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MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Anquetette Sloan, President, called the meeting to order at 1:09 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Patricia J. Davidson, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Andrew F. Robbins, Jr., M.D.; Anand G. Garg, M.D.; and Anita M. Steinbergh, D.O. The following did not attend the meeting: Carol L. Egner, M.D.; Anant R. Bhati, M.D.; and David S. Buchan, D.P.M.

Also present were: Thomas A. Dilling, Executive Director; William J. Schmidt, Assistant Executive Director; Diann K. Thompson, Assistant Executive Director; Terrill D. McLaughlin, Assistant Director, Investigations; Mark Wayda, Chief of Executive Staff; Lauren Lubow, Senior Executive Staff Attorney; Shannon F. Baldwin, Executive Staff Attorney; Mary Crawford, Acting Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Burrow, Sally J. Debolt, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, Kathleen S. Peterson and Charles A. Woodbeck, Enforcement Attorneys; Rebecca J. Albers, Kyle C. Wilcox, Gregory A. Perry, and Tara L. Berrien, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore and Annette Jones, Disciplinary Information Assistants.

EXECUTIVE SESSION

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

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

The motion carried.

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

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The following joined the meeting after the executive session: Siobhan R. Clovis, Hearing Examiner.

MINUTES REVIEW

DR. TALMAGE MOVED TO APPROVE THE MINUTES OF JULY 9-10, 2004. MR. ALBERT SECONDED THE MOTION. A vote was taken

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Ms. Sloan announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Gregory David Duncan, M.T.; Jitander N. Kalia, M.D.; Robert Noble, M.D.; Douglas Holland Rank, M.D.; Richard Arthur Thompson, M.T.; and Joseph C. Webster, M.D. A roll call was taken:

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

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye

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

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

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

GREGORY DAVID DUNCAN, M.T.

Ms. Sloan directed the Board's attention to the matter of Gregory David Duncan, M.T. She advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members; however, these objections were not received in a timely manner. Ms. Sloan noted that the Assistant Attorney General did not have any objection to the Board's considering these late objections.

Ms. Sloan advised that Dr. Garg did not serve as Secretary in this matter, and may participate in the discussion and vote.

**DR. STEINBERGH MOVED TO ENTER THE OBJECTIONS INTO THE HEARING RECORD.
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF GREGORY DAVID DUNCAN, M.T. DR. STEINBERGH SECONDED THE MOTION.

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

Dr. Steinbergh stated that this is a case of a chemically dependent massage therapist who, although having been assessed as being chemically dependent, disagrees with the assessment. The Proposed Order calls for Mr. Duncan to enter a 28-day treatment program, but Mr. Duncan claims that he can't afford such a program. Mr. Duncan disagrees with the assessment made by COMPASS, a Board-approved treatment provider. Dr. Steinbergh advised that, having read the record, she agrees with the Proposed Order, denying certification and listing conditions Mr. Duncan must meet prior to the Board's considering his reapplication for licensure. She added that she read and appreciates Mr. Duncan's objections, but this Board has the responsibility of being certain that its licensees are appropriate for practice in this state. Without this assessment and without Mr. Duncan's going into treatment, the Board would be further obligated to deny licensure in the State of Ohio until he's met these criteria. Dr. Steinbergh added that, if Mr. Duncan wants to get a second assessment, it will still cost money.

Dr. Kumar stated that he supports what Dr. Steinbergh said, but he does have some concern and question about the fact that a Board-approved provider doesn't exactly realize what the Board requires it to do. After being questioned, the provider finally did come around, but it does raise the question of how the facility functions, operates, etc. Dr. Kumar noted that Dr. Steinbergh remarked on a second assessment opportunity being given to Mr. Duncan, and suggested that the Board might include that in the Board's Order. It could give Mr. Duncan the option to either undergo a second assessment, at his expense and by a Board-approved provider, or to enter a 28-day treatment program. In that way the Board would be serving the public and at the same time it would be fair and show that it is not relying on a questionable assessment.

Dr. Steinbergh stated that she wouldn't oppose a second assessment at all in the list of things that the Board would require of Mr. Duncan before it would consider any future application for a license. She asked Dr. Kumar whether he would want to accept the second assessment in lieu of completion of inpatient treatment.

Dr. Kumar stated that he would. He then added that it would depend upon what the second assessment shows.

Mr. Browning and Dr. Garg both stated that it can't be both.

Mr. Dilling stated that it seems to him that some time ago the Board had a case that advised the Board that, if it sets conditions, the Board will have to go all the way and set probationary terms, etc. He stated that he understands that paragraph B of the Proposed Order is worded in such a way as to be advisory, but now, in

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its discussion, the Board is getting pretty specific about what it wants down the line. He commented that current Board members might no longer be on the Board if and when this matter comes up again. Mr. Dilling suggested that the Board not put this language into the Proposed Order, but into the body of the conclusionary paragraphs, after the "Conclusions of Law." If the Board wants Mr. Duncan to complete inpatient treatment and demonstrate an ability to resume practice, should he ever return for licensure, that seems a reasonable thing for the protection of the public. The Board would also be communicating that at some point in time Mr. Duncan may wish to reapply. That's why the Proposed Order isn't for permanent denial. However, if the Board continues on the road of getting into the specifics of what it wants to see and encourage him, he would strongly encourage that the Board go the whole route and put in some probationary terms.

Mr. Browning agreed with Mr. Dilling, but added that he thinks, though, that the Board has to decide whether or not it had a flawed process here from COMPASS. If the Board did, and it had a psychologist, licensed in the state, saying that that's his opinion, it seems to him that if there is a significant doubt about whether or not COMPASS met the right standards, then it might ask for a new assessment from a new group. Mr. Browning stated that there is some doubt in his mind about this, particularly when Mr. Duncan's psychologist is saying that he doesn't agree that the assessment was adequate. Mr. Browning stated that he doesn't know whether the assessment was or not, so his judgment is to have a new assessment.

Dr. Kumar stated that he would second that motion.

Mr. Dilling asked whether Mr. Browning wants to do this as part of a remand.

Mr. Browning stated that, if this is a flawed assessment, which the Board is raising questions about by going down this path, then he agrees with Mr. Dilling – let's just start over. He stated that there is a legitimate question in his mind as to whether or not COMPASS did a good assessment. It's kind of hard to order an applicant to do 28 days of inpatient treatment on a questionable assessment; particularly someone the Board may be permanently marching out the door because he doesn't have the money to put it together. If the Board does believe that it was an adequate assessment, then the Board should go ahead and vote for this Proposed Order. If, however, the Board has a substantive question about whether or not it was an adequate assessment, it should ask for a new assessment from a different group.

Dr. Steinbergh stated that she understands Mr. Browning's comments, and she's not in disagreement with a second assessment, but her read of this is that there are a lot of red flags out there that this is an impaired individual. This is a chemically dependent individual.

Mr. Browning stated that he understands.

Dr. Steinbergh stated that many times people who go for assessments disagree that they have a problem, but the bottom line is that, after assessment, at some point you have to accept the responsibility that it is what it is. Mr. Duncan is arguing that this was not an appropriate assessment. Dr. Steinbergh stated that COMPASS is a Board-approved assessor. Christine Ellis, M.D., is the Medical Director, and Marilyn

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Smith, Ph.D., is the Clinical Director.

Mr. Browning referred to Dr. Heintzelman's quote on page six of the Report and Recommendation. The Board would have to decide that Dr. Heintzelman is just flat wrong.

Dr. Steinbergh stated that there are differences of opinion. Dr. Heintzelman is Mr. Duncan's treating psychologist.

Mr. Browning stated that he's a licensed psychologist.

Dr. Steinbergh stated that she does recognize Dr. Heintzelman's opinion.

Dr. Kumar stated that his problem continues to be the way that COMPASS initially evaluated it. They did not do, according to the Report and Recommendation, the basic assessments required of them until they were prodded to do so. Dr. Kumar stated that he's not certain he can accept that. The treatment provider has to do the thorough evaluation from day one. Many times, they did not even check for chemical dependency initially, until they were prodded again to do so. Dr. Kumar again stated that he has a real problem with the quality of COMPASS' assessment, at least the way it appears here. Dr. Kumar stated that the Board must give Mr. Duncan the opportunity to obtain a second assessment.

Mr. Browning agreed, again referring to Dr. Heintzelman's letter, as quoted in the Report and Recommendation, indicating that "(l)ocal evaluations following Mr. Duncan's DUI convictions indicated that further drug/alcohol treatment was not necessary." Mr. Browning stated that this was according to the psychologist, but added that he might be wrong.

Dr. Steinbergh stated that on page 7 of the Report and Recommendation, COMPASS substantiates its reason for its diagnosis.

Dr. Garg stated that he agrees with Dr. Kumar and Mr. Browning, and asked whether there is a motion on the floor.

MR. BROWNING MOVED TO CALL FOR A NEW ASSESSMENT BY AN APPROVED TREATMENT PROVIDER OTHER THAN COMPASS.

Mr. Dilling stated that he doesn't think that the Board has the legal authority to do that without remanding the matter. He stated that the Board is debating the evidence that is summarized in this Report and Recommendation that was presented on the record. The Findings of Fact on page 9 of the Report suggests that the Hearing Examiner felt that there was reliable, probative and substantial evidence to find an impairment of ability to practice. That led to Conclusions of Law, which led to an Order that proposed to deny the license; however, that denial is not permanent. The applicant can come back at another time and demonstrate his ability to practice. Mr. Dilling stated that he assumes from the language in the Conclusions of Law, that part of that demonstration of ability to practice would be another examination that clarified the evidence that was presented that clouded the COMPASS opinion. That is what the Order

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says. Mr. Dilling stated that his initial statement was, when you start getting into how many exams and so forth, he didn't think that that was the place to get into that.

Mr. Browning stated that Mr. Dilling is suggesting that, if the Board passes it, as written, Mr. Duncan wouldn't have to do the 28 days, he could just go get a new assessment and come back.

Mr. Dilling stated that he would have to go through the hearing process again. He would have to file an application, the Board would have to look at that application, and if the Board proposes to deny the application, it would have to have some basis to deny that, (B)(26), another basis, whatever. But if he came back with an assessment saying that he's okay to practice and wants back in, then the Board will have to meet a burden of proof to say that there is some reason why he should not have a license in this state. The burden then shifts back to the Board in that regard.

Dr. Steinbergh stated that what Mr. Dilling is suggesting is that the Order should end with the denial, and that paragraph B should be deleted.

Mr. Dilling stated that the Proposed Order is to deny. The rest of it is an encouragement. Mr. Dilling suggested that the more the Board encourages, and the more specific it gets, the more the courts and others are going to interpret it as an order.

Dr. Steinbergh suggested amending the Proposed Order to delete paragraph B. She stated that Mr. Duncan would then read the record of the Board's deliberation, and he would, at some point, if he wanted, get a second assessment. If Mr. Duncan wants to reapply, he would prove to the Board by a second assessment that he is, in fact, appropriate for licensure.

Mr. Dilling stated that the way that he reads this Proposed Order is that the Hearing Examiner was saying that there is reliable, probative and substantial evidence to say that this massage therapist applicant was impaired in his ability to practice at this time, according to (B)(26). She proposed that the license application be denied, but not permanently. That means that, legally, Mr. Duncan can reapply, and when he does reapply, the Board will look at that application and makes a judgment as to whether it should propose to deny or approve the application. Mr. Dilling stated that, based upon the Board's discussion, it is saying that one of the things that is a question is the adequacy of the assessment.

Mr. Browning asked for clarification.

Mr. Dilling stated that he is suggesting that the Board delete all of paragraph B, unless the Board wants to grant a license with conditions. If the Board wants to do that, it can do it, but based on previous advice the Board has received, when the Board starts putting in all these different requirements, it ought to go the whole route, including probationary terms.

Dr. Kumar suggested amending the Order to do away with paragraph B, and to add at the end of paragraph A, "until a second assessment has been completed."

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Mr. Dilling stated that once the Board does that, legally, you're saying that that will let the person get a license. Mr. Dilling stated that the Board doesn't know when Mr. Duncan is going to reapply. Circumstances may change so that the Board won't want just a second assessment. It might want more than that. There's no need for the Board to tie its hands at this time.

MR. BROWNING MOVED TO AMEND THE PROPOSED ORDER BY DELETING PARAGRAPH B. OF THE PROPOSED ORDER. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF GREGORY DAVID DUNCAN, M.T. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JITANDER N. KALIA, M.D.

Ms. Sloan directed the Board's attention to the matter of Jitander N. Kalia, M.D. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members. She noted that both Dr. Garg and Dr. Talmage served as Secretary; however, it was later noted that Dr. Garg had not served as Secretary but had abstained for personal

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reasons in a previous matter concerning Dr. Kalia and should therefore abstain in this case.

Ms. Sloan continued that a request to address the Board has been filed on behalf of Dr. Kalia, but was not filed in a timely manner. She asked whether the Board wished to allow Dr. Kalia to address it.

DR. ROBBINS MOVED TO ALLOW DR. KALIA TO ADDRESS THE BOARD. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Ms. Sloan advised Dr. Kalia that five minutes would be allowed for his address.

Dr. Kalia stated that he has very little more to say about the medical aspect of the four cases under review. All of them occurred more than four years ago. Case number 2, which involved an intestinal obstruction, occurred in St. Joseph Hospital and was reviewed at that time. The Review Committee did notice the contributive factor of the incorrectly read x-rays and of the nurse not saving for him specimens of vomit and stool for his “naked eye examination.” Either of these could have pointed him to a diagnosis. Even so, the hospital chose to monitor his cases for a year and found no further cause for concern.

Dr. Kalia stated that the other three cases occurred over a three-year span in Trumbull Memorial Hospital. None of them caused any concern at the time or were given to the Review Committee until his complaint to the Executive Committee about the Chief of Pediatrics. That complaint was about a very discourteous way the Chief had transferred a patient of Dr. Kalia’s to another hospital. Dr. Kalia stated that he had not impeded or opposed that transfer. He continued that his complaint sparked a search of all of his admissions, looking for any possible points of disagreement.

Dr. Kalia asked the Board to realize that, whatever the merit of these cases, they occurred between four and seven years ago. The patients have continued happily under his care. Since then, he has practiced without incident. Even before that, he had a professional record of no malpractice claims and no patient complaints. Dr. Kalia stated that he has no intention to be obstinate. If the Board can find a pattern, he will certainly correct it. Dr. Kalia stated that the loss of his license will be too harsh a penalty upon him and his patients, and he hopes that the Board will agree with that.

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

Ms. Albers stated that she found this case, with these four patients, to be one of the most egregious cases she's had in the years she's represented the Board. She advised that Dr. Kalia seemed unable to diagnose basic symptoms, classic symptoms of illnesses. If he did happen to diagnose the illnesses, he did not treat them appropriately. Ms. Albers stated that, as the Board reads the record in this case, it will find that he exhibited a serious lack of judgment.

Referring to Patient 1, Ms. Albers stated that Dr. Kalia prescribed, for a 22-month-old baby, psychoactive medications, starting with Clonidine, going to Ritalin two weeks later, then back to Clonidine, then to Cylert and then to Adderall. This was all in a period from the last week of August until the middle of November. The child was hospitalized with an adverse reaction to Cylert.

Ms. Albers stated that there were serious issues raised with Dr. Kalia's recordkeeping. Dr. Kalia did not even note the weight of the patient in the hospital records. Ms. Albers noted that the State's expert in this case, Robert Mills, M.D., stated that for a pediatric patient, recording the weight is something that is almost mandatory to be done because all medication is given based upon the patient's weight.

Ms. Albers stated that what is evening more frightening was the testimony of how Dr. Kalia determined the dosage of the medication to give these children. She noted that, in the *Physicians' Desk Reference* (PDR), this medication is not recommended for use in children under the age of six. Dr. Kalia testified that he gave the lowest possible dose of the Clonidine because that was the lowest dosage tablet available. Yet, with Ritalin, he prescribed half the lowest dose because the tablet could be cut in half. Ms. Albers stated that Dr. Kalia's judgment in prescribing these medications was very frightening to her.

Concerning Patient 2, the baby where Dr. Kalia missed the diagnosis of the intussusception, Ms. Albers stated that Dr. Mills stated that the baby's symptoms – lethargy, bilious emesis and bloody stools – are classic symptoms. Dr. Kalia never did a rectal examination on this child, and the child continued to deteriorate until the parents asked that the child be transferred. When the child was transferred, he had to have two ostomies with a bag and he had peritonitis. Ms. Albers stated that Dr. Kalia tried to defend his lack of diagnosis in this case, by testifying that he had ordered an abdominal x-ray that had been misread. She noted that Dr. Mills testified, however, that that x-ray is not the standard of care to diagnose an intussusception or a bowel obstruction, and that, basically, the fact that the x-ray was misread had no bearing on the standard of care.

Ms. Albers stated that, concerning Patient 3, Dr. Kalia did make the correct diagnosis of croup, but, according to the State's expert, treated this child as if the child had asthma. It wasn't until the nurses on the hospital staff got the house officer to intercede that the child's severe respiratory distress was addressed.

Ms. Albers continued, addressing the issue of Patient 4. She stated that this case involved a child who came in and, while Dr. Mills did not fault Dr. Kalia for his initial diagnosis of dehydration, he did point out that when the results from the blood counts came back it was clear that this child had some kind of a

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bacterial infection that was not picked up.

Ms. Albers stated that, when you look through the record in this case, you'll see that Dr. Kalia seemed to exhibit a pattern of not being able to accept the input from other physicians, the nursing staff, or other trained medical personnel. His documentation was careless, and, she believes, his judgment was very poor in how he dealt with the four cases. Ms. Albers advised that she thinks the Hearing Examiner stated the problem correctly when she said that the Board must consider whether re-education would be effective to protect the public from this physician's poor judgment.

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

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

Dr. Kumar stated that this is a minimal standards case. He stated that he spent hours going over the hospital charts, the records, etc.. Dr. Kumar stated that he will confine his remarks to the appropriateness of care, the minimal standards of care for those four cases, and he's going to extrapolate or take out some of the extraneous things available, like he has a current probationary status with the Board. Dr. Kumar stated that he will only talk about the standard of care, or the appropriateness of care.

Dr. Kumar stated that in all four cases the Hearing Examiner and everyone else is correct. Dr. Kalia's recordkeeping is rather poor. When you go through the office records, it's sometimes very difficult to see what it is. He was troubled, particularly, by Dr. Kalia's hospital recordkeeping, where he certainly does not record the patient's weight, etc., and he relies on the recordings in the nursing notes. Dr. Kumar stated that he can see that Dr. Kalia probably uses that weight formula to calculate the IV doses and drug doses, but it is apparent that a pediatrician must record a patient's weight, etc., in the record for himself.

Dr. Kumar stated that he will address the care of Patient 2 first, simply because of the fact that he is an expert in that field and he's seen all kinds of cases of intussusception over the last 30 years. Dr. Kumar stated that there is no question about the fact that Dr. Kalia missed the diagnosis; however, in his career, and as many cases of intussusception as he has operated on, the accurate diagnosis of intussusception was probably made in no more than half or 60% of the cases. The reason for that is a process that is very unique. The process is that the colon, or the gut, intussuscepts or telescopes on itself, causing an obstruction. Miraculously, the process that causes that to happen, de-impacts, detelesopes and comes out, which makes the diagnosis very difficult to make, and, at the same time, it will mimic other things going on. Patient 2 was admitted with significant vomiting, as well as some bloody diarrhea. At the same time, the first indication was that the treatment was for upper respiratory infection and so on and so forth, and the child seemed to be getting a little bit better. About 36 hours later they did entertain the possibility of a bowel obstruction, and they did an x-ray, which, as it turned out, was normal.

Dr. Kumar stated that a question arose as to Dr. Kalia's neglecting to perform a rectal examination when there was rectal bleeding. Dr. Kumar stated that when you teach residents, you tell them that if the patient

presents with rectal bleeding, they should do a rectal examination. Dr. Kumar stated that at the same time he will also tell them that before they do the rectal examination, they need to think about what they will look for. Just putting the finger in the rectum is not going to give the answer. If you can get the answer by some other means, you need to look at that first. In this situation, it was easier for someone to look at the stool, the color of that, to determine whether the bleeding was coming from higher up or from the diaper rash. Dr. Kumar stated that when the child was transferred to Tod's Children Hospital (Tod's), they didn't do a rectal examination. They only relied on the stool that was present to make the diagnosis that there was something serious.

Dr. Kumar stated that he doesn't accept Dr. Kalia's proposition that they threw the samples away and he could not view them. Dr. Kalia had to insist that he needed to see the samples.

Dr. Kumar stated that the child went to Tod's, and the first thing they do is find a sausage-shaped mass in the abdomen. Dr. Kumar stated that he went back and looked at all the records of the previous hospitalization to see if any other physician noted this. There were two other physicians who examined the patient: one was in the emergency room and the other was Dr. Davis, who had admitted the patient. None of those physicians ever palpated a mass in the patient's abdomen. Dr. Kumar stated that that made him wonder why this was happening. He stated that the intussusception process is one that comes and goes. The fact was totally confirmed to him when he read the ultrasound report. It is true that the ultrasound shows intussusception, but if you read the body of the report, it says that the initial ultrasound did not reveal any abnormality. It only showed fluid filled caecum, extending colon, and some fluid in the peritoneum. They were ready to send the child back to the floor, and, strangely enough, the child started to have pain again. Somebody was smart enough at that time to put the patient back on the table and do the ultrasound again, and that's when they found intussusception. That's classic with what happens in intussusception. Many times you are lucky in identifying the problem.

Dr. Kumar asked whether the outcome would have been different if the diagnosis was made earlier. He stated that it probably would have been, but he can't be sure. Even if the diagnosis was made a day or two earlier, if he was operating, he would probably still end up doing a colostomy and ileostomy. Dr. Kumar stated that on just this case alone, he cannot vote for permanent revocation on this physician.

Dr. Kumar continued to the record on the patient diagnosed with croup by Dr. Kalia. Dr. Kumar stated that there is no question about the fact that the diagnosis of croup was made very appropriately. The issue being raised is twofold, or several folds: 1. The use of antibiotics; 2. Not using epinephrine inhaler; 3. The use of the croup tent; 4. Treating with drugs for asthma, and not using steroids.

Dr. Kumar stated that Dr. Mills was absolutely correct that 70% of cases of croup are viral in origin and antibiotics are not needed. However, if you look at the meta-analysis of all the reports in the literature, talking about patients who were admitted into the hospital with croup, about 15% of those patients will have a bacterial infection and have pneumonitis, etc. Dr. Kumar stated that, under that scenario, he cannot find fault with Dr. Kalia's starting the patient with antibiotics. He added that he does have a problem with Dr. Kalia's not using epinephrine. That's the standard of care and is used very commonly. Dr. Kumar added, however, that it is intriguing to note that there has been more and more evidence suggested that,

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because epinephrine has a rebound phenomenon in two hours, there has been more of a tendency to use adrenergic agonist agents, which are longer acting, in people with croup. There is also evidence in the meta-analysis that about 10% of the patients will come down with asthma, etc. Dr. Kumar stated that he doesn't believe that that was the real standard of care.

Dr. Kumar continued that his biggest problem with this case is the fact that Dr. Kalia did not follow through with what the resident had started with the epinephrine, and, secondly, the meta-analysis very clearly shows that the use of steroids shortens the stay in the hospital, as well as improves the outcome very dramatically. Dr. Kalia stopped the Solu Medrol after one or two doses. Dr. Kumar stated that he has a real problem with that particular issue.

Referring to Patient 4, Dr. Kumar stated that he's having significant problems with Dr. Kalia's judgment. The diagnosis was made, but he cannot comprehend a person who will see lab work with a white count of 28,000 with significant granular cytolysis, significant other anomalies in the blood and a hemoglobin of 8.2, simply diagnosing dehydration. Dr. Kumar stated that that is poor reading and judgment. Then relying on the fact that "the thing comes down very quickly" – he did do a spinal tap and so on and so forth – but Dr. Kumar stated that he has a real problem with how this particular case was handled. Dr. Kumar stated that he's not going to go into how the transfer, etc., was made, because there appears to be tension within the institution. Dr. Kumar stated that he is confining himself to the quality of care and the appropriateness of care.

Dr. Kumar continued that he had a real problem with the case of Patient 1. Dr. Kumar stated that he can't figure out why a person at 22 months would be started on the medications Dr. Kalia ordered. Dr. Kumar stated that the PDR says that you shouldn't be giving a patient these medications until the age of six. However, sometimes the PDR isn't followed. Dr. Kumar stated that he cannot accept the fact that Dr. Kalia would give the minimum dose available. The PDR also talks about dosing on the basis of weight and kilograms, and so on and so forth. The particular dose given this patient was very high. Dr. Kumar stated that he won't spend more time on this case, because he really has a problem with it.

Dr. Kumar stated that he has alternative Order to propose. He stated that one thing is very clear – Dr. Kalia does need a medical records course, and he needs to be absolutely re-educated. Dr. Kalia stated that he worked with Ms. Lubow to find programs to use to re-educate the physician, and they came up with the American Academy of Pediatric Physicians Review and Education Program (PREP).

DR. KUMAR MOVED THAT THE REPORT AND RECOMMENDATION IN THE MATTER OF JITANDER N. KALIA, M.D., BE MODIFIED BY DELETING IN ITS ENTIRETY THE PORTION OF THE CONCLUSIONS SECTION FOLLOWING THE FIVE ASTERISKS.

DR. KUMAR FURTHER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF JITANDER N. KALIA, M.D., BE AMENDED TO READ AS FOLLOWS:

It is hereby ORDERED that:

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- A. **STAYED REVOCATION/SUSPENSION OF CERTIFICATE:** The certificate of Jitander N. Kalia, M.D., to practice medicine and surgery in the State of Ohio shall be **PERMANENTLY REVOKED**. Such permanent revocation is **STAYED**, and Dr. Kalia's certificate shall be **SUSPENDED** for an indefinite period of time, but not less than eighteen months.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Kalia's certificate to practice medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Kalia shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Education Program:** At the time he submits his application for reinstatement or restoration, Dr. Kalia shall provide acceptable documentation of satisfactory completion of the American Academy of Pediatrics' Physician Review and Education Program The Curriculum (PREP The Curriculum), or a comparable program to be approved in advance by the Board or its designee. This program shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which the program is completed.
 3. **Recertification Examination:** Prior to submitting his application for reinstatement or restoration, Dr. Kalia shall take and pass the American Board of Pediatrics' Program for Maintenance of Certification in Pediatrics general examination (PMCP-G), or another similar written examination which the Board may deem comparable.
 4. **Medical Records Course:** At the time he submits his application for reinstatement or restoration, Dr. Kalia shall provide acceptable documentation of satisfactory completion of a course on maintaining adequate and appropriate medical records, such course to be approved in advance by the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.
 5. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Kalia has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- C. **PROBATION:** Upon reinstatement or restoration, Dr. Kalia's certificate shall be subject to the following **PROBATIONARY** terms, conditions, and limitations for a period of at least five years:
1. **Obey the Law:** Dr. Kalia shall obey all federal, state, and local laws, and all rules governing

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the practice of medicine and surgery in Ohio.

2. **Declarations of Compliance:** Dr. Kalia shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Kalia's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Personal Appearances:** Dr. Kalia shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Kalia's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Tolling of Probationary Period While Out of State:** Dr. Kalia shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary and Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. **Noncompliance Will Not Reduce Probationary Period:** In the event Dr. Kalia is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
6. **Documentation of CME:** Upon submission of any application for renewal of registration during the period of probation, Dr. Kalia shall submit acceptable documentation of Category I Continuing Medical Education credits completed. At least (specify # hours) hours of such Continuing Medical Education for each registration period, to be approved in advance by the Board or its designee, shall relate to the violations found in this matter.
7. **Practice Plan:** Within thirty days of the date of Dr. Kalia's reinstatement or restoration, or as otherwise determined by the Board, Dr. Kalia shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Kalia's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Kalia shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

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

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

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

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

8. Violation of Terms of Probation: If Dr. Kalia violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

- D. TERMINATION OF PROBATION: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Kalia's certificate will be fully restored.

This Order shall become effective thirty days from the date of mailing of notification of approval by the Board. In the thirty-day interim, Dr. Kalia shall not undertake the care of any patient not already under his care.

Dr. Talmage noted that PREP requires an unrestricted license.

Ms. Lubow stated that she spoke with representatives at PREP and was informed that, should Dr. Kalia's license be suspended, they would consider his request to take the course and examination.

Mr. Dilling referred to paragraph B.3., and asked whether there is a course comparable with the PMCP-G.

Ms. Lubow stated that she couldn't find anything comparable at this time. She added that she and Dr. Kumar did a pretty thorough search to try to find programs, courses or exams that would be

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comparable.

Dr. Kumar stated that he couldn't find anything, either.

Ms. Lubow added that the reason that B.3. is worded in that way is really not to present an alternative, as much as it is to provide some flexibility if this examination should disappear at some point along the way. She added that it could, perhaps, be worded along the lines of, "this examination, unless that's not available, at which time the Board might consider an alternative."

Mr. Dilling stated that he read that in that spirit. His question is, if they've already looked and can't find one, is more language needed to say what will happen if Dr. Kalia is denied permission to take the PMCP-G, and a comparable course or program can't be found. Does this paragraph dissolve, or is there some other alternative that will suffice for the recertification examination?

Dr. Kumar stated that there will always be recertification examinations in pediatrics, in one form or another.

Dr. Robbins asked whether the recertification examinations are self-assessment examinations.

Ms. Lubow referred to materials distributed to the Board, stating that it includes a lot of self-assessment as part of a program to prepare for taking the recertification examination. The recertification exam is actually a computer-based examination and takes about half a day. It's a closed-book examination.

Mr. Dilling noted that Ms. Lubow has advised that someone with the PMCP-G organization was going to make a decision as to whether or not Dr. Kalia would be permitted to sit for the examination. He stated that, even though the examination will always be available, someone might say that Dr. Kalia can't take the exam. Then he defaults to "another similar written examination," which the Board has just been told can't be found. Mr. Dilling questioned what would be done if both of those scenarios come into play? Does that just disappear – we don't care about that paragraph anymore? Or is there some alternative as to what will happen if those two things occur?

Dr. Kumar stated that at that time he would look to the Center for Personalized Education for Physicians (CPEP) in Colorado.

Mr. Dilling suggested that the Board might want to include that backup in the Order.

Ms. Lubow stated that the CPEP program is not even close to comparable.

Dr. Kumar stated that something is needed if PMCP-G is not available to Dr. Kalia.

Ms. Lubow asked whether the Board wants to leave an out to use some other kind of examination, or just say "recertification examination" period.

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Dr. Kumar stated that he wants to leave an out for Dr. Kalia. He added that he doesn't want to leave this open-ended.

Dr. Davidson stated that saying "some other" does leave it open-ended.

Dr. Talmage commented that CPEP is an evaluation and recommendation program, which is not a remedial program.

Ms. Lubow stated that the difficulty with using a CPEP-type program or the Institute for Physician Evaluation (IPE)-type program is that those really put somebody outside of the Board in the position of assessing the physician's competency, which the Board has already done in this case. She stated that she doesn't think that the intention is to substitute the judgment of some other body or some other individual for that of the Board. Ms. Lubow stated that she believes Dr. Kumar's intent was to have some kind of a test of competency, and also some kind of a program to prepare the doctor for that kind of examination and to bring him up to current standards of care.

Dr. Kumar noted that paragraph C.6. requires Dr. Kalia to obtain a specific number of CME hours each renewal period in the areas in which the Board finds Dr. Kalia to be deficient. He stated that he left the number of hours blank, but would suggest that an additional ten hours each year might be appropriate.

Dr. Garg asked to be able to explain about CPEP. He stated that he doesn't understand Ms. Lubow's concerns that sending this physician to CPEP would be leaving the responsibility for determining competency to somebody else. It's doing the same when it requires a physician to pass his certification examination. The Board is leaving the responsibility with another body who creates the exam, creates the questions. Although the Federation is not part of CPEP any longer, it spent a lot of time and effort on CPEP, and it found CPEP a valid program for physicians who have minimal standards problems. The physicians are assessed by peers in that area, and recommendations are made. According to CPEP, the Board can always structure the Order to meet the Board's requirements. Dr. Garg stated that he doesn't think that using CPEP in this case or in any other case should be a deterrent in that respect.

Mr. Dilling stated that he thinks what he heard was the proposition that, based on the facts in the Report and Recommendation, a determination was made as to Dr. Kalia's competency. The proposed amendment sets forth an examination requirement to assure the Board and the public of Dr. Kalia's ability to return to practice. What CPEP arguably does is first make a competency determination and then, based upon that assessment and determination, come up with a proper examination. In this case, Dr. Kumar is saying that Ohio has the record and doesn't need CPEP to come in and make that type of an assessment. He wants to skip the assessment and go from A to C. That's where the difference is with CPEP.

Dr. Kumar stated that the Board has already determined a lack of competency. The issue is how to educate and what educational process can be found, and, after the educational process is over, how the Board can test to make certain that Dr. Kalia is now appropriate, and to continue appropriate assessment beyond that by requiring a specific requirement.

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Dr. Garg stated that he doesn't agree with the interpretation of what CPEP does, and would like to discuss it further after the Board concludes its discussion on this case. He stated that the whole idea is that the Board is deciding a physician's competency on the basis of one, two, four or ten cases. The purpose of CPEP was that people in that specialty will go even deeper in finding out whether or not a physician is competent or has deficiencies. He stated that he and Lori Gilbert were sent by the Board to assess what they think about the program, and they thought it was extremely strong. The Federation also felt that way. After the assessment is made, they determine how the physician should be examined further, what remediation steps can be done, or whether the physician is beyond remedy. There the Board has full control, according to CPEP. The Board could ask that CPEP assess a physician and make recommendations. Then the Board could say it doesn't agree. He added that this seems to work very well, except in the case of surgical specialties, because there is no way of assessing how a surgeon is doing unless you see the surgeon operate and see how he selects cases and all that.

Mr. Dilling stated that his point is that Dr. Kumar was going from A to C and skipping the B part of what that assessment is, and that's his choice and the Board's choice to make.

Mr. Browning asked whether the interim step ever results in the decision that someone is not in a situation where he or she can be rehabilitated.

Dr. Garg and Dr. Talmage stated that it does.

Dr. Garg added that there have been a lot of cases. He stated that he and Ms. Gilbert learned that if the Board just sends someone to CPEP, then CPEP takes over everything. Boards can send physicians to CPEP according to its requirements and determine what steps it wants to take. It's entirely in the Board's control.

Mr. Browning stated that it seems that if the Board is going to go with Dr. Kumar's approach, he doesn't know why the Board wouldn't get an independent evaluation as to whether or not this doctor is in the situation where he can, in fact, be rehabilitated. If his competency problems are so profound that it really isn't going to work, he would want to know that. He thinks that all the Board members would want to know that and then make the decision not to go forward.

Ms. Sloan stated that Dr. Kumar has presented the Board with an alternative order. She noted that there has not been a second to his motion.

Dr. Kumar stated that he would be open to modifying the proposed amendment to include CPEP. He added that he didn't include it initially because he had different information about CPEP.

Mr. Browning asked what would happen if CPEP determined that Dr. Kalia is not in a situation to be rehabilitated.

Ms. Lubow stated that the amendment doesn't address that. She stated that that is something that would have to come back to the Board, and she's not sure what mechanism would be used to do that.

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Mr. Browning stated that he's not sure that the Board wants to do this, but suggested that one approach might be to say that if Dr. Kalia can't meet that standard, he's permanently revoked.

Dr. Kumar stated that he would be willing to accept that in his motion.

Dr. Steinbergh stated that the Board cannot continue this discussion without a second to the motion on the table.

Ms. Sloan again asked for a second to Dr. Kumar's motion.

Mr. Browning asked Dr. Kumar to repeat his motion. He asked whether Dr. Kumar was changing his original motion to amend.

DR. KUMAR STATED THAT HE IS CHANGING HIS MOTION TO EVALUATE DR. KALIA THROUGH THE CPEP PROCESS. IF CPEP DETERMINES THAT REMEDIATION ISN'T POSSIBLE, DR. KALIA'S LICENSE WOULD BE PERMANENTLY REVOKED.

Dr. Steinbergh stated that that is not what the written proposed amendment says.

Dr. Kumar stated that he understands that, but he's modifying that motion and will rewrite it.

MR. BROWNING SECONDED THE MOTION.

Dr. Robbins stated that as he read over this case, one thing that was very clear to him is that Dr. Kalia failed to conform to the minimal standards of care in these four cases. That is indisputable. Now the question is what does the Board do other than potentially permanently revoke his license. Is Dr. Kalia able to be reeducated to the point that he is no longer a danger to the public? Dr. Robbins stated that, in his mind, the discussions that the Board is now entertaining have merit. He stated that the ultimate thing would be for Dr. Kalia to take a residency, questioning whether that isn't what anybody does when there is a minimal standard violation in a situation like that. The proposed amendment suspends Dr. Kalia's license for 18 months, but a residency is three years. Dr. Robbins stated that he's not sure that he would be against the program the Board is talking about, and if the assessment is positive, going through a recertification, more training etc. His personal feeling is that he has difficulty in his own mind saying what that should be. It's pretty well established that to practice pediatrics you have to go through a pediatrics residency. It's a specific amount of training and a specific amount of time. In his mind, why couldn't anybody just do CPEP and practice pediatrics, if that is what they wanted to do? Dr. Robbins stated that for that reason he has a little problem with that. He added that it is clear to him that this case does not conform to minimal standards of care.

Dr. Steinbergh stated that she would speak in absolute opposition to the amendment. In this case, this is a pediatrician who no longer demonstrates appropriate clinical judgment and is a clear danger to the pediatric population. Dr. Steinbergh continued that the State had an absolutely excellent expert in Dr. Mills. She

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stated that the Board needs to respect that. Dr. Mills is the Medical Director of Mercy Children's Hospital, where he directs the inpatient unit and teaches residents and students on an ongoing basis. He's an instructor for the residency program, was Board certified by the American Academy of Pediatrics in 1990, and recertified in 1997 and 2002. Dr. Steinbergh stated that many times, as the Board reviews Board Orders, it can pick apart some concerns about the judgment of the expert. In this case, Dr. Mills was absolutely appropriate in all of his assessments.

Dr. Steinbergh continued that probably the most important thing to her is that he put these young children's lives at risk. In three of the cases, Dr. Kalia did not recognize an ill child. Today, speaking to the Board, he still does not recognize how very ill these children were.

Dr. Davidson spoke in favor of the Proposed Order, as written. She stated that she thinks that everyone has been very articulate and clear in their feeling that this is a clear violation of minimal standards. Minimal standard cases are difficult, the most difficult cases the Board has, and she's given some thought as to why that is so. Dr. Davidson indicated that Board members might feel that the specialty is out of their area and they don't really know whether what the State's expert says is true – it may just be opinions. Dr. Davidson continued that she does agree with Dr. Steinbergh's evaluation of Dr. Mills as an expert. She thought that Dr. Mills did a very good job and she agreed with everything Dr. Mills said. This is a clear violation of minimal standards. These patients were at risk and were not recognized as such. They suffered harm.

Dr. Davidson stated that when she thinks in terms of mediation and testing, the PREP is a fine C.M.E. course, but it's not live patients. It takes a residency or something with live patients to demonstrate that he recognizes that this is a sick patient and he has to do something, this other patient can wait. That's not something available to the Board right now.

Dr. Davidson stated that the public expects the Board to do the hard job of making decisions in minimal standards cases to ensure quality. The Board's renewal of licenses for physicians in the state is like the Board's recommending this physician to their family members and neighbors. It's just that simple. Is the Board prepared to bestow or renew this license today because the Board members feel that Dr. Kalia is competent to take care of people they know. She thinks it is fairly clear that the answer is "no."

Dr. Davidson questioned whether Dr. Kalia is remediable. She doesn't feel that Dr. Kalia recognizes the serious mistakes in judgment that he made. She's not sure what the Board can do in this case. She added that she wouldn't be against getting the CPEP evaluation, but she's not clear what form that takes as to recommendations to the Board. Would the Board be bound to take CPEP's recommendations?

Dr. Davidson again spoke in favor of the original Proposed Order.

Ms. Sloan also spoke in support of the Proposed Order. She stated that, in reading through all this material and listening to Dr. Kalia, she was waiting to hear something positive from Dr. Kalia indicating that he has already gone for some additional education, that he, himself, has looked into improving his medical skills. She didn't hear that. She heard Dr. Kalia putting the problems off on someone else, such as the nurses not recording the vital statistics. If a physician reads the report and sees that the vital statistics aren't there, why wouldn't he note that himself? How could he prescribe medication without having these statistics?

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Dr. Kalia didn't address any of that today, nor did he admit that these were mistakes that he made. Ms. Sloan stated that she would speak for the original Proposed Order.

Dr. Steinbergh stated that these are very, very bad cases. She stated that she can't pass judgment on the type of physician Dr. Kalia was in previous years, but she suspects that over the years one of the reasons that people have taken over for him in the hospital setting is that they began to see a pattern of poor care. Someone was responsible for caring for these children. In the cases the Board reviewed, Dr. Kalia's judgment was very bad. He didn't appropriately assess or appropriately document his assessment in the medical record. She indicated concern over Dr. Kalia's medical assessments, stating that, even if Dr. Kalia missed a diagnosis of intussusception or meningitis, these were sick children and Dr. Kalia did not recognize the seriousness of their illness. Dr. Kalia treated the child who was clearly in respiratory failure because of croup with inappropriate medications. Dr. Kalia was treating lower airway instead of upper airway. If it wasn't for the intervention of a nurse and the house physician, who gave the child the racemic epinephrine and Solu Medrol, this child, without question, would have been in absolute respiratory failure. He was exhausted.

Dr. Steinbergh continued that, in the intussusception case, Dr. Kalia did not recognize how ill the child was. Dr. Steinbergh acknowledged that everything Dr. Kumar said about intussusception is true, in terms of the clinical picture, but added that Dr. Kalia did not recognize the seriousness of the child's illness. The mother wanted the child transported, or someone else wanted the child transported, but never Dr. Kalia.

Dr. Steinbergh referred to the case of the child with meningitis. Dr. Steinbergh stated that when you have a suspicion of meningitis, one of the first things you do is a spinal tap. You don't give the patient Rocephin and then later on, hours or days later, do a spinal tap. The time to do the spinal tap is before you give the antibiotic. In an emergency room setting, if someone comes in and they're obtunded and they think it's meningitis, they'll give a dose of anything they want to give, and then they do the spinal tap. That's not going to change the clinical picture. But in this case, it will change the clinical picture, so Dr. Kalia obstructed the diagnosis besides not recognizing the illness of the child.

Dr. Steinbergh stated that in these three hospital cases, Dr. Kalia put the children at risk. Today he doesn't understand the difference between upper and lower respiratory obstruction. He gives the Board a song and a dance in the hearing record, and she doesn't buy any of it. Dr. Steinbergh remarked that the Board might say that it shouldn't allow Dr. Kalia to have a hospital practice. She added that she suspects, but may be wrong, that Dr. Kalia doesn't have hospital privileges. She stated that she can't imagine that a hospital would allow a physician to practice like this. This is a pediatrician to whom parents trust the care of their young children. So she said to herself that maybe he can do office care. Dr. Steinbergh stated that she then looked at Patient 1 and thought, what poor judgment to give an infant all of these medications. This was horrible judgment. Dr. Mills testified that he doesn't see this happening, and Dr. Steinbergh agreed with him. You don't see this happening in routine pediatric care. If you want to give respite care to these parents and break the cycle, you put the child in a hospital setting and observe the child. If a pediatric psychiatrist wants to prescribe these medications to the child, he or she would observe that child on a pediatric ward to see what happens. Don't expose this child to these medications in an outpatient setting and allow parents to deal with this. It's totally inappropriate care.

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Dr. Steinbergh stated that Dr. Kalia's clinical judgment is so bad that she questions why she or any other Board member would send her child or grandchild to Dr. Kalia. She asked whether Board members think that this physician, at this stage of his career, can be re-educated and take care of pediatric patients in Ohio. She stated that the Board members are here to make that judgment today. The public trusts the Board to make the decision.

Dr. Steinbergh stated that, as Dr. Davidson noted, these are the tough issues. It is not an easy thing to revoke a physician's license, but this is why the Board is here doing this. The Board has to pass judgment and say that this is simply inappropriate care and can't go on. After years of retraining he may be different, but he has subjected these children to critical care in such a way that three of these children could have died. There is no question in her mind about that. Were it not for the intervention of others, it would have happened.

Dr. Steinbergh stated that she supports the Report and Recommendation and believes in permanent revocation in this case.

Dr. Kumar commented that he is obviously in the minority; but he still disagrees with permanent revocation, simply because of the fact that, as he looks at the case of intussusception, he does that all the time and he has a problem revoking on that case. There is no question about the fact that Dr. Kalia has deviated from minimal standards and has placed a lot of people at risk, but he still feels that there is a possibility of re-education. Dr. Kumar added that, if Dr. Kalia doesn't get re-educated and re-assessed, the motion to amend still protects the public. If he doesn't meet standards, he won't be able to go out and practice. Dr. Kumar stated that he believes that Dr. Kalia should be given the chance to re-educate and re-assess himself.

Ms. Sloan noted that there is an amended motion to amend on the table.

Dr. Davidson asked for a clarification of the motion to amend. She asked whether it was a referral to CPEP, plus the rest of the language of Dr. Kumar's amendment, or just CPEP.

Dr. Kumar stated that it is just CPEP.

Ms. Lubow suggested tabling this matter to allow her time to define the motion in writing for Board members to make sure that the Board addresses the different eventualities should CPEP decide that remediation is or isn't necessary.

Dr. Kumar stated that that is his understanding.

Ms. Lubow asked whether CPEP would be a substitution for the recertification examination and re-education course.

Dr. Kumar stated that it is. Dr. Kumar added that he would still need to have the medical records course.

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Mr. Dilling stated that, in fairness to the process and the amendment in question, he asked for a brief summary of what would happen if he's sent to CPEP. He stated that he doesn't think it's clear.

Dr. Steinbergh commented that Ms. Lubow has asked that it be tabled to further evaluate the language.

Mr. Dilling stated that the Board staff could take the time to give the Board what it's looking for.

Dr. Kumar asked whether the CPEP process is clear to everyone.

Dr. Davidson stated that the eventualities are unclear. What is the range of things CPEP can come back to the Board with, and what are the Board's choices given their evaluation and range of choices?.

Dr. Davidson stated that she has never seen a CPEP evaluation, and she would like a little more information about what things CPEP is likely to come back with.

Dr. Kumar stated that, basically, when he attended the Federation meeting, and he sat and talked with those people, they have a five-step process. The first step is that they will assess. Second, they will essentially say if this person is remediable and what kind of remedy they need to do. Then they will tailor a course on the basis of what they figure out. If they say that the physician can't be remedied, then he's gone.

Dr. Davidson stated that she would like a little more exposure to when they find the physician remediable and the kinds of courses they offer, because the Board has certainly struggled with remediation courses and what's available and what really can happen.

Dr. Kumar stated that that is structured on what CPEP finds.

Dr. Steinbergh suggested that the Board table the amendment for staff to develop the legal language of Dr. Kumar's amendment.

DR. KUMAR MOVED TO TABLE THE MATTER OF JITANDER N. KALIA, M.D.

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

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

The motion carried.

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ROBERT NOBLE, M.D.

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

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

Dr. Noble thanked the Board for allowing him to appear and stated that he is anxious to comply with whatever the Board would like him to do. He has applied for and will be taking the recertification examination of the American Board of Internal Medicine for Infectious Diseases on November 3. Dr. Noble stated that he is basically present to answer any questions Board members might have.

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

Ms. Albers stated that, based on Dr. Noble's comments, she will not address the Board.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ROBERT NOBLE, M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Garg stated that he thinks that the Order is according to the Board's guidelines and requirements. The guidelines contain the need for physicians who have not practiced or been clinically involved in medicine for two or more years to take the SPEX. The Board has recently begun to accept a board recertification examination in place of the SPEX, and the Proposed Order allows that. Dr. Garg spoke in support of adopting the Report and Recommendation.

Dr. Steinbergh agreed with Dr. Garg.

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

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

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The motion carried.

DOUGLAS HOLLAND RANK, M.D.

Ms. Sloan directed the Board's attention to the matter of Douglas Holland Rank, M.D. She advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members.

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

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

Mr. Byers stated that he is sure that the Board is aware that there are objections in this case, since the Proposed Order is for permanent denial. Mr. Byers stated that he believes that Dr. Rank has benefited by sitting here and seeing how the Board adjudicates these matters. It's obvious that the Board takes its mission quite seriously and earnestly. Mr. Byers stated that they are hoping that the same level of seriousness and earnestness is invested in this case and that the Board is able to look beyond the face of what brings Dr. Rank here, and look at his overall competency and qualifications as a practitioner.

Mr. Byers stated that Dr. Rank misstepped. He committed a boundary violation many years ago, nearly nine to ten years ago. Since that time he has undertaken significant remediation, rehabilitation, everything that possibly and reasonably could have been done by him. Dr. Rank testified at great length about how he's learned from this process. He's not proud that this boundary violation arose, and he's done everything possible to assure that it will not happen again, and that he is otherwise qualified for licensure in Ohio.

Dr. Rank thanked the Board for the opportunity to appear and speak with the Board. Dr. Rank stated that he was wrong in his actions with this patient. He had a deep, emotional involvement with her. He'd known her for two years before the boundary violation in 1995 and two years afterwards. He loved her. Dr. Rank stated that he didn't have children, nor did she. They talked about having children together. He added that the bottom line is that nothing changes the fact that he was wrong. Dr. Rank stated that he should have referred this patient when he felt his affections growing. This happened in the early years of his practice, from 1993 to 1995, and he didn't know his limits then. Since then he has grown emotionally quite a lot. He went to Vanderbilt's program on maintaining professional boundaries, its program on how to avoid over-prescribing. He added that it's not just a slide show at Vanderbilt. It's like group therapy, where physicians all examine and share with each other the particulars of their emotional lives that led them to their misconduct in various cases.

Dr. Rank stated that he did over two years of group therapy with professionals, again exploring how their emotional lives led them into their wrong actions. He's maintained his psychoanalyst at the Cincinnati Psychoanalytic Institute, which he had started in 1991, just to make himself a better psychiatrist.

Dr. Rank stated that he is different. He's done more things, but he would like to wrap his statement up by

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saying that he's lived in Cincinnati for five years. He works as a psychiatrist in Covington, Kentucky. He's been offered an opportunity to practice in Ohio, and he's willing to abide by any oversight that makes the Board feel comfortable. Dr. Rank indicated that he would answer any questions the Board members may have.

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

Mr. Wilcox stated that he agrees with the Hearing Examiner's Recommendation of permanent denial in this case. He advised that any physician who applies for licensure in Ohio who has multiple actions against his or her license from other state licensing bodies should be carefully scrutinized. This is especially true for a physician who has been disciplined for a boundary violation with a patient.

Mr. Wilcox continued that, in this case, Dr. Rank terminated his treatment initially with Patient A in 1994 because of physical advances she allegedly made during that treatment. Dr. Rank identified this transference and stopped treating Patient A. In spite of this history, and being on notice that this could be a problematic patient, he again agreed to treat Patient A when a surgeon referred her to Dr. Rank in 1995. Dr. Rank allowed the personal relationship to grow and, in fact, encouraged it with this married patient. This led to a sexual relationship with Patient A.

Mr. Wilcox stated that, not only was this behavior unprofessional and unethical, it is inexcusable, given the fact that he knew exactly what he was doing. Dr. Rank knew such behavior was completely wrong, evidenced by the fact that he terminated the prior care when this issue arose. Obviously, Dr. Rank could not control his behavior, and he pursued a romantic relationship with this patient. He noted that the New York Board explained, "Dr. Rank conceded that he knew he was violating rules and he knew he was wrong to conduct a relationship with a patient, but he engaged in the conduct anyway. And not only did he engage in such conduct once, but on multiple occasions."

Mr. Wilcox concluded by stating that licensing a physician with such a history would not be in the best interests of the citizens of Ohio.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DOUGLAS HOLLAND RANK, M.D. DR. STEINBERGH SECONDED THE MOTION.

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

Dr. Steinbergh stated that she thinks the case is clear. This is a bootstrap issue with several pieces to it. The Medical Board in Kentucky has put Dr. Rank on probation and has disciplined him, as the Board has seen. Because of that, the State of New York revoked his license. Dr. Rank lives in Cincinnati and would like to come to work in Ohio and is asking for licensure in Ohio.

Dr. Steinbergh stated that she has thoroughly read the Report and Recommendation, and there are parts of it with which she agrees and parts of it with which she disagrees. She does not agree that the Board should

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permanently deny Dr. Rank a license. Dr. Steinbergh stated that she thought that Dr. Rank's objections were very appropriate.

Dr. Steinbergh stated that her perception of this case is that Dr. Rank clearly understands what he did. He's clearly remorseful, he knew he was making a mistake. He initially had poor judgment in regard to Patient A, and probably never should have allowed her back into his practice. He clearly understood the first time what he needed to do. Unfortunately, he subsequently accepted her again as a patient because of his expertise in treating headaches.

Dr. Steinbergh stated that she does not believe that Patient A was a vulnerable patient, adding that she didn't feel that Dr. Rank took advantage of Patient A. She was a professional woman, his peer, she was a hospital administrator. She came into his practice, and they apparently developed a relationship. It's clear that he should have relieved himself of the responsibility of caring for her, but the record states that they developed a relationship. They did not do anything secretly. They went out socially together, they apparently had intended on a long-term relationship, she told him she was being divorced, he was not married, and they developed a relationship.

Dr. Steinbergh stated that it was unfortunate that he made the decision that he made to treat her. Dr. Steinbergh stressed that she did not see this as a vulnerable patient. She didn't see Dr. Rank as clearly violating sexual boundary issues in this particular case, as the Board has seen in so many other cases. Dr. Steinbergh stated that Dr. Rank's objections in that area are appropriate.

Dr. Steinbergh referred to Patient B, whom Dr. Rank was treating for headaches. He again used poor judgment in the sense that, when he thought his license was going to be suspended, he gave this patient a note that she could take to other physicians that confirmed what he was prescribing for her and the doses that he was prescribing for her, in hopes of facilitating her care with other physicians. When he was allowed to go on to continue to treat her, he erred in not clearing this error. He should have retrieved the note. It was clear that she then went on to other physicians who prescribed medications. So, there was this prescriptive error here, and he recognized that. The Kentucky Board recognized that.

Dr. Steinbergh continued that there's also a small case of a C.M.E. issue, where he didn't notify Ohio in his application that Kentucky had disciplined him in regard to mandatory CME that he thought that he had appropriately taken and hadn't. Dr. Steinbergh stated that she feels this is a minor infraction, and it is not of great concern to her. Nevertheless, it is in the record.

Dr. Steinbergh stated that she does have an alternative proposal to present to the Board. She stated that, if her proposal meets with the Board's approval, she would ask the Board to table the matter to finalize the language. Dr. Steinbergh stated that she would like to grant Dr. Rank a license. Immediately upon issuance, the license would be suspended for an indefinite period of time, but not less than six months. Conditions for reinstatement would include a requirement that he submit a practice plan for Board approval, with a monitoring physician. There are other steps in that process he must meet, but it's a basic monitoring situation for a period of time. Dr. Steinbergh continued that he would submit to a professional ethics course, a personal ethics course, and a controlled substance prescribing course. He would be

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required to continue to document his CME, and the Board would monitor his CME during his probationary period. Upon reinstatement or restoration of his license, he would go into probation for two years.

Dr. Steinbergh continued that there are certain things that Dr. Rank would have to do to be reinstated, which would include a practice plan, and the practice plan would be the mainstay of the probationary period of two years. There are other terms, including personal appearances, a tolling provision, etc. Dr. Steinbergh stated that she could bring back a written copy of her proposed amendment, if the Board indicates that it would be amenable to such an amendment.

Dr. Kumar spoke in support of Dr. Steinbergh's motion, adding that there has been a violation of boundary issues, there's no question about that. Dr. Kumar stated that he was a little bit more concerned about Dr. Rank's care of Patient B, particularly when the Report and Recommendation says that, even after being confronted by the Board investigator with evidence that Patient B was abusing injectable Demerol by obtaining such medication from multiple sources, Dr. Rank continued to prescribe the drug without contacting the other physicians. Dr. Kumar stated that one of the things the Board has to be very careful about is that he be required to take a controlled substance prescribing course, which Dr. Steinbergh has indicated will be in her amendment.

Dr. Garg asked whether he would have to take that course prior to reinstatement.

Dr. Steinbergh stated that he would.

Dr. Garg stated that boundary issues are always troublesome, especially when a psychiatrist is involved. He added that, as Dr. Steinbergh explained, the circumstances are a little different in this case. Changing the order from permanent denial to denial seems appropriate.

Dr. Kumar stated that the amendment wouldn't be to deny, but to license and then suspend.

Dr. Garg acknowledged his understanding.

Dr. Steinbergh stated that it is her understanding from the record that his treatment of Patient A was in terms of pain control, headache management. She at no time had the sense that he was providing psychiatric care to Patient A. Dr. Steinbergh stated that she believes that he clearly understands what he did wrong in both of these cases, and he has really made efforts to improve himself immediately. His Board certification in internal medicine and psychiatry is up to date.

Mr. Browning stated that he's open to looking at an alternative Order, but it's not because he thinks that the patient wasn't a victim. Whether she has a Ph.D. or makes a lot of money or whatever, she was a victim of this doctor, and Mr. Browning added that he thinks Dr. Rank knows that. The Board has taken people out of practice for this behavior and will probably do so again. If the Board amends the Proposed Order, it's not because the patient wasn't a victim.

DR. STEINBERGH MOVED TO TABLE THE MATTER OF DOUGLAS HOLLAND RANK,

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

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

The motion carried.

RICHARD ARTHUR THOMPSON, M.T.

Ms. Sloan directed the Board's attention to the matter of Richard Arthur Thompson, M.T. She advised that no objections were filed to Hearing Examiner Clovis' Report and Recommendation.

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

Mr. Thompson was accompanied by his attorney, Mr. Byers.

Mr. Byers advised that Mr. Thompson has no objections to the Report and Recommendation. He added that they endorse what the Hearing Examiner has proposed, and they think it is a very fair and reasonable outcome, given the circumstances as explained through the hearing process.

Mr. Thompson at this time addressed the Board, thanking it for the opportunity to explain himself and the situation. Mr. Thompson stated that he understands the position the Board is in, being a Board of such high standards, and he thanked the Board for a fair and just trial. He thanked the Board for the opportunity to move forward in a career in which he feels confident he will excel. He also thanked the Board for allowing him to provide a better future for himself and his family.

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

Mr. Perry stated that it is interesting to him that he had two cases scheduled today, both involving identical legal issues, but, factually, they're about 180 degrees apart. It is undisputed that Mr. Thompson failed to completely report his criminal convictions on his application. The key, as the Report and Recommendation points out, is the Webb case, among others, which held that the Board must specifically find that the applicant had an intent to deceive the Board when he provided false information. The law also tells that, unless a person admits outright why they did a certain act, it can't be proved directly. It must be proved circumstantially. In this case, the Board is confined to circumstantial evidence, which isn't necessarily a

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problem, but that's all the State has.

Mr. Perry stated that the Report and Recommendation concisely lays out the facts and circumstances surrounding this case. He added that it's very important to note that the Board had every right to bring this case. It's clear that this person did not completely report his criminal history. The Board initially proposed to deny him a license, held a hearing, put on all the evidence it had, and said to Mr. Thompson, as a Board, that it expects massage therapists to tell the Board the complete truth. Mr. Thompson did not tell the Board the complete truth, and the Board asked him to explain himself. Mr. Thompson came to the hearing, and made his explanation. The Hearing Examiner reviewed all of the evidence and determined that there was no evidence of intent to deceive the Board. Given this limited set of facts, he would agree that that is a reasonable and fair conclusion.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF RICHARD ARTHUR THOMPSON, M.T. MR. BROWNING SECONDED THE MOTION.

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

Dr. Kumar stated that he feels that it is clear from the record that there was no intent to hide Mr. Thompson's misdemeanor convictions.

Dr. Steinbergh agreed with the Report and Recommendation, stating that it was clear that the Board needed to investigate this matter. After her reading of this case, she did feel that Mr. Thompson ought to be granted a license. She added that she's glad to see that Mr. Thompson has grown in this process.

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

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

The motion carried.

JOSEPH C. WEBSTER, M.D.

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

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

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

Dr. Steinbergh stated that she supports and agrees with the Proposed Order permanently denying Dr. Webster a license. She added that Ms. Murphy's conclusionary paragraph says it all; Dr. Webster has never been truthful with this Board. He's always been deceptive. Because of that, she doesn't think that he's honorable and trustworthy for licensure in this State.

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

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

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

SHELTON WILLIAMS, JR., L.M.T

Ms. Sloan directed the Board's attention to the matter of Shelton Williams, Jr., L.M.T. She advised that, by letter of November 12, 2003, the Board notified Mr. Williams that it proposed to take disciplinary action against his license to practice massage therapy in the State of Ohio based on allegations contained in the letter. The notice was mailed to Mr. Williams' address of record on two separate occasions; however, proof of service was not obtained. The notice was subsequently published in the *Cincinnati Enquirer* on February 12, February 19, and February 26, 2004. No hearing request has been received from Mr. Williams and more than thirty days have elapsed since the publication of the notice. The matter was reviewed by Hearing Examiner Clovis, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition. Mr. Albert was Supervising Member. Both Dr. Garg and Dr. Talmage served as Secretary.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE

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NOVEMBER 12, 2003 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF MR. WILLIAMS, AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh stated that this is a case of a massage therapist who violated his consent agreement on multiple occasions. He was cited by the Board, but didn't respond to his citation. Dr. Steinbergh stated that Mr. Williams repeatedly failed to comply with his consent agreement, and, in her mind, she has no desire to allow him to retain his license. It should be permanently revoked.

Dr. Kumar agreed with Dr. Steinbergh.

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

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

The motion carried.

FINDINGS, ORDERS AND JOURNAL ENTRIES

MARTY PHILIP GAGLIARDI, M.D.

Ms. Sloan advised that, by letter of June 8, 2004, the Board notified Dr. Gagliardi that it proposed to deny his application for a certificate to practice medicine and surgery in Ohio based upon the fact that Dr. Gagliardi has not completed an examination sequence acceptable to the Board pursuant to Rule 4731-6-16, Ohio Administrative Code. Said notice was mailed via certified mail, return receipt requested, to Dr. Gagliardi's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. However, no hearing request has been received from Dr. Gagliardi and more than 30 days have now elapsed since the mailing of the notice. This matter was presented to the Board for final disposition.

DR. GARG MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JUNE 8, 2004 NOTICE AND TO ENTER AN ORDER DENYING DR. GAGLIARDI'S LICENSURE APPLICATION,

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EFFECTIVE IMMEDIATELY. DR. ROBBINS SECONDED THE MOTION.

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

Dr. Steinbergh stated that Dr. Gagliardi has requested a license in Ohio. The Board notified him in June that he had not completed the appropriate examination sequence and therefore doesn't meet the requirements for licensure in Ohio. Dr. Gagliardi did not respond to the Board's letter, and therefore a Finding, Order and Journal Entry denying his application is appropriate.

A vote was taken:

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

The motion carried.

JOSEFA RANGEL, M.D.

Ms. Sloan advised that, by letter of June 8, 2004, the Board notified Dr. Rangel that it proposed to approve her application for a certificate to practice medicine and surgery provided that she take and pass the Special Purpose Examination (SPEX) or specialty board recertification examination, due to the fact that Dr. Rangel has not engaged in the active practice of medicine for more than two (2) years. Said notice was mailed via certified mail, return receipt requested, to Dr. Rangel's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. However, no hearing request has been received from Dr. Rangel and more than 30 days have elapsed since the mailing of that notice. The matter was presented to the Board for final disposition.

DR. GARG MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JUNE 8, 2004 NOTICE AND TO ENTER AN ORDER APPROVING DR. RANGEL'S APPLICATION FOR LICENSURE, SUBJECT TO HER PASSING THE SPECIAL PURPOSE EXAMINATION (SPEX) OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF JUNE 9, 2004, EFFECTIVE IMMEDIATELY. DR. KUMAR SECONDED THE MOTION.

Dr. Kumar stated that this is a pretty standard case. Dr. Rangel has been out of practice for a while and therefore the Board is requiring her to take an examination within six months.

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

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

The motion carried.

CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

EMEKA OBINNA EKWULUGO, 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.S TEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. EKWULUGO.
DR. GARG SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

UGO ERNESTO GALLO, M.D. – CITATION LETTER

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

DR. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. GALLO.

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

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

The motion carried.

THOMAS R. PICKETT, P.A. - LETTER OF PROPOSED DENIAL

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

**DR. GARG MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MR. PICKETT.
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

EVAN LAYTHE SYKES, D.O. - LETTER OF PROPOSED DENIAL

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

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

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

The motion carried.

RICHARD A. ARKO, M.T. - NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

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

DR. GARG MOVED TO SEND THE NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING TO MR. ARKO. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

STEPHEN HENRY HUMPHREY, D.P.M. – CITATION LETTER

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

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

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

The motion carried.

Mr. Albert left the meeting at this time.

RATIFICATION OF CONSENT AGREEMENTS

JORDAN ERIC HOPKINS, M.D.

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

Vote:	Dr. Talmage	- abstain
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

KANDHASAMY KANNAPIRAN, M.D.

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

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

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Ms. Sloan - aye

The motion carried.

MARY JO FOOTE, P.A.

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MS. FOOTE. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Talmage	- abstain
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

MARK ANDREW BANKS, M.D.

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

Vote:	Dr. Talmage	- abstain
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

GREGORY S. ZINNI, M.D.

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

Vote:	Dr. Talmage	- abstain
	Dr. Kumar	- aye

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

The motion carried.

DAVID CARL ERNST, M.D.

DR. ROBBINS MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. ERNST. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:	Dr. Talmage	- abstain
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

Mr. Albert returned to the meeting at this time.

PERSONAL APPEARANCES

RICHARD M. GARWOOD, D.O.

Dr. Garwood appeared before the Board pursuant to his request for release from the terms of the Board's Order of March 13, 1996.

In response to Ms. Sloan's questions, Dr. Garwood stated that he is doing well. He added that about a month ago he suffered a mild cardiac infarction, but he's doing well now.

In response to Dr. Steinbergh's questions, Dr. Garwood stated that he is currently a residency director at an American College of Osteopathic Family Practitioners certified program at South Point Hospital in Warrensville Hts., Ohio. He is currently the director of the clinic at Fleet Medical Center. Dr. Garwood stated that he has had the privilege of being a tutor and of guidance to young physicians for the last four years.

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Dr. Steinbergh asked Dr. Garwood to tell the Board what he teaches concerning prescribing controlled substances.

Dr. Garwood stated that his situation dealt with prescribing anorectic medications, which aren't used at the clinic. When he does discuss other medications, one of the things he tries to impress on the young physicians in training is that these medications, especially opioids and narcotic medications, are serious medications, and, although they may be needed for some patients, there have to be distinct guidelines for their use. If patients do use these medications on a chronic basis, they do seek out pain management to help manage those types of situations. Dr. Garwood stated that that is one area in which they try to promote an understanding and need.

Dr. Steinbergh asked Dr. Garwood what kind of discussion and training he does concerning the prescribing of anorectics.

Dr. Garwood stated that when it comes to actual training in that area, certainly the basics are always employed. Their clinic in particular has a big problem with obesity and diabetes and pre-diabetic states, so they employ all kinds of assisted method measures to help patients to curtail their weight, and to become more active with exercise, physical activity. They also have dietary management in their clinic in the form of diabetes educators, as well as dieticians. Dr. Garwood added that they have not used anorectic medications in their clinic. He acknowledged that they could be used with another clinical supervisor present, but in his experience there are rules, regulations and guidelines for their correct use, of which he is now aware but hadn't utilized in the past.

Dr. Steinbergh asked Dr. Garwood whether he encourages young physicians to follow the guidelines of the Medical Board in terms of prescribing.

Dr. Garwood stated that he does, absolutely, and added that any medication that is controlled requires that type of tutelage and understanding. One of their rules is that they do have residents take call for the weekend, but they don't prescribe medications on the weekends. There's a strict rule and regulation for that type of care. Most often those patients need to be seen in order to procure that type of intervention pharmaceutically.

DR. STEINBERGH MOVED TO RELEASE DR. GARWOOD FROM THE TERMS OF THE BOARD'S ORDER OF MARCH 13, 1996. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

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Dr. Steinbergh - aye
Ms. Sloan - aye

The motion carried.

JEROME D. HOMISH, D.O.

Dr. Homish appeared before the Board pursuant to his request for release from the terms of his August 11, 1999 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Homish stated that he is doing very well. He feels very good physically, mentally and emotionally. His practice is going well, and he feels like he is a much more effective physician than he was before.

Continuing to respond to Dr. Steinbergh's questions, Dr. Homish stated that he's in a group practice in Southeast Ohio, and he actually works urgent care in Athens. He has limited hours; they operate 9:00 a.m. to 9:00 p.m., and he does about 156 hours a month. He commented that it's quite a nice lifestyle, because he just basically goes in, punches a clock, does his job and goes home. That lends itself to his being able to take care of himself as well. He's not overtaxed with paperwork and extra hours and so forth. He's staying physically fit, attending A.A. meetings, and abstaining. He currently attends three to four meetings per week, and he does expect to continue that after release. Dr. Homish stated that he's found that most of his health and healing has taken place through those meetings. He added that it was just a matter of getting there to begin with.

Dr. Davidson asked Dr. Homish to give his opinion on his 28-day inpatient treatment.

Dr. Davidson stated that 28 days for him would have been too short. He stated that he believes he was there for 83 days. At 28 days he was still in denial, so 28 days for him would not have been sufficient.

In response to Dr. Garg's questions, Dr. Homish explained that, at Shepherd Hill, three months is relatively standard. It was past four weeks when it was really, really starting to take hold on him. Dr. Homish stated that he's still convinced, especially with the IOP programs, he could have lied his way through that to anybody for a few hours a day for four weeks. It wouldn't have been a problem for him to get away with that. But the 24-hours, seven days a week, is really what it took for him to be able to break down some of those barriers and defenses.

Mr. Albert stated that Dr. Homish has been a very good probationer and has been compliant through the term of his probation. He's been an excellent person to work with.

DR. GARG MOVED TO RELEASE DR. HOMISH FROM THE TERMS OF HIS AUGUST 11, 1999 CONSENT AGREEMENT. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

BAK C. KIM, M.D.

Dr. Kim appeared before the Board pursuant to his request for release from the terms of his August 11, 1999 Consent Agreement.

In response to Ms. Sloan's questions, Dr. Kim stated that he is doing well.

In response to Dr. Kumar's questions, Dr. Kim stated that that his anesthesia group currently consists of 15 M.D.s and one C.R.N.A. Concerning safeguards in place to prevent anyone in the group from misusing drugs, Dr. Kim stated that they have a substation of a pharmacy there and they sign drugs out. They return the remaining portion of drugs to the pharmacy. The pharmacy does random checks on the drugs returned.

Dr. Kumar asked how they prevent someone from diluting the drugs, taking two cc out, and leaving two cc in the syringe, and, instead of giving 2 cc to the patient, only giving one cc, diluting that out, and when you return it back, it is found to be normal.

Dr. Kim stated that the pharmacy does a random check, and when the drug is returned, it has the physician's name on it. They can check out whether it is diluted.

Dr. Kumar asked Dr. Kim whether he was diverting the drugs mostly in the pre-op timeframe, the intra-operative time frame or in the recovery room.

Dr. Kim stated that it was a combination. Whenever he had the opportunity he took it. There was no particular time for it. It's more physiologic responses than timeframe. When the sickness required it, he did it.

In response to Dr. Garg's questions, Dr. Kim stated that how this started is a complex issue. One thing he can remember is that he was in severe depression after his mother passed away. There was about a six-month period that his health and mental balance was gradually declining. It is more complex than just one reason why people get addicted.

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Dr. Davidson stated that the Board has worked intensively with the issue of impaired anesthesiologists abusing anesthesia drugs and re-entry into anesthesia. One proposition on the table is no re-entry. The physician will retrain and not be an anesthesiologist again. She stated that she would be interested in Dr. Kim's opinion on his own re-entry to the field of anesthesiology. She asked Dr. Kim whether the Board could have done anything better in its consent agreement with him to facilitate his re-entry.

Dr. Kim stated that, speaking for himself, a person has to have a strong desire to stay sober. They also need a good treatment program. He noted that he spent 15 weeks as an inpatient. The third thing necessary is a good psychiatrist and a good sponsor working on the program. Dr. Kim stated that he is also very grateful to the Board and its strict, very stringent monitoring program. Dr. Kim stated that, based on statistics compiled by the Talbot-March Recovery Campus in Georgia, a lot of anesthesiologists actually go back to practice and are successful. A lot of people also relapse and end up found in the bathroom, as well. Those incidents are quite unfortunate. Dr. Kim stated that he has a friend who was an anesthesiologist who decided not to go back and became a minister. He's happy with his life.

Dr. Kim stated that, in his opinion, it would be unfair to have a rule that any anesthesiologist who is addicted to drugs cannot go back to anesthesiology. There are many good recovering anesthesiologists practicing and staying sober.

Dr. Davidson asked Dr. Kim what he plans to do to avoid becoming complacent once he's released.

Dr. Kim stated that, as he previously told Mr. Albert, "complacent" is a really bad word for any recovering alcoholic or addict. You have to work the program one day at a time. It's a spiritual program and you have to stay on it all the time. Otherwise, you just can't do it. Dr. Kim added that he found himself that he's grateful that he doesn't have the craving. It's gone. It is more trouble for him to deal with people than the chemical itself nowadays. Improvement you make as an alcoholic or addict is ongoing. That's why A.A. is there.

Dr. Garg asked Dr. Kim what he felt helped him most in getting rid of his desire to take these drugs.

Dr. Kim stated that he doesn't think that addiction medicine quite understands what causes cravings. There's a lot of research going on as to why certain people still have this craving and some people don't. He stated that he cannot answer Dr. Garg's question. The craving is gone, it's just gone. Staying in this program, it is totally gone. A lot of times the desperation of the last minute live or die decision really changes a person.

Dr. Kumar asked Dr. Kim how long he was addicted before he entered into recovery.

Dr. Kim stated that it was just about a year to a year and a half.

Dr. Kumar asked Dr. Kim whether he had any statistics about the recovery rate as it relates to length of time of addiction.

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Dr. Kim stated that he doesn't really know about that, but added that the statistics show that recovery is proportional to the length of treatment.

DR. GARG MOVED TO RELEASE DR. KIM FROM THE TERMS OF HIS AUGUST 11, 1999 CONSENT AGREEMENT. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

ALLAN D. PACKER, M.D.

Dr. Packer appeared before the Board pursuant to his request for release from the terms of the Board's Order of June 10, 1998.

In response to Dr. Garg's questions, Dr. Packer stated that he is still doing emergency medicine. The only change he has made in his practice is to stay vigilant and not take his license for granted. He has realized that he can't prescribe narcotics for himself, and if he has someone else prescribe them, he has to tell that physician that he has a problem with chemical dependency. That usually keeps him out of trouble.

Dr. Davidson asked whether Dr. Packer has had surgery or experienced a painful injury where he's needed narcotics since being in recovery.

Dr. Packer stated that he has.

Dr. Davidson asked whether Dr. Packer felt that the people treating him were knowledgeable and sensitive.

Dr. Packer stated that he did. He added that he had some cardiac surgery in Michigan. He knew that they were going to be giving him narcotics, so he told them about his addiction ahead of time so that they would know. He didn't experience any difficulties during the recovery period.

Dr. Kumar noted that Dr. Packer lives in Cincinnati but works in Greenville. He commented that that's a long drive every day.

Dr. Packer stated that it's a two-hour drive. He goes to Greenville and stays for several days, and then he

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drives back. He stated that each shift is 12 hours, so it's too long to drive back and forth.

Dr. Davidson asked Dr. Packer to comment on the length of his inpatient treatment.

Dr. Packer stated that he has no comment on that one way or the other. He stated that he just knew it was something he had to do, and so he did it. Dr. Packer added that, during the time you're going through inpatient treatment, most don't think that it is a great thing.

In response to Mr. Browning's questions about what Dr. Packer is doing to maintain his sobriety, Dr. Packer stated that he doesn't prescribe medicine for himself. He added that he doesn't think he's had any prescribed medicine since he's been in recovery. It's just a matter of staying vigilant and telling people. When he was in recovery, he saw that people who relapsed and came back into recovery did so because they didn't tell people. Someone would treat them with narcotics, and the person didn't tell the treating physician that they had a problem. That lack of vigilance brought several people back. Dr. Packer stated that he doesn't want that to happen to him.

In response to Dr. Talmage's questions, Dr. Packer stated that he does not supervise residents.

DR. GARG MOVED TO RELEASE DR. PACKER FROM THE TERMS OF THE BOARD'S ORDER OF JUNE 10, 1998. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

JORDAN E. HOPKINS, M.D.

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

Dr. Steinbergh asked Dr. Hopkins to tell the Board about himself and how he is spending his suspension period.

Dr. Hopkins stated that he is 29 years old, and from Cleveland, Ohio. He's been at OSU for quite a while. He finished his internal medicine residency last month and plans to pursue cardiology. During his

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suspension, he's been doing a number of things, including going to a lot of meetings, doing a lot of reading, and some introspection. He's been working on creating a website for Ohio State. It was initially going to be the Department of Infomedicine for residents and students about impaired physicians and issues of abuse and addiction. It has since ballooned a little bit, and it's unclear to what extent that project will go. It may now be medical center or, at least, resident-wide throughout the hospital. Dr. Hopkins added that he has a couple of meetings coming up to further delineate the applications of the content he's been writing.

Dr. Steinbergh asked Dr. Hopkins to tell the Board about his recovery.

Dr. Hopkins stated that he attends six to seven meetings per week. He has begun praying and meditating, and has started exercising again. Dr. Hopkins stated that he's always had a pretty good support network, but he has strengthened and broadened it with family and friends, both in and out of the program. Those things and reading have been pretty important for him.

Dr. Steinbergh asked Dr. Hopkins about his plans for his Step II Consent Agreement, in terms of practice.

Dr. Hopkins stated that he will be joining the Internal Medicine Department at Ohio State as one of the hospitalists there. Concerning the Step II agreement, there is a 55-hour per week work limitation, as well as the supervising and monitoring physician requirements, and other things that he gathers are relatively standard. Dr. Hopkins added that, fortunately, in this opportunity there is a lot of flexibility with regard to scheduling and dividing the responsibilities amongst himself and his partners.

Dr. Davidson stated that she's a little confused about the timeframe. The information provided to the Board indicates that Dr. Hopkins' Step I agreement became effective in May 2004. She asked whether Dr. Hopkins finished his residency.

Dr. Hopkins stated that he went into the Cleveland Clinic in April and finished in the end of May. The Step I agreement was signed in early or mid-May. When he came out at the end of May, he had what amounted to six weeks of residency left, given vacation time and things he had built up, and he talked with the administration and his program director about what could and couldn't be done. They decided that, as a way to satisfy the rest of his residency requirement, he could come up with some kind of research or some kind of independent project. He stated that he had already had an interest in the area of impaired physicians, given his own personal situation. Given the fact that, prior to having the experience, he didn't really know much about it, he felt this was an important issue. For those reasons and a number of others, he thought that that would be a great opportunity. Dr. Hopkins stated that he had been reading, unofficially, even during his stay at the Cleveland Clinic, and he started working in earnest on it in mid-June. That was when the clock restarted toward finishing his residency. The clock finished in six weeks, at the end of July.

Dr. Garg asked whether Dr. Hopkins completed the project or is still working on it.

Dr. Hopkins stated that, because it's sort of been growing and expanding, and the scope of it is getting

bigger, it's not yet complete, primarily because he's meeting with the hospital administration in a couple of weeks, and they want to get a sense of what it's all about and discuss how it can best be used. Dr. Hopkins added that, as he earlier noted, this was just going to be used by the Department of Internal Medicine, and now there's some push to have it go to all the residents and departments, and, perhaps, to the students as they rotate through. He doesn't know exactly how that will turn out. Dr. Hopkins stated that he knows that Dr. Pariser is one of the people involved, and he's very much excited about it, but a lot of it is still yet to be determined.

Dr. Garg asked how many residents are in the Internal Medicine program.

Dr. Hopkins stated that he doesn't know exactly. He added that in his year there were around 40 or so.

Dr. Garg stated that the reason he asks is that he wonders whether Dr. Hopkins' experience and problem has made the director aware and more conscious of the problems that some of the residents may have, and whether they're doing anything about it, such as instituting special vigilance or something like that.

Dr. Hopkins stated that they haven't instituted anything, aside from this project. The thought is to make it a mandatory part of residency, either just for internal medicine residents or for all residents at the hospital.

Dr. Hopkins stated that, with regard to his program director herself, he knows that she was very enlightened about the problem, even before his own situation came up. He added that he believes that she has had residents in the past who have dealt with this. Dr. Hopkins stated that he doesn't know whether she's learned anything from his experience, but he imagines that she probably did.

Dr. Davidson stated that she has a little bit of a sense that maybe Dr. Hopkins hasn't gotten it yet. She stated that his tone of voice almost makes this sound like it's a small thing or it's happening to somebody else. Dr. Davidson stated that Dr. Hopkins was very fortunate that OSU let him carry on and finish his residency. A medical career is obviously an incredibly, intensive, important, busy life. For him, as an alcoholic, his recovery must come first. Dr. Davidson stated that she hopes that she's wrong about what she's hearing in his discussion today. She noted that the Board and Dr. Hopkins will see each other a lot as time goes on.

Mr. Browning asked Dr. Hopkins to respond to Dr. Davidson's comments.

Dr. Hopkins stated that he guesses he's not sure what sort of affect he's putting off, but all he can say is that this is a life-threatening thing for him. He added that he's a little surprised by Dr. Davidson's statement, because to him it really was a life-altering and life-threatening thing. He stated that he doesn't know why he's giving that impression, but he hopes that it's an inaccurate impression. Dr. Hopkins stated that this whole thing cut him to the core. He was very much shaken, but he's had three and a half months or so to deal with it, and he thinks working an active program has given him a lot of support to get him through.

Dr. Davidson stated that actions speak louder than words, so she hopes he's right.

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Mr. Schmidt noted that the Board ratified a Step II Consent Agreement with Dr. Hopkins earlier in this meeting.

DR. GARG MOVED TO CONTINUE DR. HOPKINS UNDER THE TERMS OF HIS AUGUST 11, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

KANHASAMY KANNAPIRAN, M.D.

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

Dr. Kumar noted that the information before the Board indicates that Dr. Kannapiran had alcohol dependence and possible benzodiazepine abuse/dependence. He asked whether Dr. Kannapiran actually abused benzodiazepines.

Dr. Kannapiran stated that he did.

Dr. Kumar asked Dr. Kannapiran to tell the Board what he's been doing about it.

Dr. Kannapiran stated that he entered Parkside as an inpatient and was treated there for about six weeks. Since then, he has done intensive outpatient therapy at Parkside. He had about 17 sessions, three times a week. After that, he attended aftercare once a week, and AA meetings three to four times a week, and Caduceus meetings once a week.

In response to further questions by Dr. Kumar, Dr. Kannapiran stated that he practices alone. He started using benzodiazepines whenever he felt low, to bring back his self-esteem. It was no one else's fault. He added that he used alcohol in the past, and he feels that he is very much susceptible to alcoholism, but he is a recovering drug abuser. He's mostly addicted to chemicals like benzodiazepines rather than alcohol.

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However, given the chance, he may become addicted to alcohol also. Dr. Kannapiran stated that he is an addict for drugs and a potential addict for alcohol.

In response to Dr. Robbins' questions, Dr. Kannapiran stated that his wife and sons are very supportive. They attend Alanon, Alateen and other meetings. His wife is very supportive of him.

Dr. Davidson asked Dr. Kannapiran what the hardest thing has been for him.

Dr. Kannapiran stated that the hardest thing for him has been to explain his situation to his sons, his wife and his peers. Dr. Kannapiran stated that that's the very hardest part, but acknowledged that it is a very important part of his recovery.

Mr. Schmidt noted that the Board ratified a Step II Consent Agreement with Dr. Kannapiran earlier in this meeting.

DR. GARG MOVED TO CONTINUE DR. KANNAPIRAN UNDER THE TERMS OF HIS AUGUST 12, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

GARY R. LUTZ, D.O.

Although scheduled, Dr. Lutz did not appear before the Board.

Mr. Schmidt noted that Dr. Lutz may not have received his appearance notice in time to arrange his appearance.

DALE PRATT-HARRINGTON, D.O.

Dr. Pratt-Harrington made his initial appearance before the Board, pursuant to the terms of his June 10, 2004 Consent Agreement.

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In response to Dr. Davidson's questions, Dr. Pratt-Harrington stated that he feels pretty good about his situation today. He just got a new job teaching college in Athens, Ohio. He thinks that he will really enjoy that. Dr. Pratt-Harrington stated that things are starting to turn for the better for him. His new job will allow him time to devote to his recovery. He added that he's teaching at the nursing school at Hocking College, and full time is about 20 hours of student contact hours. This gives him quite a bit of time to work on his recovery.

Dr. Davidson asked what's going to be different this time.

Dr. Pratt-Harrington stated that Dr. Davidson made an interesting comment to an earlier probationer that he may not have been taking his recovery seriously, and he thinks that that was part of his problem. He wasn't taking it seriously. Now he is taking it seriously. Dr. Pratt-Harrington stated that he just had that revelation during this meeting, as a matter of fact. He'll continue to go to meetings, and is currently going to about four meetings a week, including a Caduceus meeting. He's taking the meetings more seriously. He's also going to counseling weekly. Dr. Pratt-Harrington stated that he's taking it one day at a time.

Dr. Garg asked what started Dr. Pratt-Harrington on Vicodin and Percocet.

Dr. Pratt-Harrington stated that he comes from a long line of addicts and alcoholics. He started drinking when he was 17. When he was doing his residency back in 1997-1998 in Kansas City, MO, he was introduced to a new medicine called Ultram. He would get large boxes of samples, and was told that it was non-narcotic, non-addicting, safe. At the end of an ER shift he took two of the samples, went home and about an hour later he felt euphoric. He thought that he finally found something that would agree with everyone because it's non-narcotic, it's safe. He did that for about three years, and then he got a job at Ohio University where the medicine wasn't being sampled, so he moved on to cough medicine, because he was starting to feel pretty bad, going through withdrawal from Ultram. They had cough medicine samples in the clinic, and that started him on that road.

Mr. Browning asked Dr. Pratt-Harrington what he is doing right now, as far as work.

Dr. Pratt-Harrington stated that he just started his Hocking College job on Monday. He teaches anatomy, physiology and human biology. It is a full-time position. Dr. Pratt-Harrington stated that he doesn't know what he'll do when he gets his license back. The physician with whom he previously worked in a private practice wants him back. He wants to go back, but he also loves teaching, so he might do half and half. He doesn't know. Dr. Pratt-Harrington commented that he has a feeling that the cost of malpractice insurance might prevent him from going back into full-time practice. He just doesn't know, but he has nine months or so to consider that.

Mr. Browning asked what Dr. Pratt-Harrington means when he said that he's taking things more seriously.

Dr. Pratt-Harrington stated that this scared him. He stated that he's gone right to the edge. Before he thought he could probably get away with something, but this one scared him. He's shocked that the Board

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didn't revoke his license. This one scared him, and does scare him. Dr. Pratt-Harrington stated that he knows that if he messes up again, he's done as a physician.

Mr. Albert stated that he's worked with Dr. Pratt-Harrington for a long time, and warned him that he's run out of chances.

Dr. Kumar noted that the last time Dr. Pratt-Harrington relapsed it was from taking Percocet for back pain. Dr. Kumar asked whether that Percocet was prescribed for him, or whether he got it himself.

Dr. Pratt-Harrington stated that his partner, who does not use, had left over medication from patients in his desk drawer, and he knew it was there. He helped himself to it.

Dr. Kumar asked what Dr. Pratt-Harrington means when he says "left over medication from patients."

Dr. Pratt-Harrington stated that he doesn't know the details, but he knew that it was in there. He again stated that he took it himself. Dr. Pratt-Harrington explained that he had back surgery in the mid thoracic area about three or four years ago, but there was more involved with that than just the back pain. He's been through counseling about all of that as well. Dr. Pratt-Harrington stated that he was trying to sabotage himself.

Dr. Kumar asked whether Dr. Pratt-Harrington meant that there was Percocet lying around, unlocked in the office.

Dr. Pratt-Harrington stated that at that time they did, but not now. He added that his partner has cleaned all of that stuff out, including Ultram and everything.

Dr. Kumar stated that that surprises him.

DR. KUMAR MOVED TO CONTINUE DR. PRATT-HARRINGTON UNDER THE TERMS OF HIS JUNE 10, 2004 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. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

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The motion carried.

GEORGE A. SOUTHIERE, JR., M.D.

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

In response to Dr. Kumar's questions, Dr. Southiere stated that his specialty is emergency medicine. He added that he also did two years of general surgery residency, and has certification in nutrition, but he is practicing emergency medicine.

Dr. Kumar asked whether hearing those who appeared before him has helped him.

Dr. Southiere stated that he can identify with everyone who appeared. He's had a long history of alcoholism and drug addiction, and he, also, realizes that this is his last chance. This last time he almost died, and that was three years ago. Dr. Southiere stated that he hit bottom three years ago. Dr. Southiere stated that he realizes that he doesn't have another chance at this.

In response to Mr. Browning's questions, Dr. Southiere stated that, since he hit bottom, he went to treatment for three months in Palmetto in Louisiana. He got out and was unemployed for almost a year. At that time he got a sponsor and went to meetings. He continued in the Kansas monitoring program, and he's been in that program for almost three years. He has sponsors. The other thing he does is tell all his colleagues his situation, because part of his problem in the past was getting colleagues to prescribe him medication without telling them about his situation. Now he tells everybody, and he doesn't have a problem with that.

In response to Dr. Garg's questions, Dr. Southiere stated that he started drinking when he was 12 years old. He also comes from an alcoholic family. The first time he got sober, he was 20, and he stayed sober 13 years by going to A.A. He also became complacent and he started developing some back problems, and that's when he started using prescription medication. He used it initially for his back pain, but then he became addicted and he started drinking again. That started in Kansas. The action against his New York license was based on the Kansas action. He added that he continues to get actions; he has six state licenses and he's getting actions taken against him by the other states in which he's licensed, based on the Kansas action. Dr. Southiere commented that he has a Massachusetts license and has never even worked in Massachusetts, but they've taken action against him.

Dr. Garg asked Dr. Southiere whether he understands that that is normal procedure.

Dr. Southiere stated that he does now, after having gone through it. He added that he currently has four active licenses and two inactive licenses.

In response to Dr. Robbins' inquiry into how his family is reacting to all this, Dr. Southiere stated that, initially, his wife had divorce papers and she was going to leave him. They have two kids. It's been

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difficult the last three years because he's been working in New Mexico. He couldn't get a job in Kansas because he couldn't get malpractice insurance. He had to commute to New Mexico to work. So he'd go out to New Mexico, work for a week, return to Kansas. He did that for almost two years. It's been difficult. Dr. Southiere added that a lot of his wife's anger has dissipated, however, she is still very cautious about trusting him. Their relationship has gotten much better, but there is still a lot of work to be done.

Dr. Kumar noted that the materials supplied to the Board indicate that Dr. Southiere has a problem with depression. He asked whether that was ever diagnosed as such.

Dr. Southiere stated that when he was using substances and when he was drinking, he went to see a psychiatrist in Kansas and got antidepressants. He would go off the medicine and start drinking again, and then he would stop drinking and go back on the medicine. It was a vicious cycle of antidepressants, then drinking alcohol and getting more depressed. Since he left treatment three years ago, he hasn't been on antidepressants. He no longer sees a psychiatrist.

DR. KUMAR MOVED TO CONTINUE DR. SOUTHIERE UNDER THE TERMS OF HIS MAY 12, 2004 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. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

TOBY JAMES TIPPIE, P.A.

Although scheduled, Mr. Tippie did not appear before the Board, due to his receiving notification late. He will be scheduled to appear in September.

MICHAEL CRAIG WARREN, D.O.

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

In response to Dr. Steinbergh's questions, Dr. Warren stated that he is doing well today. He takes one day

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at a time. He added that things have been much better. He stated that when Dr. Pratt-Harrington mentioned the word, Ultram, it sent a shiver up his spine. He does think that that is a drug that should definitely be a controlled substance, if nothing else. It is not a controlled substance, unfortunately, and that is a grave injustice to everyone, and to practitioners who think it is a relatively benign drug, when it is not.

Dr. Steinbergh asked Dr. Warren what he is doing in his recovery.

Dr. Warren stated that right now he is suspended from the hospital. Under the consent agreement, he's doing a lot of meetings – 10 to 12 a week, depending upon the schedule. His sponsor has been seeing a lot of him. They have dinner a couple of times a week. He's very heavily involved with church. The meetings have been the big thing with him, they've definitely helped. He's trying to get outside of himself and figure out exactly who he is outside of medicine.

In response to further questions by Dr. Steinbergh, Dr. Warren stated that he is an internal medicine residency. He does intend to return to his residency. The residency is administered under a group practice; the group wants him back, the medical staff wants him back, but there are some questions or concerns about Medicaid and Medicare. They have had people investigating that and have been told that there is not an issue, but some of the legal people at St. Vincent Hospital are a little skittish, and they want to wait until closer to the time when the Medical Board returns his license. In the interim, he's been accepted into the Ph.D. program at MCOT, and it's a combined Ph.D./ cardiology fellowship, with the option of coming to their residency program. There is a place for him one way or another. Dr. Warren stated that his heart lies with the D.O. program.

Dr. Kumar noted that the background materials indicate that Dr. Warren also has epilepsy.

Dr. Warren stated that the epilepsy was diagnosed in December 2003. He's taking Depakote.

Dr. Steinbergh asked how that was diagnosed.

Dr. Warren stated that he had a grand mal seizure at the hospital. This was his third seizure. The first one was from a thyroid storm when he had thyroid cancer in medical school. The second one was initially attributed to sleep deprivation his internship year. That was before the hours regulations. When this one happened, it was called what it was. Going back, they wondered whether this could have been an Ultracet related incident and the answer is that they'll never know. Until then, they've decided to stick with the medications because there has been no seizure activity for eight months.

Dr. Steinbergh asked how he feels on that medication.

Dr. Warren stated that so far it hasn't been a problem. The headaches have been much better, which was the initial problem to begin with.

Dr. Steinbergh counseled Dr. Warren to spend his time off wisely. She asked whether, other than on his recovery, he's working.

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Dr. Warren stated that he just took an adjunct faculty position at Lourdes College, in the nursing program. He would be teaching anatomy part-time this semester.

In response to Mr. Browning's questions about the pending criminal charges against Dr. Warren, Dr. Warren advised that he goes to court on Friday, August 13. He has applied for treatment in lieu of conviction. The charges will then be dropped to misdemeanors.

DR. STEINBERGH MOVED TO CONTINUE DR. WARREN UNDER THE TERMS OF HIS MAY 12, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

The motion carried.

TAMARA D. WILLINGHAM, M.T.

Ms. Willingham made her initial appearance before the Board, pursuant to the terms of her May 12, 2004 Consent Agreement.

In response to Dr. Steinbergh's questions, Ms. Willingham indicated that she is doing well. Her license to practice massage therapy was suspended from February 26 to May 26. She does understand the terms of her consent agreement.

Noting that Ms. Willingham was convicted on one count of Aggravated Vehicular Assault, Dr. Steinbergh asked how Ms. Willingham psychologically deals with what she did to someone else.

Ms. Willingham stated that she was in a car accident two years ago August 1. She's not sure what caused the accident, but was told that she went left of center. Ms. Willingham stated that she had a head injury and doesn't remember anything about it. She shattered her right patella and ankle bilaterally. She was driving down the road from her friend's house and woke up in the hospital. The other person involved in the accident broke his legs. Ms. Willingham advised that, according to the prosecutor, her injuries were equal to or worse than his. That's all she knows. She never met the other person, although she did write him a letter when she was in the hospital. Ms. Willingham stated that it's a horrible feeling. She went into

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massage because she likes to help people. She had a gift because she understands chronic pain. She understands a lot of injury because she went through it herself. She had a lot of massage and a lot of body work done, and her recovery was remarkable. She was really fortunate. Ms. Willingham added that, as far as the guilt from hurting anyone, that's horrible. You don't really get over something like that.

Dr. Steinbergh asked whether Ms. Willingham is getting some counseling.

Ms. Willingham stated that she's not. She added that she's okay; she has a great family. She lives with her grandfather and her brother, and she takes care of the house and watches her cousin's kids.

Mr. Albert asked where Ms. Willingham works.

Ms. Willingham stated that she left her job at a spa/salon in Perrysburg in February. Since she left there, she's remodeled her grandfather's home. She added that they will be selling the house because her grandfather has Alzheimer's and is now living with her mother. She stated that remodeling is something that she can do and enjoy, and she saved the family money. She also started babysitting her cousin's three kids during the summer, while they were out of school. She also cleans a friend's house. She's just been waiting to return to practice.

In response to Dr. Talmage's questions, Ms. Willingham stated that she does have her driver's license. It was suspended for one year, but she was permitted to drive to work during the suspension.

In response to Mr. Browning's questions, Ms. Willingham stated that she does want to return to massage therapy, and stated that it's a gift. With or without a license she can still help her friends and family. Ms. Willingham stated that it's something that she's learned about herself and what she is. The knowledge has definitely benefited her life. It helps her to understand what she is, helps her to teach other people. She sees it as positive, regardless of how the outcome goes. Ms. Willingham added that she had to decide to look at it that way just to make herself feel better.

DR. STEINBERGH MOVED TO CONTINUE MS. WILLINGHAM UNDER THE TERMS OF HER MAY 12, 2004 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. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Ms. Sloan	- aye

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The motion carried.

REPORTS AND RECOMMENDATIONS

DOUGLAS HOLLAND RANK, M.D.

DR. STEINBERGH MOVED TO REMOVE THE MATTER OF DOUGLAS HOLLAND RANK, M.D., FROM THE TABLE. DR. GARG SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DOUGLAS HOLLAND RANK, M.D., BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

- A. The application of Douglas Holland Rank, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. Immediately upon issuance, such certificate shall be SUSPENDED for an indefinite period of time, but not less than six months.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Rank's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Rank shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Professional Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Rank shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board

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or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

3. **Personal Ethics Course**: At the time he submits his application for reinstatement or restoration, Dr. Rank shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.
4. **Controlled Substances Prescribing Course**: At the time he submits his application for reinstatement or restoration, Dr. Rank shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.
5. **Practice Plan**: At the time he submits his application for reinstatement or restoration, Dr. Rank shall submit to the Board and receive its approval for a plan of practice. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Rank's activities will be directly supervised and overseen by a monitoring physician approved by the Board.

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

5. **Documentation of CME**: At the time he submits his application for reinstatement or restoration, Dr. Rank shall provide acceptable documentation of satisfactory completion of the requisite hours of Continuing Medical Education obtained during the period of suspension.
6. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Rank has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

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C. **PROBATION:** Upon reinstatement or restoration, Dr. Rank's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:

1. **Practice Plan:** Dr. Rank shall practice pursuant to the terms of the practice plan approved by the Board in accordance with paragraph B.5., above. Dr. Rank shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

In accordance with the approved plan of practice, the approved monitoring physician shall monitor Dr. Rank and his medical practice, and shall review Dr. Rank's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

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

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

2. **Documentation of CME:** Upon submission of any application for renewal of registration during the period of probation, Dr. Rank shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of Continuing Medical Education.
3. **Obey the Law:** Dr. Rank shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
4. **Declarations of Compliance:** Dr. Rank shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Rank's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
5. **Personal Appearances:** Dr. Rank shall appear in person for an interview before the full

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Board or its designated representative during the third month following the month in which Dr. Rank's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

6. **Tolling of Probationary Period While Out of State:** In the event that Dr. Rank should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Rank must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.
7. **Modification of Terms:** Dr. Rank shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Rank's certificate will be fully restored.

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

DR. GARG SECONDED THE MOTION.

Dr. Garg asked whether Dr. Rank will be required to see the Secretary and Supervising Member before he starts practicing in Ohio. He stated that he would like that to be included in the Order.

Dr. Steinbergh stated that he is required to appear before the Board during the third month following the month in which he receives his certificate.

Dr. Garg stated that he would like Dr. Rank to appear before the Secretary and Supervising Member prior to his commencing practice in Ohio.

Dr. Steinbergh agreed to include that.

Pursuant to Dr. Garg's request, the first paragraph of paragraph (C)(1) will be revised as follows:

1. **Practice Plan:** Dr. Rank shall practice pursuant to the terms of the practice plan approved by the Board in accordance with paragraph B.5., above. Prior to his commencement of practice, Dr. Rank shall notify the Board of his intent to commence practice and shall appear before the Secretary and Supervising Member of the State Medical Board.

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Dr. Rank shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

Mr. Browning stated that the more that is on the list, the more hoops for Dr. Rank to go through, the more he wants to vote "no." If the Board has such a low level of trust in this guy, why is it licensing him? Why grant him a license? The incident was ten years ago, and it seems that the Board thinks that he deserves to get a license in Ohio. Dr Rank has gone through a lot, and the Board thinks he's done it very responsibly. Therefore he ought to be granted a license in Ohio. Mr. Browning stated that he would understand monitoring Dr. Rank, but it seems strange to grant a guy a license, immediately suspend it for at least six months and then go through this whole routine.

Dr. Steinbergh stated that her sense is that the Proposed Order is for permanent denial. After her review of the case, and for the reasons that she discussed, she feels her proposal is appropriate.

Mr. Browning again stated that this was a ten-year-old thing. He questioned the need for an ethics course.

Dr. Steinbergh stated that the Board is aware that Dr. Rank has been through courses. He simply has to present this information to the Medical Board, which could then assess the courses he's already taken as meeting the criteria. However, because of the concerns from the hearing record, she thinks that it makes sense to her that the Board knows that Dr. Rank has finished a professional and personal ethics course and that he's addressed these issues.

Mr. Browning stated that it's his sense that if Dr. Rank didn't have a history, and this was at the beginning of the problem, the Board would revoke his license, as it has done repeatedly in these situations, particularly with psychiatrists victimizing their patients.

Dr. Steinbergh stated that, for the reasons she stated before, she doesn't see the case in that way. When she looked at this, she questioned whether she would have revoked his license, had he been practicing in the State of Ohio. In this particular case, she read through the Proposed Order, the response, his objections, they sounded honest and appropriate to her. In this case she doesn't have the sense of victimization. She acknowledged that Dr. Rank did something wrong, but she doesn't believe that, were he licensed in the State of Ohio, she would vote to permanently revoke his license. She therefore looked for an alternative order that would make the Board feel comfortable. It would ask him to do things, and present the Board with information that confirms he's addressed these issues. She noted that Dr. Rank has told the Board that he has addressed the issues, but he would have to provide the Board with documentation. The Board could then determine whether or not what he provides fulfills the criteria, and would move on from there. The proposed alternative gives Dr. Rank the opportunity to be licensed and to reassure the Board that he's addressed the issues. Dr. Steinbergh commented that she is personally comfortable with this amendment.

Dr. Davidson spoke in support of the amendment. She stated that she thinks that Dr. Rank comported himself well today, as opposed to some people who have come before the Board. He took responsibility for his actions, he realized he was wrong, he's made some personal efforts to fix this with the Board's

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help. The Board can hopefully feel comfortable that the Board will have a good licensee for the State of Ohio.

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

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF DOUGLAS HOLLAND RANK, M.D. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JITANDER N. KALIA, M.D.

DR. KUMAR MOVED TO REMOVE THE MATTER OF JITANDER N. KALIA, M.D., FROM THE TABLE. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Kumar	- aye
	Mr. Browning	- aye

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

The motion carried.

Mr. Dilling stated that there has been discussion in favor of the Proposed Order, and there has also been discussion on amending the Proposed Order. Mr. Dilling stated that if the Board wishes to amend the Proposed Order and consider information on how CPEP works, one option might be to remand the matter back to the Hearing Examiner to receive evidence addressing generally how CPEP and IPE function, within what time frames and at what cost, in addition to what determinations they make and the limitations of their process. Such a remand could be limited to a report on the functions of CPEP and IPE and not as they specifically relate to Dr. Kalia.

DR. KUMAR MOVED TO REMAND THE MATTER TO THE HEARING EXAMINER TO RECEIVE EVIDENCE ADDRESSING GENERALLY HOW CPEP AND IPE FUNCTION, WITHIN WHAT TIME FRAMES AND AT WHAT COST, IN ADDITION TO WHAT DETERMINATIONS THEY MAKE AND THE LIMITATIONS OF THEIR PROCESS. SUCH A REMAND COULD BE LIMITED TO A REPORT ON THE FUNCTIONS OF CPEP AND IPE AND NOT AS THEY SPECIFICALLY RELATE TO DR. KALIA. The motion died for lack of a second.

Mr. Browning asked what effect this would have.

Mr. Dilling stated that it would push the Board back a period of time because evidence has to be taken before the Hearing Examiner.

Mr. Browning asked whether this is in lieu of the amendment that has been moved and seconded.

Ms. Lubow stated that that motion is still on the table.

Mr. Dilling stated that the motion is in response to some Board members' interest in getting more information. This is a way to get that information if that is what the Board is looking for.

Dr. Robbins asked whether Dr. Kalia's license is suspended now.

Dr. Steinbergh stated that it's not. He's still practicing.

Dr. Davidson asked whether Mr. Dilling feels that taking this course of action would make the Board's actions more sustainable ultimately.

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Mr. Dilling stated that it depends on what the Board members are after. It seemed to have started off with a proposed amended order in which a certain sanction, 18 months minimum suspension, was given. In order to act as a validation or a check upon this doctor coming back into practice, it was proposed that a Board certification-type examination be given. If, in fact, that was not able to be given, then the Board would look for a similar examination. He questioned whether there is a similar one. There didn't seem to be any knowledge of that. Then it was proposed that, perhaps, a substitute for that would be CPEP.

Mr. Dilling stated that he doesn't think that CPEP fulfills the same function as those examinations would. Then that got into a discussion about what CPEP is, how it works and so forth. Mr. Dilling stated that he didn't want to get into a back-and-forth about that in this setting because he doesn't feel that he was being articulate enough for that. Mr. Dilling stated that the staff is here to try to advise and help the Board in these proposed amendments. He stated that he understands what the Board is trying to do. He doesn't necessarily think that it's wrong to say, take a person and staff, such as Ms. Thompson who has had some experience with CPEP and has gone to these different programs, and let her articulate how CPEP works and how CPEP worked within prior Board orders, consent agreements, whatever. Conceivably, the Board could ask Ms. Thompson to comment now, and if it doesn't feel that she's thorough enough, it could then throw it back to the Hearing Examiner.

Mr. Browning stated that it is fairly obvious that the Board doesn't have the votes to go anywhere on this case. There must be a unanimous vote. He stated that he seconded Dr. Kumar's motion to amend because he thought it deserved a vote. Mr. Browning continued that, although not everything in this case is a minimal standards issue, so much of it is that it's very hard to come back around and vote for this physician to come back to life. He added that his sense is from the discussion that there are five votes to permanently revoke this physician's license. Five votes is not enough. Mr. Browning suggested voting and seeing where the Board is, and going forward from there.

Dr. Steinbergh stated that what concerns her is that, as the Board deliberates this, and if it is remanded, Dr. Kalia is still practicing medicine and still putting babies at risk. If you don't believe that, you have to move forward that way; but she does believe that. Dr. Kalia puts babies and children at risk. He's not an intellectually honest man. He doesn't see his faults. He's been in practice a long time. At what cost does the Board afford this physician continued opportunity in the state, and what is the risk to the patient population? It doesn't make sense. Dr. Steinbergh stated that she sees no reason to attempt to remediate this physician. By allowing this to proceed, he'll still be practicing medicine. This isn't even a questionable issue for her.

Dr. Kumar stated that he has been the holdout and would be the sixth vote to move this case forward. As he stated before, there is no question about the fact that there is a danger to society to allow Dr. Kalia to continue to practice. There is absolutely no question about that. His feeling was, and still is to some degree, that the Board can assess, give Dr. Kalia an opportunity. He stated that he is concerned about a couple of cases, and if those were the only two cases, he would have trouble taking action.

Dr. Steinbergh asked Dr. Kumar which two cases he's talking about.

Dr. Kumar stated that the one case is the intussusception case. He deals with intussusception often, and he

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can't really 100% fault Dr. Kalia, although Dr. Kalia did make mistakes in that case.

Dr. Steinbergh stated that she believes, and the expert testified, that Dr. Kalia did not need to have made the diagnosis of intussusception in order to proceed with more aggressive care for this child and a faster diagnosis of this child. She added that what frightens her is the way he makes the decisions he makes. There is no scientific reason for his decision-making. It is inconsistent with appropriate care. So, even if Dr. Kalia didn't diagnose the intussusception, the baby was sick and he wasn't moving forward with an appropriate diagnosis. Dr. Steinbergh also expressed concern about the comments Dr. Kalia made in his medical record. She stated that babies don't bleed from their rectum from a diaper rash. There's a big difference between diaper dermatitis, redness on the buttock area, and rectal bleeding.

Dr. Kumar asked whether the Board could immediately suspend Dr. Kalia's license until it can look at the other aspects. If not, he doesn't want Dr. Kalia to continue to practice, and he will vote for permanent revocation. Dr. Kumar stated that he doesn't want Dr. Kalia to continue practicing. He wanted to suspend his license immediately and then remediate him. If that's not possible under the system, he will change his vote for permanent revocation.

DR. KUMAR WITHDREW HIS MOTION TO AMEND. MR. BROWNING, AS SECOND, AGREED TO THE WITHDRAWAL.

Mr. Dilling stated that he would like to respond to Dr. Kumar's question. He stated that there is no way to take this and summarily suspend Dr. Kalia's license. The only way you can do that is to make a motion to do that and get those votes. That is conceivably possible.

Mr. Browning stated that Dr. Kumar can move to amend the motion in a different way.

Dr. Kumar stated that, if the Board can suspend Dr. Kalia's license immediately, until such time as the Board has an evaluation by CPEP and IPE, he would be interested in doing so.

Mr. Dilling asked whether that isn't exactly what was being discussed before.

Several Board members stated that it wasn't.

Ms. Lubow stated that what she understands Dr. Kumar to be suggesting is that the Board, at this point, issue an immediate suspension and proceed with additional action in this case. Ms. Lubow stated that immediate suspension is not one of the sanctions the Board can impose in Board Orders.

Dr. Kumar suggested suspending the license for a year.

Ms. Lubow stated that the Board can do that. It can craft an order with conditions for reinstatement.

Dr. Kumar stated that the conditions would be passing through the CPEP or IPE evaluation. That's what he was trying to do in the initial amendment.

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Dr. Davidson stated that it's still not an immediate suspension. He can appeal it and practice for a year.

Dr. Kumar stated that that can happen even with permanent revocation.

Dr. Steinbergh stated that if the Board permanently revokes Dr. Kalia's license for the reasons discussed today, it would be up to the judge to issue a stay; however, she believes that the Board has made its case.

Dr. Kumar stated that he understands. He added that he may be hung up on this, adding that he tried to move the process forward by saying that he would change his vote because, obviously, he's in the minority. He does not want Dr. Kalia to practice right now, there is no question about that. The Board needs to suspend his license, if there's a legal way to do that for a year, six months or two years, and require him to complete the IPE or CPE process and demonstrate to the Board that he's okay to come back to practice. That was his intent from the beginning.

Ms. Sloan stated that Dr. Kumar is talking about Dr. Kalia coming back.

Dr. Kumar stated that he is, if Dr. Kalia passes through IPE or CPEP. He added that IPE is probably better in that regard.

Ms. Sloan stated that she doesn't want to leave the decision as to whether or not this physician can practice to IPE or CPEP. She stated that that's a decision that the Board needs to make. She doesn't think that this doctor is someone who can be rehabilitated because he came here and defended what he did in all of these cases. If the Board has someone who can be rehabilitated, they usually come in with some CMEs, some other educations, something they have done before they've come to the Board. That is not what Dr. Kalia did.

Dr. Kumar stated that he has said his feelings. To move the process forward, and if he doesn't have votes to amend the Order per his initial thought process, he will vote for permanent revocation.

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

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

The motion carried.

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Mr. Dilling stated that he will do research on CPEP and IPE for a presentation at the September meeting.

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

Thereupon at 5:47 p.m. the August 11, 2004 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 August 11, 2004, as approved on September 8, 2004.



Anquetette P. Sloan, President



Lance A. Talmage, M.D., Secretary

(SEAL)



August 12, 2004

MINUTES

THE STATE MEDICAL BOARD OF OHIO

August 12, 2004

Anquetette Sloan, President, called the meeting to order at 8:05 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Patricia J. Davidson, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Andrew F. Robbins, Jr., M.D.; and Anand G. Garg, M.D. The following did not attend the meeting: Carol L. Egner, M.D.; Anant R. Bhati, M.D.; David S. Buchan, D.P.M.; and Anita M. Steinbergh, D.O.

Also present were: Thomas A. Dilling, Executive Director; William J. Schmidt, Assistant Executive Director; Diann K. Thompson, Assistant Executive Director; Mark Wayda, Chief of Executive Staff; Shannon F. Baldwin, Executive Staff Attorney; Marcie P. Burrow, Enforcement Attorney; Kyle C. Wilcox, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Danielle Bickers, Compliance Officer; and Barbara Jacobs, Public Services Administrator.

PROBATIONARY REPORTS

Ms. Sloan referred the Board to the Compliance Staff's reports of conferences with probationers on June 7-8, 2004. She noted that all probationers are in compliance.

DR. GARG MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH DAVID E. ALLEN, M.D.; FRANK R. BRUENING, M.D.; DANIEL H. BRUMFIELD, M.D.; ALLAN W. CLARK, M.D.; BOYD D. CURTIS, M.D.; NICHOLAS G. ESPINOZA, D.O.; WILLIAM H. FIEGENSCHUH, JR., M.D.; BRIAN D. HEIM, M.D.; RAYMOND E. HENSHAW, II, M.D.; W. ANDREW HIGHBERGER, M.D.; VIKAS K. JAIN, M.D.; JAMES L. KEGLER, M.D.; PAUL E. KELNER, M.D.; ROBERT F. LINN, D.O.; MICHAEL SOLIMAN MIKHAIL, M.D.; DAVID R. MILLER, M.D.; WILLIAM H. NOBLE, III, D.O.; KOLLI PRASAD, M.D.; MARY H. RABB, D.O.; STEPHEN J. ROLFE, M.D.; WILLIAM A. ROMER, M.D.; MARIE T. SHEDLOCK, P.A.; 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.; AND BRUCE S. WORRELL, D.O. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

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Dr. Robbins	- aye
Dr. Garg	- aye
Ms. Sloan	- aye

The motion carried.

PROBATIONARY REPORTS AND PROBATIONARY REQUESTS

CRAIG L. BIERER, D.O.

The staff's report of office conference and Dr. Bierer's requests for approval of a treating psychiatrist were presented to the Board for consideration at this time.

DR. ROBBINS MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. BIERER ON JULY 12, 2004. DR. ROBBINS FURTHER MOVED TO APPROVE VICTORIA L. SANELLI, M.D., TO SERVE AS DR. BIERER'S TREATING PSYCHIATRIST. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

KEVIN R. CLARK, M.D.

The staff's report of office conference and Dr. Clark's request for permission to administer, furnish or dispense controlled substances were presented to the Board for consideration at this time.

DR. DAVIDSON MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. CLARK ON JUNE 7, 2004. DR. DAVIDSON FURTHER MOVED TO GRANT DR. CLARK PERMISSION TO ADMINISTER, FURNISH, OR DISPENSE CONTROLLED SUBSTANCES, UNDER THE PROVISIONS OF PARAGRAPH 7 OF HIS SEPTEMBER 13, 2000, CONSENT AGREEMENT; i.e., HE MUST MAINTAIN A LOG OF ALL DRUGS ADMINISTERED, FURNISHED OR DISPENSED. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

NORMAN I. HIRSCH, D.O.

The staff's report of office conference and Dr. Hirsch's requests for a determination of the number of patient encounters to be reviewed by the Certified Public Accountant, pursuant to paragraph 3.b. of Dr. Hirsch's June 1, 2002, Consent Agreement, were presented to the Board for consideration at this time.

Ms. Bickers explained that the CPA's instruction would be to review Dr. Hirsch's charts for comparison to his billings.

DR. GARG MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. HIRSCH ON JUNE 8, 2004. DR. GARG FURTHER MOVED TO REQUIRE DR. HIRSCH'S CERTIFIED PUBLIC ACCOUNTANT TO REVIEW 10 PATIENT ENCOUNTERS PER MONTH. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

JAMES M. MCGINNIS, D.O.

The staff's report of office conference and Dr. McGinnis' request for approval of a supervising physician and determination of the frequency and number of charts for his monitoring physician were presented to the Board for consideration at this time.

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

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WITH DR. MCGINNIS ON JULY 14, 2004. DR. GARG FURTHER MOVED TO APPROVE MARGY TEMPONERAS, M.D., TO SERVE AS DR. MCGINNIS' SUPERVISING PHYSICIAN, AND TO REQUEST THAT DR. KALO, DR. MCGINNIS' MONITORING PHYSICIAN, REVIEW 10 CHARTS ON A MONTHLY BASIS. DR. KUMAR SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

JORDAN B. STERNS, M.D.

The staff's report of office conference and Dr. Sterns' request for a reduction in his alcohol and drug rehabilitation meeting requirement were presented to the Board for consideration at this time.

DR. GARG MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. STERNS ON JULY 12, 2004. DR. GARG FURTHER MOVED TO GRANT DR. STERNS' REQUEST TO REDUCE HIS ALCOHOL AND DRUG REHABILITATION MEETING REQUIREMENT TO A MINIMUM OF TWO MEETINGS PER WEEK, WITH A MINIMUM OF TEN MEETINGS PER MONTH. DR. KUMAR SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

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PROBATIONARY REQUESTS

LYNN E. ZEGIOB CHECK, M.D.

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

DR. GARG MOVED TO APPROVE ARUN K. GUPTA, M.D., TO SERVE AS DR. CHECK'S MONITORING PHYSICIAN, WITH TEN (10) CHARTS REVIEWED PER MONTH. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

ANTHONY E. DANIACHEW, M.D.

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

DR. GARG MOVED TO APPROVE NABILA L. SARGIOUS, M.D., TO SERVE AS DR. DANIACHEW'S TREATING PSYCHIATRIST. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

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PHYSICIAN LICENSURE APPLICANTS

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

DR. KUMAR MOVED TO APPROVE THE APPLICANTS LISTED IN LICENSURE EXHIBIT (A) FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

JORDAN ERIC HOPKINS, M.D.

Dr. Hopkins' request for endorsement of Steps 1, 2 and 3 of the U.S.M.L.E. was presented to the Board for consideration at this time. It was noted that the Board ratified a consent agreement with Dr. Hopkins on the previous day.

DR. ROBBINS MOVED TO APPROVE DR. HOPKINS' REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. GARG SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

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PHYSICIAN ASSISTANT APPLICANTS

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

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

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

COLUMBUS UROLOGY – P.A. UTILIZATION PLAN

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

DR. GARG MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY COLUMBUS UROLOGY, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

EAR, NOSE & THROAT SPECIALISTS OF MIDDLETOWN, INC. – P.A. UTILIZATION PLAN

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

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DR. GARG MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY EAR, NOSE & THROAT SPECIALISTS OF MIDDLETOWN, INC., CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

MIDWEST NEUROSCIENCE – P.A. UTILIZATION PLAN

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

DR. DAVIDSON MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY MIDWEST NEUROSCIENCE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

ORTHOPEDIC ASSOCIATES OF SOUTHWESTERN OHIO – P.A. UTILIZATION PLAN

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

DR. GARG MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED

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BY ORTHOPEDIC ASSOCIATES OF SOUTHWESTERN OHIO CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

BALANCE OF LIFE CLINIC, INC. – P.A. UTILIZATION PLAN

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

DR. GARG MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY BALANCE OF LIFE CLINIC, INC., CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

NORTHWEST PEDIATRICS, INC. – P.A. UTILIZATION PLAN

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

DR. GARG MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY NORTHWEST PEDIATRICS, INC., CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. GARG SECONDED THE MOTION. A vote was taken:

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Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

SECRETARY AND SUPERVISING MEMBER REPORT

Mr. Dilling referred to Dr. Talmage and Mr. Albert's memorandum of July 29, 2004, advising that they have recently begun to see a variety of disciplinary reports by out-of-state boards where a mutual licensee has failed to submit required information to those boards for their physician profiles. He noted that this matter is being brought to the Board's attention because out-of-state disciplinary actions trigger the opening of an OSMB Complaint, and the Board has not had an opportunity to specifically address this new type of complaint. They indicate that, while they continue to look at the facts of each case, they favor closing this type of complaint without OSMB disciplinary action, especially where the disciplinary action is based solely on the failure to submit information for their physician profiles. Dr. Talmage and Mr. Albert have indicated that they see the implementation measures for physician profile systems in other states as a local situation. In Ohio, the information is available in the Board's records and the Ohio physician profile on the Board website is constructed from this information, without the necessity of soliciting a profile application from Ohio licensees.

Dr. Talmage and Mr. Albert indicated that, since this type of complaint is a relatively new phenomenon, they wish to submit this matter to provide the Board an opportunity for any guidance it may wish them to follow in the future.

Dr. Garg commented that he wouldn't want to waste the Board's time on this type of complaint.

The remainder of the Board members agreed with Dr. Garg, and accepted the Secretary's and Supervising Member's recommendation in this matter.

REPORTS OF ASSIGNED COMMITTEES

EXECUTIVE COMMITTEE

Ms. Sloan advised that the Committee will meet with representatives from the OSMA in September. The meeting will begin at 9:00 a.m.

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Dr. Kumar suggested that the Board ask the Association, as well as the other professional associations, for assistance in building an expert witness pool.

Mr. Dilling stated that that suggestion has been made in the past, but the possibility could be broached again at the upcoming meeting.

Dr. Garg advised that the Board does have such a pool already. He added that the Board has deleted some of the names in the pool, based upon the quality of their testimony.

Ms. Sloan stated that the Federation of State Medical Boards will send a representative to the Board offices for the December 2004 meeting.

Mr. Dilling stated that the Federation has indicated that James N. Thompson, M.D., President/CEO, would be attending the meeting. He added that someone will probably accompany Dr. Thompson. Mr. Dilling advised that Dr. Thompson will be asked to update the Board on its concerns.

Dr. Kumar asked whether that time could be used to educate the Board on CPEP and IPE.

Mr. Dilling stated that, although the Federation might be able to educate the Board regarding IPE, it could not on CPEP. He added that the topic of the CPEP and IPE programs will be on the Board's September agenda. If Board members have further questions after the September meeting, they might then ask Dr. Thompson. Mr. Dilling added that he would let Dr. Thompson know about the Board's interest in this topic.

Dr. Robbins asked whether the staff could provide the Board with a one-page primer on the status of the P.A. bill, prior to the Committee's meeting with OSMA.

Mr. Dilling stated that that legislation will also be a topic on the Board's September agenda. He stated that Mr. Wayda will discuss this more during the Legislative Liaison & Rules Committee report.

Ms. Sloan reported that the Committee considered a proposal that would allow non-supervisory staff to choose a four, ten-hour-days work week. The Committee approved implementing such a program for one year, after which it will be assessed. She advised that the Red Cross has allowed this and has found that a lot of work gets done in those extra two hours each day.

Mr. Dilling stated that he thinks that the agency is large enough that it can take this step. He added that a number of state agencies have already implemented such a program. Ms. Hosken and Ms. Thompson have drafted this proposal, with input from himself and Mr. Wayda. Mr. Dilling stated that this is a good proposal, and again stated that there would be a one-year trial period. He added that he feels this has the potential to energize the work force.

Dr. Robbins asked whether most individuals won't want to choose either Monday or Friday as their day off.

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Mr. Dilling stated that the staff hasn't gotten that far with the proposal yet, but he would guess that that is true. He added that Monday and Friday will be covered, and indicated that not everyone will be given the same day off. He added that there may be some switching on and off on days taken.

Mr. Browning asked whether that means that not everyone eligible can take advantage of the program.

Mr. Dilling stated that he believes that everyone who is non-supervisory staff could potentially take advantage of this. They just all couldn't be gone on a Friday or a Monday.

Mr. Browning asked whether there would be a pattern or would employees be able to switch week to week.

Mr. Wayda stated that the idea is that it has to be a pattern because it would be too difficult, administratively, to allow staff to shift which day they take. Mr. Wayda stated that the discussion has been that people with more seniority would get first choice on Monday or Friday. The proposal is set that only Mondays and Fridays are days that can be taken off.

Mr. Browning asked whether the Board would be able to cease the program should problems arise before the trial year is up.

Mr. Dilling stated that it would be. Ongoing evaluation will be performed.

Mr. Wayda reported on the research that staff did, including looking at other agencies that have already implemented this program.

Board members indicated that cross-training staff is important.

ADMINISTRATIVE REPORT

Mr. Dilling reviewed his administrative report, a **copy** of which shall be maintained in the exhibits section of this journal, noting particularly the visit by representatives of the Urban Institute in Washington, D.C., which is conducting a study for HHS regarding physician discipline. A number of Medical Board staff were interviewed for this study. A final report on the study is due out by the end of April 2005.

Mr. Dilling also noted that Mr. Wayda has accepted a position as Deputy Director of Public Relations with the Adjutant General's office.

REPORTS BY ASSIGNED COMMITTEES

LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Wayda referred the Board to his written report on highlights of legislation that was passed prior to the Legislature's recess.

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Mr. Wayda advised that the staff received a thick packet of amendments to the P.A. bills from the P.A. representatives. The staff will go through those amendments and try to make some sense of them. The P.A. plan is to get this bill through during the lame duck session, however Mr. Wayda indicated that that would be a challenge. He advised that the staff will try to put together a summary of the bill for discussion with OSMA in September, and at the September Board meeting.

Mr. Wayda advised that P.A. representatives did meet with Ms. Thompson for four hours to discuss two separate concerns the Board has with this legislation: 1. the policy questions being dealt with; and 2. the administrative ends of this bill, as it is written. Many of the changes needed to make the bill more administratively palatable are contained in the amendments received on Tuesday night.

Mr. Wayda referred the Board to the portion of the report dealing with the Federal Patient Safety Bill. He advised that, in a recent conference call with the Federation of State Medical Boards, Mr. Dilling urged the Federation to get in front of this legislation. Mr. Wayda stated that the legislation gives the Federation an opportunity to become a player on a national level in terms of patient safety issues, and that would benefit the member boards significantly. Mr. Wayda stated that Dr. Thompson seemed quite interested in those ideas and indicated that the Federation would be trying to take the lead in that moving forward.

Dr. Davidson commented that Mr. Wayda also brought up in Executive Committee a question about reintroducing the Office-Based Surgery Rule on Outcome Reporting in light of this Federal legislation.

At this time the Board recognized Mr. Wayda for his contributions and good work during his employment by the Board.

Mr. Browning left the meeting at this time.

LICENSURE COMMITTEE

Dr. Garg stated that the Committee reviewed licensure applications from three individuals.

John Melville, M.D.

Dr. Melville's request for approve of an accommodation under the ADA was considered by the Committee. Dr. Garg stated that, after reviewing Dr. Melville's documentation, the Committee recommends approving his request.

DR. ROBBINS MOVED TO APPROVE DR. MELVILLE'S REQUEST FOR DOUBLE TESTING TIME DURING THE ADMINISTRATION OF THE STEP 3 OF THE USMLE. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

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Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Ms. Sloan	- aye

The motion carried.

Paul Christopher Neary, M.D., and Luis N. Galup, M.D.

Dr. Garg advised that Dr. Neary's request for endorsement of USMLE was presented to the Board for consideration at this time. Dr. Neary is a graduate of a school not accredited by the Liaison Committee on Medical Education or the American Osteopathic Association. He has not completed 24 months of approved graduate medical education through the second year level, and is requesting that the Board consider his previous training and experience as being equivalent to the required training. Dr. Garg noted that Dr. Neary is a fellow of the Royal College of Surgeons of Ireland and a member of the intercollegiate fellowship of General Surgery in Ireland and Great Britain. He also completed a one-year fellowship in Advanced Colorectal Surgery at the Cleveland Clinic from July 2003 to July 2004. Dr. Garg stated that the Committee recommends approval.

Dr. Garg continued that Dr. Galup's request for endorsement of USMLE was presented to the Board for consideration at this time. Dr. Galup is a graduate of a school not accredited by the Liaison Committee on Medical Education or the American Osteopathic Association. He advised that he completed 24 months of approved graduate medical education at Northwestern University from July 1964 through June 1967, but the FCVS is unable to verify this because the records are no longer available from the hospital. Dr. Garg stated that Dr. Galup also did a one-year fellowship in Cook County Hospital in Chicago, IL. He was board certified in 1967 and recertified in 1997.

DR. TALMAGE MOVED TO FIND THAT BOTH DR. NEARY AND DR. GALUP HAVE DEMONSTRATED THAT THEY HAVE THE EQUIVALENCY OF 24 MONTHS OF APPROVED GRADUATE EDUCATION THROUGH THE SECOND YEAR LEVEL. DR. TALMAGE FURTHER MOVED TO GRANT DR. NEARY AND DR. GALUP LICENSES, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS.

Concerning Dr. Galup's application, Dr. Kumar stated that, even though the hospital doesn't have records, Dr. Galup should have received some sort of certificate for completing the residency program.

Dr. Talmage stated that Dr. Galup couldn't have taken his board exams without proof of residency.

Dr. Garg suggested that the application could be approved subject to Dr. Galup's presenting his certificate.

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Dr. Kumar spoke in support of that.

Mr. Dilling advised that this isn't the first case where the Board has made a decision to utilize other documentation to reach the conclusion that the residency history was appropriate for licensure.

Dr. Kumar stated that he would like to at least ask Dr. Galup if he has a certificate of completion from his training program. If he doesn't have it, the Board could license him anyway.

Ms. Rieve stated that she will ask Dr. Galup if he has such a certificate.

Dr. Talmage restated his motion.

DR. TALMAGE MOVED TO FIND THAT BOTH DR. NEARY AND DR. GALUP HAVE DEMONSTRATED THAT THEY HAVE THE EQUIVALENCY OF 24 MONTHS OF APPROVED GRADUATE EDUCATION THROUGH THE SECOND YEAR LEVEL. DR. TALMAGE FURTHER MOVED TO GRANT DR. NEARY AND DR. GALUP LICENSES, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. TALMAGE FURTHER MOVED TO ATTEMPT TO OBTAIN A CERTIFICATE OF COMPLETION OF RESIDENCY FROM DR. GALUP. DR. KUMAR SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

Mr. Dilling at this time referred the Board to statistics provided on FCVS processing time lines. He noted that processing times are plummeting.

PRESCRIBING COMMITTEE

Dr. Davidson stated that the Committee reviewed an interesting letter from a physician at the VA concerning a chronic pain situation and the applicability of the Board's intractable pain rules. The Committee felt more information is needed, and Mr. Schmidt will follow up with the correspondent about the Committee's questions.

Dr. Davidson continued that the Compassionate Care Task Force will meet in September, and will also

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hold a press conference on August 28 concerning its final report. The Task Force will continue to meet intermittently throughout the year.

DISCIPLINARY POLICY AND GUIDELINES COMMITTEE

Ms. Sloan advised that the Committee reviewed a memorandum from Mr. Porter, concerning Disciplinary Guideline Sections VIII.A and VIII.C. Cases were reviewed that fell outside of the recommended guidelines, and what the Committee found was that most cases falling outside the guidelines are impairment and fraud cases. It was noted that the Board hasn't looked at these guidelines since 1992, and the Committee feels that revisions are necessary. Both the minimum and maximum recommended penalties for violations falling under these sections are permanent revocation.

Dr. Garg stated that the guidelines need revision because they are so broad. He agreed that it was time to review and make revisions.

Dr. Talmage suggested that the Board look at developing separate subdivisions of the guidelines for cases dealing with fraud and impairment, taking them out of the "Felony" sections. He added that Dr. Kumar has suggested looking at the severity of the violation.

Dr. Kumar stated that the Committee talked about the fact that felonies of various kinds may not merit permanent revocation. He believes that the Board should look at the suggested penalties on that basis.

Dr. Garg stated that he thinks that a new category would be very helpful.

Dr. Talmage added that he would prefer inserting the word, "suggested," prior to the words "maximum" and "minimum." He advised that in that way it becomes a guide and not a mandate.

Mr. Albert stated that a lot of times the Board sees someone with 40 to 50 felony counts against them, but then they get treatment in lieu of conviction and the Board just overlooks those felony counts.

Dr. Kumar left the meeting at this time.

LIMITED BRANCH COMMITTEE

Dr. Talmage stated that the Committee reviewed an application from the Ohio Academy of Holistic Health for a certificate of good standing. The Committee recommends approval.

DR. TALMAGE MOVED TO GRANT THE OHIO ACADEMY OF HOLISTIC HEALTH, IN XENIA, OHIO, A CERTIFICATE OF GOOD STANDING. DR. GARG SECONDED THE MOTION. A vote was taken:

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

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Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Ms. Sloan	- aye

The motion carried.

Dr. Talmage stated that the Committee also reviewed a request from Janet Blanchard, M.D., to teach a laser hair removal course. Dr. Blanchard is a board-certified plastic and reconstructive surgeon with extensive experience teaching and presenting seminars.

DR. TALMAGE MOVED TO APPROVE JANET BLANCHARD, M.D., TO TEACH A LASER HAIR REMOVAL COURSE. MR. ALBERT SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

Dr. Talmage advised that the Committee also reviewed a report on the July meeting of MTAC, and a report on the massage therapy exam analysis.

Dr. Garg stated that the previous day the Board had a case that indicated that there may or may not be a problem with COMPASS, a Board-approved treatment provider. He asked how the Board handles problems such as that.

Mr. Schmidt stated that the Board heard complaints about COMPASS in the hearing setting. What it had was the applicant's personal psychologist saying that there was a problem in COMPASS' diagnosis.

Dr. Davidson stated that the Hearing Examiner also indicated that there was a problem.

Mr. Schmidt stated that the Hearing Examiner's comments were based on the psychologist's testimony. He noted that Mr. Wilcox indicated that there are problems with the way the Board has communicated with COMPASS. The psychologist testified that it was an incompetent examination because there was no record of COMPASS having any expertise in impairment cases.

Mr. Albert stated that COMPASS isn't on the same level as Shepherd Hill and others, but they do provide a

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sliding scale for patients. He added that the majority of those at COMPASS are those sent by the Courts.

Mr. Albert added that the Secretary and Supervising Member and the Compliance Staff are reviewing the effectiveness of the approved treatment providers and will recommend withdrawal of approval should such be warranted.

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

Thereupon at 10:11 a.m. on August 12, 2004, the August 11-12, 2004, 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 August 11-12, 2004, as approved on September 8, 2004.

Anquetette P. Sloan, President

Lance A. Talmage, M.D., Secretary

(SEAL)

