or three months. That certainly is not what the Board is looking for.

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Dr. Egner stated that her personal opinion is that the Board should permanently revoke Dr. Bosack's license. He has had two stayed permanent revocations in the past. Another factor that weighs on her is that in 2001 he had a relapse that was never reported to the Board and was not discovered until 2005. Not only has he had multiple relapses under stayed permanent revocations, but the Board doesn't have a good way of following this fellow and monitoring him, even when he's supposed to be monitored.

Dr. Egner stated that she doesn't say this lightly, adding that there haven't been many times when the Board has permanently revoked a physician because of their impairment; but she thinks that this is, unfortunately, one of those times that the Board has to do it. Dr. Egner stated that she thinks back on licensees who have been given an indefinite suspension of five years, giving them time to really show a long term history of being able to remain sober. She questioned whether this is someone for whom the Board should do this. Dr. Egner stated that she believes that people who have had that opportunity in the past, generally haven't had such a long history with the Board. Those were doctors who had extremely serious impairments, but not a long history with the Board. Dr. Bosack has had a pretty long history with the Board, and has never been able to comply. Dr. Egner stated that she's not sure that she understands today why that would be any different.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION IN THE MATTER OF DOUGLAS PAUL BOSACK, M.D. DR. BUCHAN SECONDED THE MOTION.

Dr. Buchan stated that he suspects the minutes will reflect that, at one point in time, he was in favor of rehabilitating Dr. Bosack. He added that he believes that compassion rules as the Board sits around the table. Dr. Buchan added, however, that the Board needs to say what it means and mean what it says. He added that he thinks that Dr. Bosack's hope is in survival, not in maintaining his medical license. Dr. Buchan stated that he's more interested in Dr. Bosack surviving and getting through this process. That's where he places his hope. Dr. Buchan stated that he would vote for permanent revocation of Dr. Bosack's license. Dr. Buchan stated that he thinks that the Board needs to cut strings and simply follow through with what the Board suggested it was going to do the last time the Board and Dr. Bosack met.

Dr. Kumar also spoke in support of permanent revocation in this case. One of the things he's looked at is Dr. Bosack's comment about being on new medicine that might help his bipolar condition. Dr. Kumar noted that Dr. Bosack has been on this Lithium for almost seven months, not just a couple of weeks. He stated that Dr. Bosack's response at the time of the hearing makes him believe that it isn't just a matter of adjustment of medications. Dr. Bosack's problem is a lot deeper. Dr. Kumar stated that he doesn't think that Dr. Bosack can be effectively rehabilitated to serve the citizens of Ohio.

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

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

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Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- nay

The motion carried.

DR. EGNER MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF DOUGLAS PAUL BOSACK, M.D. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JOHN R. HANAGAN, M.D.

Dr. Robbins directed the Board's attention to the matter of John R. Hanagan, M.D. He advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Hanagan was accompanied by his attorney, Eric J. Plinke.

Mr. Plinke noted that this is a non-disciplinary matter before the Board. Dr. Hanagan is an applicant for licensure. This case boils down to whether or not to impose a SPEX requirement prior to issuance of a license, or to take some other action. Mr. Plinke stated that this case is not a typical SPEX case that this Board sees in that Dr. Hanagan is not returning from a disability or has not been away from the science of medicine for a period of time. Over the last 20 years and longer he has worked in pharmaceutical

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medicine, in clinical research, working for CIBA-Geigy and Proctor and Gamble. Mr. Plinke stated that the issue he raised at hearing on Dr. Hanagan's behalf was that, based on the record that would be demonstrated, Dr. Hanagan can show the Board current competency, current knowledge, current expertise that, in many respects, made him current beyond the base minimum of what the Board would require for licensure.

Mr. Plinke stated that the Board has discretion here, and the Hearing Examiner has recommended that the SPEX be ordered as a condition for licensure. He added that he would like to remind the Board of a couple of points he did not make in his objections: Dr. Hanagan is current in his continuing medical education; and he is actively licensed in New York and New Jersey.

Dr. Hanagan thanked the Board for their time today. He stated that he was trained in medical oncology, cancer medicine. He practiced that exclusively for eight years in New Jersey and he became a little bit discouraged with what they were able to provide the patients at that period of time. As a result of that, he joined the pharmaceutical industry and has spent 20 plus years in new drug development. He worked initially for CIBA-Geigy Pharmaceuticals in Summit, New Jersey, doing new drug development. He was very fortunate to have been involved in developing two drugs for the treatment of cancer patients that were the first drugs in their class to be approved by the U.S. Food and Drug Administration (FDA). One was Aridia, which is a bisphosphonate for the treatment of bone metastasis; the other is Femara, which is an Aromatase inhibitor for the treatment of hormonally responsive breast cancer.

Dr. Hanagan stated that he subsequently joined Proctor and Gamble Pharmaceuticals, continuing to do new drug development. Proctor and Gamble does not have an interest in cancer medicine, so he broadened his horizons to include cardiology, rheumatology, endocrinology and bone metabolism, continuing to develop new drugs. The goal and objective of clinical research is really to expand the tools that medicine has to treat patients, to look at patients where there is no satisfactory treatment or moderately satisfactory treatment and incrementally improve on that. In order to do that, it's necessary for him to know what the state of the art is on a day-to-day, week-to-week, month-to-month basis. Dr. Hanagan stated that he hopes this meets with the Board's satisfaction. He again thanked the Board for its time.

Mr. Plinke stated that, within the Board's discretion, if it is considering taking some option other than requiring the SPEX as a condition, he would suggest granting Dr. Hanagan a license and requiring Dr. Hanagan to submit a practice plan for the Secretary and Supervising Member's approval, instead of the SPEX, which covers subject matters with which he is not familiar, and might not be the best way to judge his competency.

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

Mr. Clifford stated that he would like to give the Board a picture of what Dr. Hanagan has been doing over the last 23 years. At hearing, Dr. Hanagan testified that he supervised activities of third-party physicians, who were actually involved in the clinical trials. This supervision entailed: Reviewing animal safety data, writing protocols for treatment of human patients, and visiting physicians who were using the drugs in clinical trials. Mr. Clifford noted that Dr. Hanagan testified that he has not treated patients or examined

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patients in an office since 1983.

Mr. Clifford advised that Dr. Hanagan also admitted during the hearing that he's unsure of whether he could pass the SPEX tomorrow. Mr. Clifford reminded the Board that, when it grants a license, it's granting a license to practice medicine in any field and on any patients. This isn't a limited license that he can use to do only his clinical research. This is a license that would allow him to put up a sign and treat patients. Mr. Clifford stated that he didn't feel it would be good for the Board to say that Dr. Hanagan can have a license and treat patients, when he hasn't touched a patient in 23 years. Mr. Clifford stated that this would send the wrong message to physicians who come to the State of Ohio. Mr. Clifford stated that he would agree with the Hearing Examiner's Report and Recommendation to require Dr. Hanagan to pass the SPEX to show he's clinically competent.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JOHN R. HANAGAN, M.D. MR. BROWNING SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Kumar stated that the record is clear, and he agrees with Mr. Clifford's comments. The Board doesn't grant limited licenses. When the Board grants a license, it's to do, essentially, everything. In order to protect the public, the Board doesn't want to just give a license to a person who has not practiced clinically for so many years. The Board sees this problem all of the time.

Dr. Kumar stated that he agrees with the Order, but would suggest adding language to allow Dr. Hanagan to pass either his specialty boards or the SPEX, noting that Dr. Hanagan was trained as an oncologist.

Dr. Varyani agreed with Dr. Kumar. Dr. Varyani commented that to pass the boards in oncology, you have to have practiced clinically internal medicine. There's really no history of clinical practice, as such, for over 20 years. The Board needs to see him pass a clinically related subject, such as family practice, internal medicine, emergency medicine, or something.

Dr. Buchan stated that, as he looks at the requirements of being a pharmaceutical consultant, he sees items and job descriptions that don't necessarily require being a physician to complete. They include analyzing and reporting data to the FDA and recruiting physician investigators. These are truly administrative tasks. Dr. Buchan stated that he looks at being a physician as stand-alone entity. It is just that. Dr. Hanagan needs to take the SPEX. Dr. Buchan commented that it's nice for a consultant to have a license, but being a physician is first, and being a consultant is second. Being a physician requires a minimum level of understanding. The SPEX reflects that.

Dr. Madia stated that he agrees with what's been said; but one thing that comes to his mind is that the Board can't do anything to someone with a current state license who hasn't practiced but keeps renewing his license every two years. Dr. Madia agreed that someone who hasn't practiced in 20 years can't just come and start to practice. At the same time, he asked why the Board isn't enforcing the same rule on

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someone who has a current license who hasn't practiced.

Dr. Steinbergh stated that if you have an active license and continue to maintain your C.M.E., and you continue to sign your renewal license application, the Board has no way of knowing whether or not the physician is practicing medicine.

Dr. Madia stated that the Board can ask that question.

Dr. Steinbergh stated that that's a different issue.

Dr. Madia asked why the Board is discriminating.

Dr. Steinbergh stated that the Board is not discriminating. The issue is that for licensure in Ohio, if a physician applies for a license or license restoration, the Board has the authority to evaluate that physician, either through SPEX or, in some cases, to be recertified.

Dr. Steinbergh added that it is her understanding from the testimony that Dr. Hanagan is not board certified. He did complete his residency in internal medicine and did a fellowship in oncology. She agreed that the Board could, if it wanted to modify this, to either pass the SPEX or to become board certified in oncology, if that was his last practice, but he would have to do one or the other to get an active license in Ohio.

Dr. Madia stated that he's still not satisfied with why the Board lets physicians keep their licenses if they have an active state license but have not practiced for ten to twenty years, but who keep their C.M.E. current. It doesn't make sense to him.

Dr. Varyani stated that the Board is not aware that they are not practicing medicine. If he was aware that the physician was not practicing medicine, he would not issue him a license. However, he is not in a position to know whether the physician is practicing or not. The Board doesn't ask the question.

Dr. Egner stated that the Board has a statute that it follows. The statute says that if the physician has an Ohio license and complies with the C.M.E. requirements, and signs a renewal card, that physician is entitled to keep his or her Ohio license. Even if the physician told the Board that he or she is not practicing, the Board does not have the authority to deny the license. The Board is required to follow the law.

Dr. Kumar stated that the Legislature makes the law.

Dr. Madia stated that he understands that.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF JOHN R. HANAGAN, M.D., TO ADD THE WORDS, "OR SPECIALTY BOARD EXAMS IN INTERNAL MEDICINE OR ONCOLOGY" AFTER THE WORD "[SPEX]" IN THE FIRST PARAGRAPH OF

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THE PROPOSED ORDER, AND AFTER THE WORD “SPEX” IN THE SECOND PARAGRAPH OF THE PROPOSED ORDER.

Dr. Robbins asked whether Dr. Hanagan is eligible to sit for the specialty boards.

Dr. Steinbergh stated that he’s probably not.

Dr. Robbins asked why the Board should amend the Proposed Order if Dr. Hanagan isn’t eligible.

Dr. Steinbergh stated that it would allow Dr. Hanagan a choice. She stated that she thinks that, in order to sit for the oncology boards, Dr. Hanagan would have to be certified in medicine. If he’s not qualified to sit for the Boards, it’s a moot point; but at least the Board has given him that option.

Dr. Kumar stated that he agrees with what Dr. Robbins is saying, but he just wants to be consistent with past orders of the Board.

Dr. Talmage left the meeting during the previous discussion.

MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Steinbergh noted that either the SPEX or specialty board exam will have to be completed within one year of the effective date of the Order.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY’S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JOHN R. HANAGAN, M.D. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

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Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye

The motion carried.

MITCHELL EDWARD SIMONS, M.D.

Dr. Robbins directed the Board's attention to the matter of Mitchell Edward Simons, M.D. He advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

Dr. Robbins continued that a motion to deny Dr. Simons' defacto motion to reopen the hearing record and to exclude materials included in Dr. Simons' objections was presented by the Office of the Attorney General. He asked for a motion to grant or overrule Ms. Pfeiffer's motion.

MR. BROWNING MOVED TO GRANT MS. PFEIFFER'S MOTION TO EXCLUDE THE MATERIALS FROM THE HEARING RECORD. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Robbins stated that Ms. Pfeiffer's motion is granted and the materials will be excluded.

Dr. Robbins advised that a request to address the Board has been timely filed on behalf of Dr. Simons. Five minutes would be allowed for that address.

Dr. Simons did not appear before the Board. His attorney, Jeffrey J. Jurca, addressed the Board on Dr. Simons' behalf.

Mr. Jurca thanked the Board for the opportunity to address it, and for deferring this matter for one month to

accommodate his schedule.

Mr. Jurca stated that this case involves, primarily, a legal argument that has been addressed at some length throughout the transcript and in his objections. Dr. Simons' position is that the Agreed Order in Kentucky does not constitute a limitation, revocation or suspension of that license that would allow the triggering of §4731.22(B)(22), Ohio Revised Code. Their position is that the appropriate action by this Board would be to dismiss the charges in Ohio. Mr. Jurca stated that he's briefed that at some length.

Mr. Jurca stated that the other part of their objections, without waiving the legal argument that's been briefed, relates to the proposed Report and Recommendation to the extent that it actually includes a suspension of Dr. Simons' Ohio license. Mr. Jurca stated that it would appear that in the absence of any finding of wrongdoing by either Kentucky or Ohio, or any admission of wrongdoing by Dr. Simons, the Order, if adopted, would punish him in the absence of any misconduct. Mr. Jurca stated that they think that result would be unfair.

Mr. Jurca noted that the conditions set forth in both the Kentucky Agreed Order and repeated in the Report and Recommendation are presumably designed to protect the public and, of course, would protect Dr. Simons as well. To add a suspension of his Ohio license would seem unfair, given the fact that there's simply no finding of any misconduct on his part.

Mr. Jurca stated that, for those reasons, they object to the Report and Recommendation, as drafted; they urge the Board to dismiss the charges or, in the alternative and without waiving that argument, remove the suspension provisions.

Mr. Jurca stated that he would respond to any questions if Board members had any.

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

Ms. Pfeiffer stated that Dr. Simons agreed in the Kentucky Order to certain "limitations" on his license, the gist of which require him to have a chaperone present throughout all personal contact with a female patient in his office or in the hospital. He also had to take and complete the "Maintaining Proper Boundaries" course. Ms. Pfeiffer stated that this Board is allowed to take disciplinary action against Dr. Simons' Ohio license if the Board finds that his Kentucky license has been limited, revoked or suspended. The question in this case is whether or not the Kentucky license has been limited. Ms. Pfeiffer stated that the answer is pretty simple, and it's "yes." Ms. Pfeiffer stated that Rule 4731-13-36(D) of the Board's administrative rules have defined the term, "limitation," as follows:

"Limitation" means to preclude the certificate holder from engaging in a particular conduct or activity, to impose conditions on the manner in which that conduct or activity may be performed, or to require the certificate holder to abide by specific conditions in order to continue practicing medicine. A limitation shall be either temporary or permanent.

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Ms. Pfeiffer stated that Dr. Simons had conditions on his Kentucky license. He had to have a chaperone present for female patients. Ms. Pfeiffer stated that this allows the Ohio Board to take disciplinary action.

Ms. Pfeiffer noted that Ms. Murphy, in her Report and Recommendation, pointed out that because the patient's allegations in the Kentucky Board action were neither admitted to, nor was there a factual finding of the truth of those admissions, they are not to be considered factual for purposes of this Report and Recommendation. Ms. Pfeiffer stated that she would agree with Mr. Jurca. The Board is in a position where it must decide what, if any, disciplinary action to take against the Ohio license, based simply on the fact that Kentucky has imposed the limitations it has imposed upon his license in Kentucky.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF MITCHELL EDWARD SIMONS, M.D. DR. KUMAR SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that she does agree that Dr. Simons' license was limited in Kentucky. The Kentucky Board put stipulations on his ability to practice and imposed requirements on him. The Proposed Order, disregarding the suspension upon reinstatement of the license, is consistent with the Kentucky Board agreement. The Board does need to make a decision as to whether or not suspension is appropriate in this case. Dr. Steinbergh stated that she thinks that the Board did have the responsibility to bring this matter to hearing and to make a decision, based upon the fact that Kentucky did limit his license through an agreement with the doctor. Dr. Steinbergh commented that she's up in the air about the suspension, but she absolutely believes that the Proposed Order itself, and the Report and Recommendation, is very consistent with the finding that his license was limited. She does agree with the Proposed Order in terms of the reinstatement stipulations. Whether or not the Board stays the proposed suspension is up for discussion.

Dr. Buchan stated that his sense was that Dr. Simons' license was limited, and added that he doesn't have any question about that, and the Board had every right to respond to the Kentucky agreement. He also felt that the Kentucky Order on its face was reasonable. Dr. Buchan stated that he's not too interested in suspending Dr. Simons' license, based on what he sees. He's more interested in bootstrapping the Kentucky Order.

Dr. Kumar stated that, pertaining to whether or not Dr. Simon's Kentucky license was restricted or limited, there's no question in his mind, and the evidence is very clear, that it was limited in some fashion. The Board had an absolute right to look at this case and to protect the citizens of Ohio. As far as bootstrapping the Kentucky Order, Dr. Kumar stated that he absolutely agrees with that. He stated that he sees no purpose at this point to suspend Dr. Simons' license, even with a stayed suspension. He noted that Kentucky did not rule on the allegations before it; Kentucky only took a position on what it needed to do to protect its citizens.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MITCHELL EDWARD SIMONS, M.D., BY REMOVING THE PROPOSED SUSPENSION

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LANGUAGE AND TO CHANGE THE LANGUAGE IN THE UPDATED PARAGRAPH “A” BY REMOVING THE OPENING PHRASE, “UPON REINSTATEMENT.” DR. STEINBERGH SECONDED THE MOTION.

Dr. Davidson stated that she might be wrong, but her understanding of the Report and Recommendation as regarding the suspension was that the Board was punishing Dr. Simons for lying on his application. The Board has suspended other physicians for such an act.

Dr. Kumar stated that the fraud in the application on the record relates to alleged fraud on Dr. Simons' Kentucky application, not Ohio's renewal application.

A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

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FRANK MURRAY STRASEK, D.P.M.

Dr. Robbins directed the Board's attention to the matter of Frank Murray Strasek, D.P.M. He advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

Dr. Robbins continued that documents have been submitted by Dr. Strasek, which the State is construing as a motion to admit additional evidence into the record. In response, the Assistant Attorney General has filed a "Memorandum in Opposition to Respondent's Motion to Admit Additional Evidence." Copies of Dr. Strasek's documents and the State's Memorandum were previously distributed to Board members. Dr. Robbins asked whether the Board wished to admit Dr. Strasek's additional evidence.

There was no motion to admit the additional evidence. Dr. Robbins advised that the materials will be excluded from the Board's consideration.

Dr. Robbins advised that a request to address the Board was filed on behalf of Dr. Strasek, but was not filed in a timely manner. He asked whether the Board wished to allow Dr. Strasek the opportunity to make an address.

DR. EGNER MOVED TO ALLOW DR. STRASEK TO ADDRESS THE BOARD. DR. BUCHAN SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Robbins advised that five minutes would be allowed for that address.

Dr. Strasek thanked the Board for allowing the continuation he requested in June so that his attorney could be present. He also thanked the Board for allowing him to speak.

Dr. Strasek was accompanied by his attorney, William T. McGinty.

Dr. Strasek stated that he sits there as a felon, and he admits that he pled guilty. He admitted to mistakes and problems in his office that led to this. Dr. Strasek stated that he pled guilty for a few reasons: 1. At age 51 he had his first child, who is now six, and he had his family leveraged against him where he would not see his son. He was threatened with jail and the like. 2. He pled guilty because he was counseled, not only by his wife, but also by his attorney, to plead guilty. This was very emotional, with all things considered. 3. He pled guilty because of the chance to have a lower amount of penalty. It is part of his record that he was arraigned twice; and each time that he was arraigned, because there were extra charges put on, he pled absolutely not guilty. After nearly bankrupting himself and spending his money on attorneys and experts, some of which were compromised, he was left with no witnesses, no more money, no way to fight this, and the threat of not seeing his son. So he pled guilty.

Dr. Strasek stated that the amount that came across as \$105,000 was actually \$4,300 over ten years; but the OIG has a formula that increased the figure to \$105,000, which actually represented the amount of money that was being held in his Medicare suspension account. He added that he had continued to treat patients at that time.

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Dr. Strasek stated that this was his 9/11. He had the FBI come to his office and put a gun to his chest on September 27. As a gentleman, he's not used to doing this. He sat in meetings with the Medical Board, but as a representative for his profession. He was president at his local academies, and he went through all the chairs in his state. He was appointed by two Governors to the Radiation Advisory Counsel, where he had to pass ethics. He helped write the rules to make Ohio a compliant state. He's very aware of rules. The reputation he has in his specialty has always been that he's forthright, and in over thirty years of practice he never had a mark on his record or his license. He was never suspended or came for disciplinary action in any of the areas. But on September 27 he was accused. After he went through five years of investigations, and at the end of all the machinations, he's left with the prospect of seeing his four-year-old son again. So he pled.

Dr. Strasek stated that he has never been a danger to his patients. He has never cheated anyone. There has been nothing but a speeding ticket on his record. How he got on the list for investigation is an entirely different subject. Dr. Strasek stated that he sits here, and he's pretty emotional about this, because he has been jailed, has had to wear an anklet. Even before he pled, he had to check in with the Court; he couldn't even travel out of northeast Ohio without filing papers. Dr. Strasek stated that he's had to respond to a probation officer. He's had everything possible. He followed the Court Orders; he was never anywhere but where he was supposed to be. Dr. Strasek stated that the action the Board takes against him and against his license is important because if it comes to the point that the Board does suspend him, he fully intends to reapply. He also wants the Board to know that he was a good citizen and has taken his lumps without regret.

Dr. Strasek stated that this type of action has also led to a three-and-a-half-week-old divorce decree, so every part of his life has been attacked. Dr. Strasek stated that there's an old saying that his father used to tell him: "If you don't ask, you don't get a date." Dr. Strasek stated that what he's asking for is consideration of the suspension, because the one reason why he pled was because his son would be taken away from him in divorce court if he doesn't have his license and can't provide an income.

Dr. Strasek stated that he also has 300 hours of community service. He wanted to use his license to work that off at the free clinics or similar settings. This would be a way for the Board to see that he is a good citizen as a physician, and that he is doing the right thing.

Dr. Strasek stated that anybody could be accused. There isn't one person, any physician, that could avoid this. He's certainly not the only one and he's certainly not the only doctor who has come before the Board that's ever said that everything was harassed and that he pled because of the family. However, when it's true, it's true. This can happen to anyone. It happened to him. Dr. Strasek stated that, even though his professional life and reputation showed otherwise, he's a felon.

Dr. Strasek asked that the Board reconsider suspension and allow him to continue to practice, where he thinks his talent is.

Mr. McGinty stated that Dr. Strasek was served with divorce papers three and a half weeks ago. There has

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not been a decree yet. He hasn't even filed his answer yet.

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

Mr. Wilcox stated that, as the Board is aware in this case, back in January 2005, Dr. Strasek pled guilty in the United States District Court for the Northern District of Ohio to eleven felony counts of mail fraud and nine counts of health care fraud. He appeared before a federal judge in federal court and acknowledged that he understood the charges against him, and he acknowledged that he committed the violations of law knowingly and intelligently with intent to defraud.

Mr. Wilcox stated that, as a former prosecutor, he takes a dim view of people who plead guilty in open court. He advised that in plea hearings in federal court, they go over every single charge with you and they make sure that you understand everything in that plea agreement. He takes a dim view of people who plead guilty and then come and later say that they did it to avoid this or that. If someone stands up in federal court and tells the judge that he or she is guilty, then he or she is guilty of the crime. Mr. Wilcox added that there is a Board rule, OAC 4731-13-24, that states that a guilty plea is conclusive proof of all the elements of the crime.

Mr. Wilcox advised that a reading of the court documents in this case shows that Dr. Strasek participated in a pattern of deception whereby he would treat patients for routine foot care problems, and then he would upcode or fraudulently bill Medicare or Medicaid for more expensive procedures that he did not perform. Mr. Wilcox stated that at hearing Dr. Strasek claimed that the billing codes changed often and were difficult to understand, and that he and his staff had difficulty learning which codes are appropriate. Mr. Wilcox stated that he, personally, has never dealt with billing codes, so he doesn't know how hard it is to comply with the rules and regulations or procedures in question; but his impression from previous cases, and the Board has had several cases like this, is that the Medicare/Medicaid billing process is not as big a mystery as Dr. Strasek claimed at his hearing. Mr. Wilcox stated that he's sure that many of the Board members have dealt with these billing issues in their practices, and those Board members have the ability to evaluate whether Dr. Strasek's statements are accurate.

Mr. Wilcox stated that he will leave it to the Board to determine the appropriate penalty in this case.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF FRANK MURRAY STRASEK, D.P.M. DR. DAVIDSON SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Buchan stated that this was an interesting presentation by Dr. Strasek, and he appreciates Dr. Strasek's presence; but he's left with a few thoughts. First, he's disappointed in Dr. Strasek as a leader in the profession allowing this to come about. He's disappointed that Dr. Strasek would not have taken charge of his responsibilities in a different manner. Dr. Buchan noted that Dr. Strasek has taken leadership positions in so many other areas, how he allowed this to happen is extraordinary.

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Dr. Buchan advised that, when he read the transcript and read Dr. Strasek's description of some of the confusion on the matter, he was disappointed again. When he personally thinks about routine foot care and what that means, there is nothing about that that means abscess or ulcer debridement, so why confuse that issue again? Dr. Buchan stated that he thinks that this was another opportunity for Dr. Strasek to be more forthright on the matter and not try to cloud the issue. Dr. Strasek simply took a different course throughout his billing process. Just because you get paid for an abscess, doesn't mean you bill an abscess. Dr. Strasek chose to do it differently. Dr. Buchan stated that, just because you get paid in some meeting or somebody else describes reimbursement in a fashion for a particular service, doesn't mean you do that service, if, indeed, you've done a lesser service. Dr. Buchan stated that he is disappointed that a man with such a leadership background and potential would allow his office to move in this direction and, secondly, that he would describe this as a confusing issue. Dr. Buchan stated that he does not see this as a confusing issue.

Dr. Buchan continued that some of what he sees works to Dr. Strasek's benefit. Dr. Strasek has been a leader, and he's taken a role in the community as a gentleman who has done great things for the people whom he serves throughout the state.

Dr. Buchan stated that he was taken by Hearing Examiner Murphy's position of leniency, because, quite honestly, the Board has revoked licenses for this issue countless times. Dr. Buchan stated that he came here today registering the disappointment that he stated, but he is compelled by the record to listen to the Board members, but also to reflect on Hearing Examiner Murphy's recommendation to suspend this gentleman's license for the greater good of the community and the state. Dr. Buchan stated that he can make an argument to do that in this case.

Dr. Steinbergh stated that there are a couple of things she would like to note relating to the hearing record itself. She referred to footnote number ten on page four of the Report and Recommendation. She noted that the footnote states: "CPT Code 99213 is defined as a 'home visit for the evaluation and management of an established patient.'" She stated that the correct code for this is either CPT Code 99347, which is a problem focused code for a home visit for the evaluation and management of an established patient; CPT Code 99348, which is an expanded visit; CPT Code 99349, which is a detailed visit; or CPT Code 99350, which is comprehensive. Dr. Steinbergh indicated that she's not sure how to deal with this part of the record.

Dr. Steinbergh referred to paragraph four of the "Conditions for Reinstatement or Restoration," which requires Dr. Strasek to complete a personal ethics course, noting that it contains a line concerning professional ethics, which is duplicative of paragraph five, which requires Dr. Strasek to complete a professional ethics course. She suggested that the line from paragraph four be removed.

Dr. Steinbergh indicated that she appreciates Dr. Buchan's comments. She stated that she was, obviously, affected by Dr. Strasek's emotional plea. She added that, having been on the Board for a number of years, she's very much affected by how each of the Board's decisions does affect the licensee and his whole life. She stated that there's no question about Dr. Strasek's plea of guilt or his guilt. To her it's a question of

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recognizing what Dr. Strasek has done for his profession. She agreed that it is unfortunate and disappointing to see someone who has donated his time to his profession and then to have pled guilty in terms of this healthcare fraud. Dr. Steinbergh stated that she doesn't know where to go with the suspension issue, but she does feel touched.

Dr. Egner stated that Dr. Steinbergh's remarks on the coding reflect Dr. Strasek's argument that coding is very complicated and difficult. She stated that she thinks that all physician members of the Board have looked at code books and definitions and gone to seminars and found that one code doesn't always reflect what the physician thinks he or she does.

Dr. Egner continued that, that being said, Dr. Strasek did plead guilty in federal court, and that's what the Board is going to deal with. But she does think that there are some extenuating circumstances. The amount of money involved, to her, seems to be rather minimal, considering what the Board has seen in other cases of billing problems, and she has to take that into consideration. The Board has had these cases before many times result in permanent revocation recommended by the Hearing Examiner. This time the Hearing Examiner does not even go near permanent revocation. Dr. Egner stated that she has to think that the Hearing Examiner saw other extenuating circumstances there.

Dr. Egner stated that she is personally in favor of the Report and Recommendation, or even a lesser suspension period.

Dr. Steinbergh stated that she didn't mean that she felt that coding is difficult. She added that she doesn't know why the Hearing Examiner used the improper code. It's an improper definition of the code she referenced. She added that she doesn't know if there should be another code there or not. She just thinks the record needs to be corrected.

Dr. Steinbergh stated that she disagrees with Dr. Egner's feelings about coding. She stated that she can't say 100% of the time that coding is an exact science or that physicians understand it, but she thinks it's clear that when a physician does a procedure in the office, he or she has to look at those things and determine the coding. That's the physician's responsibility. Dr. Steinbergh stated that she doesn't see it as being enormously difficult. She does see seminars all the time on how to get the most money out of your coding, and how to do it legitimately. Dr. Steinbergh stated that the book that they get seems to clarify those things in regard to CPT coding. If you pay attention to that, for most who practice in the primary care of podiatry, it becomes sort of a routine thing. There are some unusual circumstances. If you're doing more than one procedure, or if you're also doing an evaluation separate from that particular procedure, that you would use a modifier, but she doesn't see this as being difficult.

Dr. Steinbergh stated that she doesn't disagree with leniency in this case. She stated that she thinks that the Board should consider some form of leniency.

Mr. Browning stated that, as has been said many times, the Board can't retry these cases. There's been a conviction of felony offenses in the course of practice. There's no question about that. There's no question that this is reflective of broader concerns that all have as citizens and taxpayers, when people

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defraud the government. Mr. Browning stated that there should be some level of suspension. Whether it's a year or something less than that can be discussed; but he doesn't think that the extenuating circumstances are so significant that the Board should diminish this to next to nothing. He added that he's not suggesting that anyone is saying that, but his message is that the Hearing Examiner saw what the Board sees and reflected that in her recommendation of a one-year suspension. That seems reasonable. If the Board wants to do something somewhat less than that in recognition of the high price that's already been paid by the doctor, the Board should talk about it. However, on balance, the Hearing Examiner's recommendation is a solid one.

Dr. Kumar stated that he always has a problem in taking action solely on the issue of coding, if there was not a conviction associated with it. Coding is a difficult proposition, particularly for the evaluation and management services. You submit your documents to two certified coders and they will code it differently. It's not black and white. It's a lot more difficult than it appears on the surface. He stated that in his own procedure, they're designated as "minimum," "morbid," "maximum," "complex." How you qualify which one becomes very difficult.

Dr. Kumar continued that the Board has a record before it, with a felony conviction. He referred to Dr. Egner's comments about the amount of restitution. The amount is \$4,000 or \$5,000, and the way it gets doubled and tripled over a period of years because of the way it's taken into account, needs to be looked at. There has to be some suspension, but he feels that one year is too long.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER BY CHANGING THE MINIMUM SUSPENSION PERIOD FROM ONE YEAR TO SIX MONTHS, AND BY REMOVING THE LANGUAGE RELATING TO PROFESSIONAL ETHICS COURSE FROM PARAGRAPH B.4. OF THE PROPOSED ORDER. DR. EGNER SECONDED THE MOTION.

Dr. Steinbergh stated that she believes that the amendment also needs to address the clarification of the code listed in footnote 10.

Dr. Egner questioned how important that is. She stated that the problem is, the Board doesn't know which code is correct.

Mr. Whitehouse stated that his thought is that if it is of sufficient concern that it would affect the way the Board votes then the Board shouldn't proceed.

Dr. Egner stated that she would like Mr. Whitehouse' opinion as to whether he thinks this is significant enough that it needs to be changed.

Mr. Whitehouse suggested that any change could be done on the record now, through the Board's discussion, in order for the Board to proceed to vote. He added that he doesn't think that that discrepancy is sufficiently serious to put the Board in a position to not be able to vote.

Dr. Steinbergh agreed that the Board just needs to clarify the matter for the record, and added that she

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doesn't think that it in any way affects the ability to vote. She stated that she just thinks that it's important to present the record correctly.

Mr. Whitehouse stated that he's not sure about the practicality of changing the Report and Recommendation subsequent to a vote.

Dr. Steinbergh stated that she doesn't think that the Board needs to. It won't affect her vote one way or the other. This is simply an editorial change, as far as she can tell.

Dr. Kumar stated that his motion consists of two parts: Reducing the suspension period to six months, and removing the duplicate language in paragraph B.4. of the Proposed Order.

Dr. Steinbergh stated that she also agrees with Mr. Browning's comments. There's probably not a time that the Board has come with a case like this that the Board doesn't see how challenging it is for the physician or licensee. It is very, very damaging. The Board has, in the past, looked at cases exactly like this where the suspension period was a year.

Dr. Robbins stated that he would like to say something on the coding. He stated that he couldn't agree more with Mr. Browning. Dr. Strasek has pled guilty, and that's the Board's overriding arch to move forward. He's not against some sympathy here. Dr. Robbins stated, however, that, generally, he couldn't agree more with Dr. Steinbergh. There are courses everywhere on how to upcode to get more money. Doctors in general, when faced with a difficult decision on code, if they downcode routinely, never get into trouble. The difficulty always comes with whether they can justify the higher reimbursement. Dr. Robbins stated that, as he counsels his group and other physicians, if you take the lower road, you never get into trouble. The difficulty is with all the pressures of constantly trying to justify that they did the higher code. The justification, in his mind, is monetary.

Dr. Talmage returned during the previous discussion.

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

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

The motion carried.

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DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF FRANK MURRAY STRASEK, D.P.M. DR. BUCHAN SECONDED THE MOTION.

Dr. Robbins indicated that he would now entertain further discussion in this matter.

Dr. Buchan stated that he feels some special responsibility, as he reviewed this case thoroughly; and he thinks that it's important for the record for the Board to suggest or relay to Dr. Strasek how fortunate he is if this amendment passes. His sense is that this is because of Dr. Strasek's past, his leadership responsibilities and the person that he is that he was granted some leniency in this case. Dr. Buchan stated that he's been here long enough to realize that the Board has objectively had harsher orders or agreements in such cases. Dr. Buchan stated that he hopes that Dr. Strasek's leadership and responsibility goes about to his colleagues throughout the state to prevent others from getting into this situation.

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

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

The motion carried.

At this time a short break was taken, following which, Dr. Egner and Mr. Browning were out of the room.

FINDINGS, ORDERS & JOURNAL ENTRIES

VASCULAR & ENDOVASCULAR SPECIALISTS OF OHIO, INC.

Dr. Robbins noted that, by letter of May 15, 2006, the Board issued a Notice of Opportunity for Hearing to Vascular & Endovascular Specialists of Ohio, Inc., proposing to deny its application for a supplemental physician assistant utilization plan, based upon reasons contained in the letter. The Notice was mailed via certified mail, return receipt requested, to Vascular & Endovascular Specialist of Ohio's address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. No hearing request has been received, and more than thirty days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

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DR. MADIA MOVED TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING VASCULAR & ENDOVASCULAR SPECIALISTS OF OHIO, INC.'S, SUPPLEMENTAL PHYSICIAN ASSISTANT UTILIZATION PLAN. DR. VARYANI SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSION

HARRY MICHAEL CONDOLEON, 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. DAVIDSON MOVED TO SEND THE CITATION LETTER TO DR. CONDOLEON. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Mr. Browning returned to the meeting at this time.

RONALD CARL HETMAN, D.P.M. – CITATION LETTER

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

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shall be maintained in the exhibits section of this Journal.

DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. HETMAN. DR. DAVIDSON 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. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Egner returned to the meeting at this time.

BASSEM MEHRIM RIMLAWI, 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. RIMLAWI. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

Board members were provided with copies of settlement agreements negotiated by Board staff and/or the

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staff of the Office of the Attorney General, as authorized by the Board's Secretary and Supervising Member, and as appropriate, the Board President, as well as copies of summaries of the agreements. The names and license numbers of the licensee or applicant subjects of such settlement agreements were removed from the documents.

BAHRAM TAFRESHI MOSHIRI, M.D. – REQUEST FOR WITHDRAWAL OF APPLICATION FOR MEDICAL LICENSURE

DR. STEINBERGH MOVED TO RATIFY DR. MOSHIRI'S REQUEST FOR WITHDRAWAL OF APPLICATION FOR MEDICAL LICENSURE. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JOHN MICHAEL RUSSELL, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

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PAUL CLAASSEN, D.O. – CONSENT AGREEMENT

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

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

The motion carried.

MICHAEL ERIN DONAHUE, M.T. – CONSENT AGREEMENT

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MR. DONAHUE. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JON PATRICK RYAN, D.O. – CONSENT AGREEMENT

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

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

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Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye

The motion carried.

PUTTAGUNTA RANGA, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

JAMES A. O'NEILL, M.D. – CONSENT AGREEMENT

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

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

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Dr. Steinbergh - aye

The motion carried.

PERSONAL APPEARANCES

TRACIE LYNNE BOLDEN, M.D.

Although scheduled, Dr. Bolden did not appear this month.

DIXIE A. DOOLEY, D.P.M.

Dr. Dooley made his initial appearance before the Board, pursuant to the terms of his April 12, 2006 Consent Agreement.

In response to Board members' questions, Dr. Dooley stated that he is doing well. He advised that he does understand his consent agreement, and has been following the terms of his consent agreement. Dr. Dooley stated that he attends A.A., Caduceus and aftercare meetings. Dr. Dooley advised that, since he cannot practice medicine during his suspension, he has been going in, doing the business management portion of his practice. He explained that he has four doctors who work with him. He stated that it was originally his practice. He does not participate in patient care or patient care decisions at all.

Dr. Dooley stated that he does recognize that he does have a problem. He habitually used an illegal substance, which demonstrated poor judgment. He did use for a period of time, and he did try to hide his use. He stated that his partners have been very supportive of him, and didn't leave the practice. They've been very understanding and they have not been greatly critical of his error.

Dr. Kumar stated that the Board wants to see Dr. Dooley succeed and get over his problem so that he can return to serve the citizens of this State for years to come.

Dr. Buchan asked Dr. Dooley how his impairment was discovered.

Dr. Dooley stated that there was a complaint issued that he smelled like marijuana. He doesn't know who made the complaint. He stated that he does feel better today.

DR. KUMAR MOVED TO CONTINUE DR. DOOLEY UNDER THE TERMS OF HIS APRIL 12, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE.

JANICE ELECTA GREEN DOUGLAS, M.D.

Dr. Douglas made her initial appearance before the Board, pursuant to the terms of her April 12, 2006 Consent Agreement.

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In response to Board members' questions, Dr. Douglas stated that she is doing well. She does not have any issues with the consent agreement, and she is doing all that is part of the agreement she entered when she left Shepherd Hill. She was in Shepherd Hill for nine weeks, and had only recently transitioned out of there when she appeared before the Board the previous month. Part of her recovery plan requires her to attend A.A. meetings every day, which she has done. She does have a support network in her home environment.

Dr. Douglas stated that the hardest thing that she's had to deal with has been how this whole process was trivialized when she met with the Board last month. Dr. Douglas stated that she wouldn't say that she's an alcoholic if she wasn't an alcoholic; and it was suggested that she did that for sympathy, and she didn't. It was an awakening to her to spend the time that she did at Shepherd Hill, even though the comments were made that she just did a quick 28-day program. She did nine weeks of intensive therapy. She developed a much better understanding at Shepherd Hill, to which she decided to go because she liked the educational aspects of that program. She learned a lot about the disease, and she realizes that it is a disease. Dr. Douglas stated that that was not her specialty, and she didn't have much training in that area, so she didn't know much about alcohol and chemical dependency.

Concerning her statement that she felt that the Board trivialized her alcoholism the previous month, Dr. Douglas stated that she felt that the Board needed to realize the process because comments were made that she had done this just to get sympathy related to her felony conviction. That was what bothered her more than anything. She stated that, before she went to Shepherd Hill, she came to grips with the fact that she needed to listen to what people were saying. It really wasn't related to her work, but more to what her family talked about and felt was important, and she listened.

Dr. Kumar asked Dr. Douglas if she understands that the Consent Agreement relates to her impairment, and the issue of the felony counts of mail fraud is not part of the Consent Agreement.

Dr. Douglas stated that she learned that, yes.

In response to Dr. Buchan's questions, Dr. Douglas stated that she is working the plan, and she does understand the Consent Agreement. She stated that she does feel that she's in a good place concerning her consent agreement. In response to a question as to whether or not she understands that the Board is encouraging her in the process, she stated that this is new to her. She doesn't know how the whole process works. She added that she is in tune with what she has agreed to do. She's doing what she agreed to do and she's doing it because it's part of her sobriety.

Dr. Buchan stated that he doesn't want Dr. Douglas to feel like she's all alone. The Board is here to help her through in any way it can. He added that it's not going to be easy. Dr. Buchan stated that he has seen many people go through this process, and he knows that it's hard work. Dr. Buchan stated that he wants to feel some sense of partnership with Dr. Douglas in this so that she can move down the road in a positive direction. If Dr. Douglas feels any barriers or concerns, she should be open about that so that the Board can help her get through it. Dr. Buchan stated that the Board believes that this is the right path, and he

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wants Dr. Douglas to believe it as well. If not, there needs to be some conversation on the matter.

Dr. Douglas stated that the only issue of which she was not aware was how much it's costing her financially, without being able to work, and having three years of her license being revoked, which, as commented here, was tantamount to permanent revocation of her license. She has to deal with whether she can afford to do everything required in her consent agreement, because it is very expensive. She sees her aftercare counselor on a one-to-one basis because there are no other women. They usually have a group. That costs her over \$100 a month. There's a lot of driving, and she commented on the expense of gas these days.

Mr. Albert stated that sometimes it's harder to get out of this than it is to get into it. He asked how much this is costing her a month.

Dr. Douglas stated that it's costing her \$700 to \$800 a month. Treatment at Shepherd Hill cost her about \$25,000.

Mr. Albert asked Dr. Douglas whether her license is worth that much money.

Dr. Douglas stated that the question is whether she'll realistically get her license. Her license was revoked for three years related to the felony, not related to the impairment. She feels like she could work through this. She indicated that she's working through the impairment, and added that she's a very determined person, and she has overcome a lot of adversities in her life to get to where she is. She's African American, and she grew up during the Civil Rights era in the south. She knows a lot of adversarial things. But this is separate from her being able to practice medicine. She can do the recovery requirements. Dr. Douglas stated that she's still highly respected, but she can't do anything to make money because her license, on a separate issue, was revoked for three years.

DR. KUMAR MOVED TO CONTINUE DR. DOUGLAS UNDER THE TERMS OF HER APRIL 12, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

JEFFREY J. FIERRA, M.D.

Dr. Fierra made his initial appearance before the Board, pursuant to the terms of the Board's Order of April 12, 2006.

In response to Board members' questions, Dr. Fierra stated that he's doing okay. He's getting by. He's not working, but is living on Social Security. He basically watches television and helps his mother out.

Dr. Kumar noted that the action taken against Dr. Fierra was primarily associated with misdemeanor counts of Workers' Compensation and theft, and because he continued to work a few days after the Board's Order suspending his license was issued.

Dr. Fierra stated that that has been resolved, and he's not practicing at all at this time. He hasn't practiced medicine since March 2, 2005. He stated that he does not have any questions of the Board at this time.

Dr. Kumar asked Dr. Fierra to explain to the Board how he got involved in Workers Compensation fraud.

Dr. Fierra stated that, basically, he worked for a clinic and the owner of the clinic and his wife did the billing. Dr. Fierra stated that he guesses that they did something with the billing of which he was unsure, and he got blamed for the billing and was indicted for it. The FBI, the State Attorney General's Office and the Bureau of Workers Compensation brought up the issue. He didn't receive any money. There were no 1099's with his name on them.

DR. VARYANI MOVED TO CONTINUE DR. FIERRA UNDER THE TERMS OF THE BOARD'S ORDER OF APRIL 12, 2006, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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DANN WILLIAM GANZHORN, M.D.

Dr. Ganzhorn made his initial appearance before the Board, pursuant to the terms of his April 12, 2006 Consent Agreement.

In response to Board members' questions, Dr. Ganzhorn stated that he is doing well. He added that he does feel that the Board is partnering with him in his recovery. He finished his 28 days of inpatient treatment and transitioned to intensive outpatient therapy at Glenbeigh Hospital. He was in the three-quarter-way house for about eight weeks. Now he's at the halfway house. When he does return to work and his license is reinstated, he does plan to transition from the halfway house to work. He's now slowly working on transitioning back home. He does attend Caduceus meetings, and he finds them to be very interesting. He added that they're very supportive. He attends the Beachwood group on Wednesday evenings, right after his aftercare meetings. They tend to be very supportive and relevant to issues related to the profession.

Dr. Ganzhorn advised that this was not his first attempt at recovery. His first attempt was a self-admission to Glenbeigh Hospital on November 22, 2005. He was discharged on December 20, 2005 and remained sober for approximately 30 plus days. He then relapsed and voluntarily presented himself to Glenbeigh on March 25, 2006.

Concerning treatment for his depression, Dr. Ganzhorn stated that he sees a psychiatrist, Aaron Billowitz, M.D., once a month. He stated that he is on medication for his depression, monitored by Dr. Billowitz. Dr. Ganzhorn stated that his depression is significantly better. Dr. Ganzhorn stated that, initially, he self-medicated with alcohol, until he crossed the fine line where he became dependent on it. He stated that he's in a significantly better place now.

In response to further questions, Dr. Ganzhorn stated that he probably crossed the line into alcoholism about 13 years ago, when he started using that as his primary medication and treatment plan, instead of other modalities. Dr. Ganzhorn added that he realizes that recovery is a lifelong process.

Dr. Steinbergh left the meeting during the previous discussion.

MR. BROWNING MOVED TO CONTINUE DR. GANZHORN UNDER THE TERMS OF HIS APRIL 12, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

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Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Robbins	- aye

The motion carried.

BYRON CHRISTOPHER LEAK, M.D.

Dr. Leak made his initial appearance before the Board, pursuant to the terms of his April 12, 2006 Consent Agreement.

In response to Board members' questions, Dr. Leak stated that he is doing well. He advised that he's an anesthesiology resident. He advised that, as such, he does have access to drugs, but he wouldn't call it easy access. He does have access to Fentanyl every day, and he does use it in his practice every day. Dr. Leak advised that he didn't take medicine that he was supposed to give to patients. He would self-use the waste anesthesia that was left over after a surgical procedure rather than disposing of it as he should have done. He stated that he never falsified any information or any records. He gave the patient everything that the patient was supposed to get. He didn't falsify any of that. When the procedure is over, you're supposed to have someone witness and sign your waste, and people would sign his waste but not witness it.

Dr. Leak stated alcohol and marijuana were his initial drugs of choice. He was found to be using Fentanyl through a drug screen. Dr. Leak explained that in August 2005 he was sent to the hospital's health staff committee when someone had concerns about his alcohol drinking. He was referred for evaluation. At that evaluation, he tested positive for marijuana and Fentanyl. He stated that he took the Fentanyl mostly out of curiosity, just to see what it was like. He stated that at the time he first took the Fentanyl he was already dependent upon alcohol and marijuana. He stated that using it was pretty much just part of his disease.

In response to further questions, Dr. Leak stated that he was four months from graduating from his residency when his substance abuse was discovered. He'd been using the Fentanyl off and on since his third year in residency, his second year in anesthesia.

Dr. Leak stated that what is different today is that he has, first and foremost, surrendered to his disease, to his addictions. He has two sponsors now, he did 91 meetings in 90 days, and he's actually working the program this time, and loving it. Those are pretty much the main differences. He's taking it seriously. The first time he was in rehabilitation, he took it seriously, but he didn't surrender to it. He figured that he could just go to meetings and not do the entire program full-fledged. Now he recognizes what is required, and that's what he wants to do and is doing.

Dr. Leak stated that his family is being very supportive. He commented that he's only the second generation to go to college. There's only one other physician in his entire family, other than himself. Dr. Leak stated that, originally, he's from Atlanta, Georgia. His family is very supportive, and wants to see

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him get better and get through this. They were shocked to hear of it because they didn't know. Dr. Leak stated that he also has a girlfriend.

Dr. Robbins asked Dr. Leak whether he hopes to go back to anesthesiology.

Dr. Steinbergh returned to the meeting at some point during the preceding discussion.

Dr. Leak stated that, if that's what life allows and if it's what the Board allows, he would like to get back to anesthesiology. He stated that he would only worry about relapse if he didn't maintain a strong program. That was his problem the first time. He's increased the frequency of his meetings, made sure that he did 90 meetings in 90 days. He's come to realize that in the process of surrendering, when he went back to treatment, it's more of how he works the program and does things for himself as opposed to the actual type of job he does. If he was driving a taxicab without surrendering and working the program, he would get into trouble.

Dr. Steinbergh stated that it's not quite the same. He'll have lives in his hands every single day. He's responsible for life and death every day and with every procedure. The question about anesthesiology and the fact that he's exposed to these medications is a serious issue for the Board. It needs to be a serious concern of his. As a physician, he has a lot of options and areas he can go into. He's been trained in anesthesia, but it doesn't mean that he has to stay there. He does have to have a medical license. She suggested that he not put himself at risk. He can't expose himself that way and think that it can't happen. That's what the disease is all about.

Dr. Leak stated that he's fully aware that relapse is potential, especially with access. If he's allowed to return to anesthesia, he wouldn't have problems with other people taking the medication out. He stated that alcohol and marijuana have always been his drugs of choice. He relapsed initially on alcohol. He stated that he needs to work a strong program, recognizing the dangers and concerns of being in anesthesia.

In response to further questions, Dr. Leak stated that, if he didn't practice anesthesia, it would be difficult for him to come up with a specialty. The only thing for which he's had a passion for the last five years, since the third year of medical school, was anesthesia. He was once interested in orthopedic surgery and emergency medicine. Dr. Leak stated that he feels pretty confident that he can be a competent physician in any role, as long as he's working his program correctly and doing everything that he needs to do. At this juncture, he hadn't really planned on looking into going to other fields.

Concerning his residency program, Dr. Leak stated that he was terminated from the program for failure to be able to maintain a license. They are still very supportive of him and invited him to the graduation dinner. He stated that ASA requirements are that substance abuse will automatically result in an "unsatisfactory" for the six-month evaluation. Two consecutive "unsatisfactoriness" means that you have to repeat the entire year. If he was to re-enter into an anesthesia program, whether it's back in his old hospital or somewhere else, he would have to repeat his third year.

Dr. Buchan suggested that Dr. Leak, during this next year of license suspension, think about an alternative

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specialty. He stated that Dr. Leak should do himself a favor and imagine what else he might do to serve people beyond anesthesia. The risks of returning to anesthesia are high, and he's witnessed it too many times in his years on the Board.

Dr. Egner agreed with Dr. Buchan. She stated that Dr. Leak is at a point in his career where switching specialties wouldn't be that difficult. She stated that the Board has seen a lot of doctors come back after they've been practicing for a while, and trying to find a residency program at that point is very, very difficult. She added that Dr. Leak can learn to love another specialty. She understands Dr. Leak's feelings, but indicated that there are other specialties that he would be good in, and that he would love. There's something else for him. She commented that the relapse rate in anesthesia is high, and she thinks that he really should give thought to something else.

Dr. Leak stated that he will take all aspects of life into consideration. He will also speak with his treating physicians, Dr. Collins and Dr. Janus, about this. Dr. Leak stated that, during the next eight months, he will absorb all information and consider all aspects, including his program, his future, and what's available.

Dr. Davidson stated that, as an anesthesiologist, she would recommend that he look for another specialty.

Dr. Varyani stated that he is also an anesthesiologist, trained at the Cleveland Clinic, and he believes that Dr. Leak should listen to what Dr. Egner and Dr. Buchan said. He noted that, as an anesthesiologist, you love physiology and pharmacology. The closest related specialty is intensive care or critical care medicine. He thinks that Dr. Leak would love both of those.

Dr. Davidson asked whether Dr. Leak has any idea as to whether his program fixed the problem that kept him from getting caught for two years.

Dr. Leak stated that he doesn't know what the program has done. Anytime they suspect or have any concerns, they do urine screens.

Dr. Varyani commented that Dr. Leak must have had some good friends that helped him avoid getting caught, adding that it's not that easy to get away with this, especially in the larger hospitals.

Dr. Robbins asked whether Dr. Leak has thought about speaking to his co-residents and others during this eight-month period to try to help them.

Dr. Leak stated that he has. He's even talked with some pre-medical college students. Dr. Collins would like him to work with Dr. Collins, who does videotape sessions.

Dr. Buchan stated that he thinks that Dr. Leak would be very good at that.

DR. STEINBERGH MOVED TO CONTINUE DR. LEAK UNDER THE TERMS OF HIS APRIL 12, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Albert commented that there have been other similar problems at the hospital where Dr. Leak trained. He asked whether Dr. Leak knows whether the hospital has changed its procedures. Dr. Leak answered that he does not know, and acknowledged that he was aware of problems with one other resident diverting drugs for his own use.

DAVID A. RATH, M.D.

Dr. Rath made his initial appearance before the Board, pursuant to the terms of the Board's Order of April 12, 2006.

In response to Board members' questions, Dr. Rath stated that he is doing well recovery-wise. As of July 13, he will have 11 months free of all drugs. He had his evaluation that the Board asked him to have. He added that it was delayed somewhat. He had his initial appointment in early May, and it was rescheduled because of the examiner's schedule. He had his initial interview with Edna Jones, M.D., in the second week of May, and he signed all of the releases so that she could get the information that she desired. His assessment was scheduled, but Dr. Jones had some separation from the program or something, so he had his final evaluation with Dr. Jones on Monday, July 10. He is awaiting Dr. Jones' report.

Dr. Rath stated that he's working his recovery program. He completed the aftercare, or outpatient, part of the program in February, and then he had a couple of other one-on-one counseling sessions in March and April. So he's completed that program. He attends all of the twelve-step meetings. He completed his twelve steps, and is now helping newcomers. He was elected secretary of his home group meeting. In that respect things have been going well. Dr. Rath stated that he's been trying to get some kind of employment as a medical writer, summarizing documents for companies.

In response to further Board member questions, Dr. Rath stated that he has been submitting urine specimens for screening since mid September, 2005. They have all tested negative. He signed the appropriate documents so that the court system can share all of the information with the Medical Board.

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In response to further questions, Dr. Rath stated that he became addicted to opiates through a very stupid mistake. Somewhere around 1997 he had no type of medical coverage for himself, and he had back pain which had gotten worse. He made the stupid mistake of self-medicating with a generic version of Vicodin. He used it once a day, pretty much every day. He didn't use it when he had to be out of the house or on call, but he did use any evening when he wasn't on call. Recently he had also used some generic ibuprofen more or less on a supplemental or kind of P.R.N. basis. He's had his back looked at. The only medication he's used during the past year is over-the-counter. He did have his back evaluated by a professional, who didn't find anything requiring surgery. There was no evidence of a disc problem. He's gotten information on massage and stretching exercises, which were actually quite effective. His pain is much better.

Dr. Steinbergh asked Dr. Rath whether he's completed a 28-day inpatient program.

Dr. Rath stated that he's completed 15 days of a program, and added that he's totally willing to do whatever he needs to do. Dr. Rath stated that the report that the Board will probably get within the next week will have the recommendations.

Dr. Steinbergh asked whether the Board Order doesn't contain a requirement that he complete 28 days of inpatient treatment.

Ms. Marshall explained that the Order requires Dr. Rath to undergo an assessment of his needs. She added that Dr. Rath will have to complete a minimum of 28 days of treatment, because the Board Order's language for the assessment is for the treatment provider to make a determination, essentially, whether or not he will receive credit for the 14 days he's already completed.

Dr. Rath stated that whatever the recommendation is, he's willing to comply with it.

DR. KUMAR MOVED TO CONTINUE DR. RATH UNDER THE TERMS OF THE BOARD'S ORDER OF APRIL 12, 2006, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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

Thereupon at 4:52 p.m. the July 12, 2006 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 12, 2006, as approved on August 9, 2006.



Andrew F. Robbins, Jr., M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



July 13, 2006

MINUTES

THE STATE MEDICAL BOARD OF OHIO

July 13, 2006

Andrew F. Robbins, Jr., M.D., President, called the meeting to order at 8:01 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Deepak Kumar, M.D., Vice-President; Carol L. Egner, M.D.; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; R. Gregory Browning, Ph.D.; Patricia J. Davidson, M.D.; Dalsukh Madia, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member. The following did not attend the meeting: Anquetette Sloan

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Rebecca J. Marshall, Chief Enforcement Attorney; Karen H. Mortland, Enforcement Attorney; Damion M. Clifford and Barbara J. Pfeiffer, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator.

LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

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

There was no request to consider an item separately.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON JUNE 12 AND 13, 2006 WITH: DAVID E. ALLEN, M.D.; ROBERT L. BRANDT, JR., M.D.; MICHAEL B. BURGHARDT, M.D.; ALLAN W. CLARK, M.D.; WILLIAM L. CRAWFORD, M.D.; RYAN STEVEN FRYMAN, D.O.; LAMBERTO T.R. GALANG, JR., M.D.; TAMMY M. HABERBERGER, D.O.; TIMOTHY J. HEYD, M.D.; W. ANDREW HIGHBERGER, M.D.; RALPH ARDEN HUGUNIN, M.D.; HANY M. ISKANDER, M.D.; MELANIE E. JUNGBLUT, M.D.; MARK S. MCALLISTER, M.D.; MICHAEL SOLIMAN MIKHAIL, M.D.; FRANCINE R. MOSLEY, M.D.; CARLA M. MYERS, D.O.; ASHOK V. PADHIAR, M.D.; ANDRE PROCHOROFF, M.D.; CHARLES CHRISTIAN RICKEY, P.A.; KENT ROBINSON, M.D.; WILLIAM A. ROMER, M.D.; CHRISTOPHER S. SHAW, M.D.; MATTHEW ALLAN SNYDER, L.M.T.; BRIAN D. SOUTHERN, M.D.; WILLIAM C. STEVENSON, M.D.; ALAN B. STORROW, M.D.; DAVID E. SUBLER, M.D.; EUGENE F. TARESHAWTY, JR., M.D.; JOSEPH A. TORE, M.D.; KELLI D. WAHL, M.T.; REGINALD

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O. WINDOM, M.D.; JAMES F. ZIMMERMAN, D.P.M.; AND RICHARD ALLAN ZINNI, D.O. DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:

- **TO APPROVE MILES E. DRAKE, JR., M.D.'S NOMINATION OF GEORGE W. PAULSON, M.D., TO SERVE AS HIS MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO APPROVE MICHELLE LOU GRAHAM, M.D., TO SERVE AS TANIA RENEE ECK, M.T.'S SUPERVISING PHYSICIAN;**
- **TO APPROVE TIMOTHY A. GOODEN, M.D.'S REQUEST FOR A REDUCTION IN HIS DRUG SCREEN REQUIREMENT FROM ONE PER WEEK TO TWO PER MONTH;**
- **TO APPROVE ANN V. GOVIER, M.D.'S REQUESTS AS FOLLOWS: REDUCTION IN APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO EVERY SIX MONTHS; INCREASE WORK HOURS FROM 40 PER WEEK TO 50 PER WEEK; AND INCREASE ON-CALL TO 8 CALLS PER MONTH;**
- **TO APPROVE ANIL H. JHANGIANI, M.D.'S REQUESTS AS FOLLOWS: DISCONTINUE CHART MONITORING; AND REDUCE PSYCHIATRIC SESSIONS FROM ONCE A MONTH TO EVERY 3 MONTHS;**
- **TO APPROVE STEPHEN BARRY LEVITT, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY 3 MONTHS TO ANNUALLY;**
- **TO APPROVE DONALD C. MANN, M.D.'S REQUEST FOR THE ILLINOIS PROFESSIONALS HEALTH PROGRAM, TO SERVE AS HIS SUPERVISING "PHYSICIAN;"**
- **TO APPROVE KAMAL K. TIWARI, M.D., TO SERVE AS GREGORY S. MASIMORE, M.D.'S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO APPROVE THOMAS GEORGE OLSEN, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY 3 MONTHS TO ANNUALLY;**
- **TO APPROVE WILLIAM DENNY ROBERTSON, M.D.'S REQUEST FOR A REDUCTION IN HIS ALCOHOL AND DRUG REHABILITATION MEETINGS REQUIREMENT FROM 3 PER WEEK TO 2 PER WEEK WITH A MINIMUM OF 10 PER MONTH;**
- **TO APPROVE NATHAN A. FOGT, D.O., TO SERVE AS JOHN W. SHAW, M.D.'S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**

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- **TO APPROVE MICHAEL J. VALLE, D.O., TO SERVE AS JODY LEE NELSON SHORT, D.O.’S SUPERVISING PHYSICIAN;**
- **TO APPROVE DARRYL R. RINI, M.D., TO SERVE AS RICHARD S. SKOBLAR, M.D.’S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH**
- **TO APPROVE DEBORAH L. TAYLOR, M.D.’S REQUESTS AS FOLLOWS: REDUCTION IN DRUG SCREENS FROM ONE PER WEEK TO TWO PER MONTH; REDUCTION IN APPEARANCE SCHEDULE TO EVERY SIX MONTHS; REDUCTION IN PSYCHIATRIC SESSIONS TO EVERY TWO MONTHS; AND APPROVAL OF SHU HUA WANG, M.D., TO SERVE AS DR. TAYLOR’S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO APPROVE PAUL PO-TSANG YANG, M.D.’S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY 3 MONTHS TO EVERY 6 MONTHS.**

DR. STEINBERGH FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT “A”, THE P.A. APPLICANTS LISTED IN EXHIBIT “B”, AND THE ACUPUNCTURISTS LISTED IN EXHIBIT “C.” DR. STEINBERGH FURTHER MOVED TO APPROVE THE RESULTS OF THE JUNE 2006 PMLEXIS, AND TO CERTIFY AS PASSING AND LICENSE THOSE RECEIVING A SCORE OF 75 OR GREATER ON THE EXAMINATION, AND TO CERTIFY AS FAILING AND DENY LICENSURE TO THOSE WHO RECEIVED A SCORE OF LESS THAN 75 ON THE EXAMINATION. DR. MADIA SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

PROBATIONARY REQUESTS

PAUL W. WILSON, D.O.

DR. STEINBERGH MOVED TO TABLE DR. WILSON'S REQUEST UNTIL MR. ALBERT ARRIVES AT THE MEETING. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

REINSTATEMENT REQUESTS

CAROL A. DOMER, C.T.

Ms. Domer's request for reinstatement of her license to practice cosmetic therapy, which was suspended by consent agreement of July 13, 2005, was presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO APPROVE MS. DOMER'S REQUEST FOR REINSTATEMENT OF HER COSMETIC THERAPY LICENSE, SUBJECT TO THE TERMS OF HER JULY 13, 2005 CONSENT AGREEMENT. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

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JUNE 19, 2006 RULES HEARING: EMERITUS RULES (CHAPTER 4731-22, OAC); CONTROLLED SUBSTANCE RULES (CHAPTER 4731-11, OAC); SEXUAL MISCONDUCT RULES (CHAPTER 4731-26, OAC); AND TERMINATION OF PHYSICIAN/PATIENT RELATIONSHIP RULES (CHAPTER 4731-27, OAC)

Dr. Robbins referred the Board to materials contained in the agenda package and in their table files concerning the Rules Hearing which was held on June 19, 2006. He stated that the Board now needs to determine whether the Proposed Chapter 4731-26 rules and the Proposed Chapter 4731-27 rules should proceed as unchanged, or whether an amendment is necessary. If an amendment is necessary, the Board will have to develop language for the amendment.

Dr. Kumar stated that he read through all of the discussion that occurred at the rules hearing, and there was nothing in there that the Board didn't hear in its original discussions over the past three or four months. The Board had taken those issues into account. He stated that he sees nothing that needs to be changed in those rules.

Dr. Kumar indicated that there was some discussion of a need to amend proposed rule 4731-26-01(H), the definition of emergency setting. He stated that Dr. Steinbergh had a valid point regarding urgent care centers.

Dr. Talmage and Mr. Albert joined the meeting at this time.

Dr. Steinbergh referred to proposed rule 4731-26-01(H), which defines "emergency setting" as an "emergency department or an urgent care center," and proposed rule 4731-27-01(F), which states, "For purposes of this rule, 'emergency setting' means an emergency department or urgent care center." She stated that she does feel that the emergency setting really does refer to an emergency department, but not necessarily an urgent care center. Dr. Steinbergh stated that urgent care physicians are generally primary care physicians who, although they see people episodically, frequently see patients who often go to an urgent care center to be seen for what they consider to be urgent care when they can't get to a primary care doctor's office. These physicians actually do have relationships with the patients who come in. She stated that, in her own practice, she does see some families who tend to do that. If they know she is out of the office, they'll go to an urgent care center. Sometimes patients of hers may have a problem that she doesn't even know about, but she gets a report from the urgent care center. Dr. Steinbergh stated that she doesn't see physicians in the urgent care settings in the same way that she sees emergency department physicians.

DR. STEINBERGH MOVED TO AMEND THE RULES TO DEFINE AN EMERGENCY SETTING AS AN EMERGENCY DEPARTMENT, AND DROPPING THE LANGUAGE CONCERNING THE URGENT CARE CENTER. The motion died for lack of a second.

Dr. Kumar stated that that was discussed at hearing. He stated that the emergency department physicians were talking about the fact that, in several institutions, similar things do happen in the emergency department also. People will come there for continuous care in that fashion. The language in the rule was sort of consensus language, but he would concur with Dr. Steinbergh in the sense that there are

differences. There are definite differences within the regular emergency room and the urgent care center. The language is a compromise language.

Dr. Robbins stated that he sees a lot of patients that go to urgent care centers that treat them just like an emergency room. They don't have continuing care. Dr. Robbins stated that he thinks that there is a significant population that goes to urgent care centers that don't use the center as their family doctor, or use them in a situation such as Dr. Steinbergh described.

Dr. Davidson asked whether the urgent care centers keep a chart.

Dr. Robbins stated that they do.

Dr. Talmage stated that, in looking at care levels, there's not an equivalency. Obviously an emergency department has a great deal more facility to take care of serious disease and trauma, whereas the urgent care center does not. But, inasmuch as the rule is addressing the doctor/patient relationship, he thinks that there is a similarity. People do go to urgent care centers, and they go back there, but they see the doctor who happens to be assigned at the time they go. They don't make an appointment with "a" physician; they don't make regular appointments to be seen and followed up in two weeks, which is characteristic of an office and an ongoing doctor/patient relationship. Dr. Talmage stated that, here, the rule is talking about a relationship issue, and he doesn't think that that relationship exists in the urgent care center. He stated that the patient is not aligned with a doctor, but with the urgent care center that's on the corner closest to his or her house. Dr. Talmage stated that he thinks that the language could be changed, but he doesn't think it needs to be. The emergency setting is a setting in which there is not an ongoing doctor/patient relationship, and therefore the proposed language fits.

Dr. Kumar agreed with Dr. Talmage.

DR. KUMAR MOVED TO APPROVE THE DRAFT RULES AS PRESENTED AT HEARING, WITHOUT ANY CHANGE. DR. TALMAGE SECONDED THE MOTION.

Dr. Steinbergh asked for discussion on the testimony.

Dr. Kumar stated that he would like to address two parts of the testimony, one from the American College of Emergency Physicians. He stated that they were uncomfortable with the seven-day requirement for episodic care. Dr. Kumar stated that the Committee discussed that extensively and felt that many times, either in the emergency room or in urgent care centers, the physicians do have a responsibility for making an appointment for the patient to follow up for the next few days in places. The Committee felt that seven days would allow that follow-up. He stated that the Committee is not in favor of changing that rule at all.

Dr. Kumar stated that the second comment was essentially from OSMA concerning the termination of the physician/patient relationships. OSMA's concerns were that there are times when physician don't retire, but they do administrative work in the office. Dr. Kumar stated that his comment is that the rules are written primarily to address when the physician/patient relationship is terminated. If a physician is going

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to do only administrative duties, he or she will also relinquish his or her liability insurance for patient care, and one of the Board's requirements is that the physician demonstrate that he or she no longer have the liability insurance. Dr. Kumar added that a physician only doing administrative duties, may still see a patient if the physician is not 100% retired. If the physician is completely retired with no medical malpractice insurance, that is when the physician has terminated the physician/patient relationship.

Ms. Debolt stated that the OSMA comments included a physician who was "slowing down," who is still seeing patients and not just doing administrative work.

Dr. Kumar stated that that's not the termination of the physician/patient relationship.

Ms. Debolt agreed.

Dr. Kumar stated that he didn't think that any of the comments made gave a reason to modify the rules, as proposed.

Dr. Steinbergh stated that the Board also got comments from hospice physicians who were pleased with the language in the hospice rules.

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

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

The motion carried.

PROBATIONARY REQUESTS

PAUL W. WILSON, D.O.

DR. STEINBERGH MOVE TO REMOVE THE REQUEST OF PAUL W. WILSON, D.O., FROM THE TABLE. DR. ROBBINS SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Steinbergh advised Mr. Albert that Dr. Wilson's request for elimination of the practice plan

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requirement was tabled so that the Board could discuss Dr. Wilson's request with Mr. Albert. She noted that Dr. Wilson's most recent agreement, signed in 1999, prohibits Dr. Wilson from requesting a termination of his agreement for ten years, although he may request a change in the terms in the agreement at any time. She noted that the Board has not yet reached the ten-year mark, but Dr. Wilson has made this request.

Dr. Wilson was present in the room and asked whether he could address the Board.

Dr. Robbins stated that he could not.

Mr. Albert stated that, as most Board members know, Dr. Wilson had a hard time finding a job, but finally found a job that Mr. Albert thought was made in heaven. He was the plant physician at Daimler-Chrysler. Mr. Albert stated that Dr. Wilson was terminated from that job within the last six months or so, and now he's looking for another job. Mr. Albert stated that he and Dr. Wilson had some discussion as to how he was looking for a job, and Dr. Wilson indicated that he was searching for a job by computer.

Mr. Albert stated that he's kind of up in the air about Dr. Wilson's request, but he supposes that it would be all right to terminate this requirement. Mr. Albert stated that if the Board doesn't want to remove the requirement, it could authorize the Board's Secretary to approve or deny approval of any future practice plan so that Dr. Wilson wouldn't have to wait for the Board's next meeting to get approval. If Dr. Wilson finds a job, he could contact Ms. Bickers, and she could immediately get the plan to Dr. Talmage, who could approve it right away.

Mr. Albert stated that, after this long, he just wants to see Dr. Wilson get a job. He added that he doesn't want Dr. Wilson to work as a solo practitioner. He thinks that Dr. Wilson needs to get a job in a group practice or as a factory physician.

Dr. Steinbergh stated that that's the piece of the practice plan that hampers him. In his letter to the Board, Dr. Wilson indicates that he would be interested in opening his own office near home.

Mr. Albert stated that he personally feels that that would be a bad move. He commented that Dr. Wilson has also contacted the Nursing Board about going to nursing school and becoming a nurse. Mr. Albert stated that he doesn't know whether Dr. Wilson has explored all those possibilities yet, but he personally feels that that would be a bad idea.

Dr. Egner asked whether the problem with the practice plan approval requirement is the timing.

Ms. Bickers stated that it is.

Mr. Albert stated that that could be solved by allowing the Secretary to approve it.

Dr. Egner stated that she remembers Dr. Wilson coming before the Board from the very beginning. He hasn't been back, and the Board has seen a lot of other physicians for violations during the time Dr. Wilson

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has been a probationer. Dr. Egner stated that she wants to see Dr. Wilson, too, and she wishes that he could find a job like he's had, in a more set position. She commented that Dr. Wilson has been with the prison system and with Chrysler, and those are the kinds of jobs she thinks he would do best. She does have reservations about his doing a private practice, because, for one, she thinks it will nearly impossible for him to make money the way he wants to practice. It's just not a reasonable way to work.

Dr. Steinbergh stated that Dr. Wilson currently has no Board certification and that, apparently, has been the holdup for him. He has looked to get some retraining in Michigan, and couldn't because he was on probation in Ohio. So there are certain legitimate barriers that he has.

Mr. Albert stated that he would be willing to release Dr. Wilson from the practice plan requirement, as long as his practice didn't involve private practice.

Dr. Egner stated that she doesn't think that that's a reasonable thing to do. The Board should either release him from the practice plan and let him make his own decisions, and he'd still be on probation, or not.

Mr. Albert disagreed, stating that he thinks the Board could put restrictions on him.

Dr. Talmage stated that he's listening to the Board's concerns, and if by "private practice" the Board means solo practice, on-call seven days a week, totally administering, hiring and firing office personnel and so on, that would be something that would be overly stressful and not to Dr. Wilson's advantage. If what the Board wants to see is a situation in which Dr. Wilson is somewhat protected, has a coverage group so that he's on call a reasonable number of times, maybe once a week, does not hire and fire but has personnel already in place to assist him in the office, whether he makes a lot of money or a little money, and if the Board sees fit to let him, with those parameters, look at a practice plan so that the Board has the capability of doing something on a quick basis for him, he could do that and then bring it to the Board for its perusal.

Mr. Albert stated that he doesn't think that Dr. Wilson would be well-served to be in a solo practice. He stated that such a practice is a big stress factor and the Board would be doing him a big disservice.

Dr. Buchan stated that he remembers Dr. Wilson well from the late 1990s, and he would have guessed at that time that Dr. Wilson would never practice in the State of Ohio, but this is a different Dr. Wilson today. Dr. Buchan stated that he would be comfortable with the Secretary and Supervising Member looking at the plan and making that call. He noted that Dr. Wilson has done well with his psychiatric diagnosis.

Mr. Albert stated that he and Dr. Talmage could approve a practice plan within a couple of hours.

Dr. Kumar stated that allowing that wouldn't change the consent agreement. He stated that Mr. Albert's suggestion to have him and Dr. Talmage approve a proposed practice plan is a very viable option.

Mr. Albert suggested that Dr. Talmage be given the authority to approve by himself.

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DR. STEINBERGH MOVED TO AUTHORIZE DR. TALMAGE TO APPROVE OR DENY APPROVAL OF PRACTICE PLANS SUBMITTED BY DR. WILSON. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

REPORTS OF ASSIGNED COMMITTEES

LEGISLATIVE LIAISON COMMITTEE

Mr. Browning stated that there is nothing to report this month, as the Legislature is out of session.

LICENSURE COMMITTEE

Dr. Robbins advised that the Committee reviewed a number of licensure applications.

Sherif Aziz, M.D.

Dr. Aziz' request for a waiver of the U.S.M.L.E. seven-year rule for good cause was considered by the Committee. Dr. Robbins noted that Dr. Aziz was over the seven years by 18 months. He passed Step 1 of the U.S.M.L.E. on the first attempt, and Steps 2 and 3 on the second attempt. Dr. Aziz is currently working as a PGY-4 resident at Metro Health in the Dept. of Psychiatry.

Dr Robbins stated that the Committee reviewed Dr. Aziz' reasons for asking for the waiver, and recommends denial of his request.

DR. STEINBERGH MOVED TO PROPOSE TO DENY DR. AZIZ' REQUEST FOR A WAIVER OF THE U.S.M.L.E. SEVEN-YEAR RULE, ON THE BASIS THAT HE DID NOT SHOW GOOD CAUSE FOR MISSING THE DEADLINE. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Jeffrey Halter, M.D.

Dr. Robbins stated that the Committee reviewed Dr. Halter's request for a waiver of the U.S.M.L.E. seven-year rule for good cause. He noted that Dr. Halter was 20 months beyond the deadline. He passed all three parts of the exam on the first attempt. Dr. Robbins stated that the Committee recommends denial of Dr. Halter's request.

DR. MADIA MOVED TO DENY DR. HALTER'S REQUEST FOR A WAIVER OF THE U.S.M.L.E. SEVEN-YEAR RULE, ON THE BASIS THAT HE DID NOT SHOW GOOD CAUSE FOR MISSING THE DEADLINE. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Alan Patrick Kenney, M.D.

Dr. Kenney's request for approval of an exemption beyond the ten year limit for passing the U.S.M.L.E. Dr. Robbins stated that Dr. Kenney is ten months over the ten-year limit. Dr. Kenney did pass all three steps on his first attempt, and made outstanding scores on the exam. He graduated from the University of Rochester's M.D./Ph.D. program in May 2002. After considerable discussion, the Committee recommends approving the limited exemption for the ten-year rule.

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DR. STENBERGH MOVED TO GRANT DR. KENNEY'S REQUEST FOR A LIMITED EXEMPTION OF THE TEN-YEAR RULE, AND TO LICENSE DR. KENNY, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. VARYANI SECONDED THE MOTION.

Dr. Buchan asked for clarification. He stated that the Board recognizes the need for an extension based on illness. He asked upon what basis this recommendation is being made. He noted that Dr. Kenny is beyond the 10-year rule, and he understands that Dr. Kenney got his Ph.D., but he asked how Dr. Kenny is different from the previous physicians who were denied.

Dr. Robbins stated that the feeling from the Committee was that Dr. Kenny is different because he did obtain his M.D./Ph.D. degree. The feeling was that because he did obtain the Ph.D. while in the M.D. sequence, that was a reason to grant the waiver.

Dr. Steinbergh indicated that she thought that there was a reason why Dr. Kenny's taking part 3 had been delayed.

Dr. Buchan stated that it had to do with his research, he believes.

Dr. Davidson stated that he took extra time beyond the expected three extra years to get the Ph.D.

Dr. Robbins stated that that was the reason the Committee thought that the Board should approve Dr. Kenny's request.

Dr. Davidson stated that the Committee had a basic discussion about what the Board was trying to accomplish by even considering the rule of anyone having a waiver from the seven or ten years, and agreed that it was competency. The Board is using the U.S.M.L.E. as a measure of competency. If a physician doesn't pass the U.S.M.L.E. within the prescribed time, the Board needs to look for the presumably rare candidate who can demonstrate competence as a physician. The Committee agreed that it would sit down and try to provide a little standardization or consistency, or flesh out some of the reasons such as length of time over what exactly the physician did during the extra time. Was the physician on the beach or doing research related to the Ph.D.? Dr. Davidson stated that the Committee came up with about five or six things that its members were all independently weighing and considering, and the Committee decided that it would bring a little more consistency to that.

Dr. Talmage stated that when the Board talks about whether the individual passed on the first or third attempt, it's established a standard that they've passed by the third attempt. Whether someone passes on the first or third attempt cannot have influence in the Board's decision regarding the waiver. The Board hasn't established the number of attempts as a standard, and the Board must stick with the standards it has established.

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Dr. Steinbergh referred to correspondence from M. Kerry O'Banion, M.D., Ph.D., the Director of Dr. Kenny's training program, noting that it states that "(i)t is important to note that Dr. Kenny petitioned the Program to stay an additional year in the laboratory in order to complete a series of studies that went beyond the requirements of his thesis." The letter further goes on to state that "the delay is due to (Dr. Kenny's) training in developmental biology research, an area clearly germane to the field of Pediatrics...."

Dr. Talmage stated that that excuse is legitimate.

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

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

The motion carried.

Shyam Srivivas, M.D.

Dr. Robbins advised that Dr. Srinivas is also asking for a waiver of the seven-year rule for good cause. He noted that Dr. Srinagar graduated with a combined M.D./Ph.D. degree. Dr. Robbins stated that Dr. Srinivas obtained his Ph.D. in electrical and computer engineering, focusing on the field of optical imaging. He stated that the Committee recommends approval of Dr. Srinivas' request.

DR. KUMAR MOVED TO APPROVE DR. SRINIVAS' REQUEST AND TO LICENSE DR. SRINIVAS, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION. Dr. Kumar indicated that he thought that applicants with M.D./Ph.D. degrees were automatically granted a waiver of the seven-year rule.

Dr. Davidson stated that the Ph.D. program has to be related to medicine.

Dr. Robbins stated that the trouble in this case is that the Ph.D. is in electrical and computer engineering.

Dr. Steinbergh stated that it has to be in a field of medicine, and it has to be a combination program, which this was.

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Dr. Talmage stated that the Board has the discretion to determine whether or not the Ph.D. program is medically related and he feels that Dr. Srinivas' Ph.D. is related to his field of medicine.

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

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

The motion carried.

Rimon Daoud, M.D.

Dr. Robbins stated that Dr. Daoud has also requested a waiver for good cause from the seven-year rule. He is over the time limit by seven months. Dr. Robbins stated that, after reviewing Dr. Daoud's reasons for not completing the U.S.M.L.E. within the prescribed time, it is recommending denial.

Dr. Steinbergh stated that she agreed with denial, adding that she has concerns about Dr. Daoud's postgraduate training. Dr. Daoud did two years of training at OSU in family practice and then entered the Altman program as a PGY-2. She added that his references weren't particularly good, noting that the form from OSU indicates that he was placed on probation, he scored below standard for their program on the in training examination, and he remediated this.

DR. EGNER MOVED TO DENY DR. DAOUD'S REQUEST FOR A WAIVER OF THE U.S.M.L.E. SEVEN-YEAR RULE, ON THE BASIS THAT HE DID NOT SHOW GOOD CAUSE FOR MISSING THE DEADLINE. DR. BUCHAN SECONDED THE MOTION.

Dr. Kumar stated that this is a situation where, after Dr. Daoud did U.S.M.L.E. Part 2, it took him, virtually, six to seven years to do Part 3. Part of the reason pertains to his not being able to come here to take the exam because he couldn't get a visa. Dr. Kumar stated that that's a problem; it will delay him from being able to come to the United States and take Part 3. Dr. Kumar stated that he doesn't think that that should be brushed off as a non-important reason. However, in this case, there were other issues showing that Dr. Daoud was not absolutely up to par, so he will support denial.

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

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

The motion carried.

Dr. Robbins stated that the Committee also reviewed changes to the Board's C.M.E. booklet for M.D.s. He asked Ms. Rieve to address the Board.

Ms. Rieve stated that staff has held conference calls with the A.M.A. and O.S.M.A. to discuss the changes that were being made to the booklet. Mary Whitaker of the O.S.M.A. reviewed a draft. Ms. Rieve stated that the A.M.A. has changed their PRA program to give more opportunities for C.M.E. The changes in the booklet reflect that.

Dr. Kumar noted that, essentially, the A.M.A. is allowing internet courses.

Ms. Rieve stated that some other types of teaching can be accepted now. International physicians can now come to the United States to get C.M.E. and get credit for that. The A.M.A. is also giving more credit for those who teach or make presentations because they recognize that preparation is also a learning experience. Ms. Rieve stated that she thinks that the changes being made will only help. Ms. Rieve stated the Board's statutes and rules reflect "hours," where the A.M.A. program reflects "credits." The Board will have to change its rules soon.

Dr. Varyani stated that he thinks Board members should get credits for quality assurance for attending Board meetings.

Dr. Talmage asked whether Board members could claim meetings as Category 2. He stated that it is a quality assurance activity.

Other Board members indicated that they could.

Ms. Rieve stated that they probably could.

DR. VARYANI MOVED TO APPROVE THE REVISED BOOKLET. DR. TALMAGE SECONDED THE MOTION. All members voted aye. The motion carried.

MINIMAL STANDARDS OF CARE COMMITTEE

Dr. Kumar advised that the Committee reviewed two letters: The first was from Community Mercy Health Partners, addressing a situation of co-management. Dr. Kumar stated that it's a situation where, because of fast-moving technology, CT scans have become so good that viewers can see coronary vessels very effectively, probably better at times than in an angiogram. What is happening is that CT scans of chests are being done, and the coronary arteries are being evaluated and read by the cardiologist, and the rest of the chest part of the CT is being read by the radiologist. The question is being asked if this meets minimal standards of care, and whether two people can read the same films and get paid for it separately.

Dr. Kumar stated that there was a question as to whether this is fee-splitting, whether it is allowed.

Dr. Kumar stated that the Committee had a lot of conflicting information. Some radiologists themselves are saying that the cardiologists are better suited for looking at the coronary portion of that CT scan. The Committee also has information that two separate CPT codes already exist for reading the coronary portion and the rest of the chest portion. Dr. Kumar stated that the Committee tabled this to get more information from various Chairs of cardiology and radiology and further research into the CPT code issue. Dr. Kumar stated that he hopes that the Committee will have more information by next month to respond to this letter.

Dr. Varyani stated that if you're going to just be looking at the heart and the coronary arteries, the cardiologist should get the payment. There should not be a requirement that the radiologist has to read it personally.

Dr. Kumar stated that the problem that came up in that situation is that if you do a CT of the coronary vessels, the way things are done, the chest is also included in that. If you don't read that and you miss something else, then you have a medical legal problem for that particular physician.

Dr. Varyani stated that the CT scanner being talked about, that slices very rapidly, and the cardiologist is doing it, why does he have to even worry about anything else, unless he is really worried that there's a mass something or a symptom somewhere. It's really, basically, for the coronary arteries, and it's the heart. Why would the radiologist even come into the picture?

Dr. Kumar stated that they're trying to do it routinely to cover the bases.

Dr. Varyani stated that he thinks that the Board should say that, if the patient is just getting the CT for the heart, then you should just be worried about that and the cardiologist should get paid. Dr. Varyani stated that he guesses that he understands the medical/legal reason for that, but he doesn't think that that should come up, and the radiologist should not be referred to in that case. Dr. Varyani stated that he's sure that this is going to be very difficult for the Board.

Dr. Steinbergh stated that, if a primary care physician sends a patient for a CT of the chest, because of the increasing number of slices that they do, and if they do include coronary arteries, they felt that the radiologist may read the film and say that a cardiologist needs to interpret a portion. She added that the bottom line for her was that she thought that, if there are two separate CPT codes for the interpretation,

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which they say there are, then the reading radiologist would charge, the cardiologist would charge for the cardiac portion, and the report that needs to be complete would indicate by the reading radiologist that the cardiologist has interpreted the coronary artery section and these are the results. Dr. Steinbergh stated that you have to have a report that is complete. She added that, certainly, this isn't going to be involved in all chest CTs, but some of them would be.

Dr. Steinbergh continued that the Committee talked about the fact that, if she were doing a chest CT, she would send that CT film with the patient to the pulmonologist if she had a pulmonary concern. If that pulmonologist had other concerns about the film that he thought someone else should interpret, that person could interpret and get paid for his or her interpretations.

Dr. Varyani stated that if a family physician sends a patient for a chest CT, the radiologist reviews it and it comes back to the family physician and there is a charge for that. If the family physician feels that the heart needs to be looked at, then the patient would be referred to the cardiologist, rather than the other way around; rather than the radiologist referring the patient to a cardiologist.

Dr. Steinbergh stated that it depends. There are so many different scenarios.

Dr. Kumar stated that there are so many possible ramifications from this. He stated that if he gets a patient referred to him for colon cancer and it comes with a CT scan that has already been interpreted by a radiologist, part of his service as a consultant in that field is to also look at the CT scan, interpret and give a report. Dr. Kumar asked whether he would then be allowed to charge separately for the reading of the CT scan? He stated that he is not; it's part of the review. Dr. Kumar stated that there are so many ramifications, that's why the Committee tabled the matter.

Dr. Steinbergh stated that the Board has to be careful that it doesn't get involved in directing specific CPTs; that's not the Board's business.

Dr. Kumar stated that how the Board addresses this and the rules it writes is going to be part of the so-called co-management issues.

Dr. Kumar stated that the second issue was an e-mail request for clarification about consent forms. The situation presented involved patients receiving botox treatments every six to eight weeks. The Board was asked whether a consent form needed to be obtained every six to eight weeks, or would one consent form be appropriate for the entire series. The proposed response indicates that there are no definite rules pertaining to this issue. Dr. Kumar stated that all the Board's rules provide that a written consent to a surgical or medical procedure or course of procedures shall, to the extent certain requirements are met, be presumed to be valid and effective. The Board does not have policies further addressing the frequency with which informed consent must be obtained. Dr. Kumar stated that the proposed response also directs the writer to seek counsel from her practice attorney, or to seek an ethics consultation from the A.M.A. or O.S.M.A.

Dr. Egner and Dr. Buchan left the room at this time.

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Dr. Robbins stated that he recommends getting signed consent every time. He stated that he does it every time. The trouble is in how many procedures can be covered by one written consent.

Dr. Kumar stated that that's one of the issues addressed. It becomes more of a medical/legal issue, and the writer should consult with her attorney and look at the ethics issue. You should have consent that describes what you're going to do, for what period of time, and how many procedures.

Dr. Talmage stated that the down side is that if the Board establishes a rule on this issue, that doesn't just apply to botox but to every procedure. That would mean that an orthopaedist, who is going to do four Synvisc injections and has one informed consent for the four injections, would then be governed by that rule. Dr. Talmage advised that there's a time limit for prescriptions, which are only good for refills for a year. Should informed consent be good for anything more than a year? It's a very complex issue. Dr. Talmage stated that there's already a law on the books about informed consent, and suggested that dealing with it legally would be the way to go. He expressed concern that the Board would get into a morass of multiple situations that it couldn't really sort out.

Dr. Kumar asked whether the Board agrees with sending out the proposed response in the agenda materials.

DR. STEINBERGH MOVED TO SEND THE RESPONSE. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Egner and Dr. Buchan returned to the room during the following discussion.

SCOPE OF PRACTICE COMMITTEE

Dr. Steinbergh stated that the Committee reviewed two items of correspondence. The first involved hyperbaric oxygen therapy by podiatrists. The Board was contacted by Ara B. Kallibjian, D.P.M., who is interested in wound care of the ankle and foot, and who wants to take a hyperbaric oxygen treatment program at Ohio State. Dr. Kallibjian inquired as to whether or not this falls within the scope of practice of podiatrists.

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Dr. Steinbergh stated that the Committee had concerns that this therapy does involve the entire body. It affects the lungs in terms of pulmonary emboli, and so forth. The Committee wants to get more information from OSU, which did send their credentialing criteria for those physicians who want to go into hyperbaric medicine. Dr. Steinbergh stated that OSU's response was unclear. They say that the podiatrist may apply only for wound care, but the language was not clear as to whether or not there was going to be a separate extremity hyperbaric chamber, or were podiatrists going to be allowed to order treatment with the hyperbaric medicine physician overseeing the procedure. Dr. Steinbergh commented that there is in the works through the ABMS subspecialty boards on hyperbaric medicine. Dr. Steinbergh stated that the information the Board has is: There is, in fact, a specialty developing; at this time emergency room physicians are predominantly doing hyperbaric medicine because the chamber is located right next to the ER; and that when she needs to send a patient for this treatment, there is a physician there that she's contacting.

Dr. Steinbergh stated that she will speak with the credentials Chair to see whether they are, in fact, considering credentialing podiatry for hyperbaric medicine. It's unclear. They're credentialing them for wound care. Dr. Steinbergh stated that podiatrists may take the hyperbaric medicine course, which is part of the requirements for hyperbaric medicine at OSU, but it doesn't really clearly say that they will be successful in their use of that. The podiatry scope of practice in the state involves wound care for the lower extremity.

Dr. Robbins asked whether anyone foresees a podiatrist or other specialist buying a hyperbaric chamber for their office.

Dr. Steinbergh stated that she does not imagine it, but you never know.

Dr. Robbins commented that, reading between the lines, that's what he thinks is going on. Why else would they want to do this?

Dr. Kumar stated that the equipment is not that expensive.

Dr. Buchan commented that it's a definite revenue enhancer, but most of these fellows are working at institutions that utilize the hyperbaric oxygen. He thinks that, legitimately, they are asking for parameters. He added that there are extremity chambers, less expensive machines.

Dr. Robbins asked what they are going to do in those facilities. He commented that the only experience he's had with hyperbaric is for people with wound healing and things like that.

Dr. Steinbergh stated that the concern is someone who has one of these little portable units and wants to open a wound care center somewhere, using hyperbaric medicine. That's a real concern. The bottom line at this point is that a podiatrist is asking whether this is in the podiatric scope of practice. At this point, the Committee feels that it is not.

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Dr. Kumar stated that hyperbaric medicine is not just for wound care.

Mr. Albert asked what hyperbaric treatment is.

Dr. Steinbergh stated that it puts oxygen into the blood stream under pressure, and a lot of it. One of the worst consequences is a pulmonary embolus.

Dr. Talmage stated that the usual problem is a pneumothorax.

Dr. Steinbergh agreed, stating that it will blow out the lung.

Dr. Varyani stated that you're basically giving oxygen to the tissue where you don't have oxygen.

Dr. Varyani stated that these are people who have chronic wounds, and there are already a lot of wound care facilities.

Dr. Steinbergh stated that she has had a letter from a podiatrist at the wound care center at Grant Hospital, who was involved in the wound care of a lower extremity of a patient of hers; but it was in conjunction with the hyperbaric medicine department. The podiatrist may have been overseeing the wound care itself, but the use of the oxygen chamber was done by the hyperbaric medicine person.

Dr. Talmage stated that he thinks that, as the letter written to the Board, it's for patients in a hyperbaric chamber. The Committee was unclear. He stated that, if this is a chamber, then that's multi-system effect, and, therefore, somebody whose specialty is the foot and ankle would not be qualified to handle all of the aspects of that chamber. If there is a limited chamber that encloses only the extremity, would that be an appropriate thing, with proper training, for somebody whose specialty is foot and ankle to do. Perhaps that would be considered differently, but the letter was not clear whether this was a limb limit or a whole body chamber.

Dr. Steinbergh stated that Dr. Talmage also asked a very valid question during the Committee meeting, and that is, if you have a chamber for the local extremity, what type of pressure on the lower extremity would cause vascular problems higher up.

Dr. Varyani stated that he's from Cleveland, and he knows Dr. Kallibjian. What Dr. Kallibjian is saying is that hyperbaric medicine in his practice is limited to the wounds of the lower leg. He would be taking a hyperbaric course. Prior to that, his letter says that a large part of his practice is at a wound care center affiliated with the Cleveland Clinic. They offer hyperbaric medicine that involves patients being placed in chambers. That means that it's the whole thing. Dr. Varyani stated that he doesn't think that Dr. Kallibjian should be allowed to do the whole thing.

Dr. Kumar stated that that's why the Committee wants more information. He added that the Committee doesn't even know if there are limited extremity chambers available.

Dr. Varyani stated that Dr. Kallibjian is referring to the whole thing, and the wound center would like

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Dr. Kallibjian to be part of the supervisory team so that they can charge for it.

Dr. Steinbergh stated that she is pleased that Dr. Kallibjian asked the question before doing it. The Committee will get more information.

Dr. Robbins expressed concern that what will happen is that a limited hyperbaric chamber will be developed, and then every wound care, if you have it, will be treated by hyperbaric medicine. It won't be just the ones who need it.

Dr. Steinbergh stated that the Committee also reviewed a letter from Leah Dehaven, L.M.T., requesting the Board's opinion on massage therapists using an ionic foot spa in their practice. She provided the Committee with materials on the Bio Cleanse Personal Field Enhancer Ionic Foot and Body Bath. The Committee reviewed a letter responding to the request, and approved it with some editorial changes. The letter advises that this is not within the scope of practice of massage therapy.

DR. MADIA MOVED TO SEND THE LETTER. DR. BUCHAN SECONDED THE MOTION. All members voted aye. The motion carried.

EXECUTIVE SESSION

DR. STEINBERGH MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONSIDER THE DISCIPLINE OR DISMISSAL OF A PUBLIC EMPLOYEE. MR. ALBERT SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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

ADMINISTRATIVE REPORT

At this time, Mr. Whitehouse reviewed his written report, a copy of which shall be maintained in the exhibits section of this journal, with the Board.

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REPORTS OF ASSIGNED COMMITTEES

EXECUTIVE COMMITTEE

Mr. Whitehouse advised that the Committee is establishing working groups, made up of stakeholders of the Board, to address two issues that the Board has been facing for a while: 1. The issue of collecting and compiling demographic statistics on licensees to better know what questions should be asked in order to be able to better identify relevant trends related to health care quality and availability. The working group will work to identify what questions might be asked and how best to gather those statistics. 2. The other group will work on the longstanding question of visiting medical faculty and training certificates. Those two working groups will be formed shortly and executive staff will report on progress to the Board periodically.

Mr. Whitehouse stated that the Committee also discussed an invitation to join the Federation of State Massage Therapy Boards (FSMTB). The Board staff has had conversations with members of MTAC, and with the American Massage Therapy Association, who have told the Board that they would like to raise the professional bar of their profession. Mr. Whitehouse stated that the staff thinks that that's a good thing. The FSMTB is modeling itself after the Federation of State Medical Boards. Mr. Whitehouse recommends that the Board join the FSMTB. The annual membership dues of \$2800.00 include the cost of travel, food and lodging for a delegate to attend the annual meeting. This year, the meeting will take place in Missouri this year.

DR. TALMAGE MOVED THAT THE BOARD JOIN THE FEDERATION OF STATE MASSAGE THERAPY BOARDS. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

Referring to Mr. Whitehouse's administrative report, Dr. Steinbergh stated that she doesn't understand the FSMB's Trusted Agent Platform pilot project. She asked for information on this.

Mr. Whitehouse referred to Ms. Thompson for response.

Ms. Thompson stated that she and Ms. Rieve are going to OSU the following morning to talk with the program directors at OSU on this topic, because they have agreed to be a test for this project.

Ms. Thompson stated that the Trusted Agent Platform is, basically, a computer system that is operated by the National Board of Medical Examiners. This first part of it will enable people to go to the Board's website, click on the application, and they're taken to the Platform to do an on-line application for this Board. Ms. Thompson stated that when they log in, because Ohio uses the common licensure application forms, 70% of their application will be completed for them automatically. They won't even have to put that information in. It will pull all the information from their F.C.V.S. application and populate the licensure application form. Ms. Thompson stated that that was the purpose of the common licensure application forms. Then they move to the Ohio addendum, print that portion out, fill it out, mail it to the

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Board, and they electronically submit the main part, the common licensure application form, and then the Board gets an electronic copy, which will be attached to the CAVU system. That way anyone on staff can get on the CAVU system, call up a pending application, and the application forms and F.C.V.S. materials, when they are completed, will be right there for staff to see.

Ms. Thompson stated that this is the first step, and Ohio will be the first state to try this program out. If it works for Ohio, Kentucky and New Hampshire will be the next two states to try it. Once those two states are on line, individuals who may want to apply for two or more of the states on line can complete one application for both or all states. The system requires that the states use the common licensure application form and that they use F.C.V.S.

Ms. Thompson added that, long term, they want to make it so that when a physician applies for hospital privileges, he or she can go through this same thing, and it will pull information from the F.C.V.S. and possibly from their licensure applications, and populate the credential application for the physician, as well. It will allow hospitals to get the information that they need through this same platform and have an electronic application, as well. That, however, is a way down the road.

Dr. Kumar stated that this is a step in the right direction, because the Board has been asking that F.C.V.S. certification be accepted by JCAHO.

Ms. Thompson stated that the hospital access will happen after the state systems are up and running. The first step of the implementation of this is to get states who require F.C.V.S., and who use the common licensure application forms, to be able to go on line. The next step is for non-requiring states to be able to have their applicants go on line to do the same thing, as long as they're using F.C.V.S.

Dr. Talmage asked whether the information will be deemed prime-source verified.

Dr. Kumar stated that F.C.V.S. is prime-source verified. He added that JCAHO accepts F.C.V.S., and he believes that hospitals will start accepting it as well.

Ms. Thompson stated that once the system is up and running, she will go to OSU and sit with applicants to help them work their way through it to test the system. Once that is successful, it will go on line and let everyone in Ohio try it out. If that's successful, they'll bring on Kentucky and New Hampshire.

Referring to Mr. Whitehouse's report, Dr. Kumar asked for information concerning the *Sorry Works*, an alternative program used in lieu of malpractice suits.

Ms. Wehrle stated that that was a conference call. She explained that the Federation has the bi-monthly roundtables on various topics. She advised that *Sorry Works* is a program that has been used by some hospital systems, where, if there's an adverse event, the doctor apologizes to the patient, the patient's family members. Because of that communication improvement in the doctor/patient relationship, it's reduced the number of malpractice suits.

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Dr. Steinbergh stated that there has been a lot of discussion about that. It's an interesting program that encourages physicians to make an apology. She commented that most times the family or whoever is filing the suit, is really interested in just knowing exactly what went on, what the problems were. It helps to reduce those liability actions.

Dr. Kumar stated that it's a good idea, adding that they recommend that physicians do that anyway. This is a formalization of that.

Ms. Wehrle stated that there is a pay-out aspect to it, too in certain situations.

Dr. Kumar asked how the program is implemented.

Ms. Wehrle stated that the discussion was just to make people aware that there's this program out there that has been used successfully.

Dr. Varyani stated that he read about this in Doctor Insurance Company's newsletter. There was a huge write-up.

Dr. Davidson stated that it requires some tort reform, because right now, any conversation you have turns into an admission of guilt and is used in a malpractice trial.

Ms. Wehrle stated that there is some website information that the Federation gave her, and she will forward that information to Board members.

Dr. Talmage stated that the University of Michigan Medical School started a curriculum using trained actors to train their students on how to deliver bad news in an appropriate way.

EXECUTIVE SESSION

DR. DAVIDSON MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONSIDER THE EMPLOYMENT OF A PUBLIC EMPLOYEE. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

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

The Board came out of executive session to adjourn the meeting.

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

Thereupon at approximately 11:00 a.m. on August 3, 2006, the July 12-13, 2006 meeting of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on July 12-13, 2006, as approved on August 9, 2006.



Andrew F. Robbins, Jr., M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

