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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**September 14, 2005**

Patricia J. Davidson, M.D., President, called the meeting to order at 1:00 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1960, with the following members present: Andrew F. Robbins, Jr., M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Kamala Saxena, M.D., and Anita M. Steinbergh, D.O.

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

EXECUTIVE SESSION

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

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- 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: Patricia A. Davidson, Hearing Examiner.

MINUTES REVIEW

**MR. ALBERT MOVED TO APPROVE THE MINUTES OF AUGUST 10-11, 2005. MS. SLOAN SECONDED THE MOTION.** A vote was taken

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: David Andrew Dougherty, D.O.; John Paul Hanyak, M.D.; and Philip F. Myers, M.D. A roll call was taken:

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

Dr. Davidson asked whether each member of the Board understands that the disciplinary guidelines do not

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limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

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

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

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

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

DAVID ANDREW DOUGHERTY, D.O.

Dr. Davidson directed the Board's attention to the matter of Dr. Dougherty. She advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

Dr. Davidson advised that Assistant Attorney General Berrien has filed a motion requesting that the Board find that the Secretary and Supervising Member followed the proper procedures and correctly decided, based upon the facts available to them at the time, that there was clear and convincing evidence that Dr. Dougherty's violations of his Board Order and habitual or excessive use or abuse of substances prevented him from practicing according to acceptable, prevailing standards and, therefore, his continued practice of medicine constituted a danger of immediate and serious harm to the public.

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

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

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**RECOMMENDATION TO SUMMARILY SUSPEND THE LICENSE OF DR. DOUGHERTY, HAD CLEAR AND CONVINCING EVIDENCE THAT DR. DOUGHERTY HAD VIOLATED THE TERMS OF THE BOARD'S ORDER OF APRIL 10, 2002, AND,**

**2. THEREFORE, HIS CONTINUED PRACTICE OF MEDICINE CONSTITUTED A DANGER OF IMMEDIATE AND SERIOUS HARM TO THE PUBLIC**

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

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

The motion carried.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DAVID ANDREW DOUGHERTY, D.O. DR. KUMAR SECONDED THE MOTION.**

Dr. Steinbergh noted that Dr. Dougherty has been a chemically dependent practitioner with several relapses. The last time he relapsed, the Board imposed a stayed permanent revocation to stress that another relapse would be a very serious matter. Dr. Dougherty did subsequently relapse, resulting in the summary suspension of his license.

Dr. Steinbergh stated that she supports the Proposed Order of permanent revocation in this case because she doesn't feel that the Board will be able to monitor Dr. Dougherty appropriately. She added that she thinks that Dr. Dougherty understands that he won't be practicing medicine in the future.

Dr. Saxena agreed with Dr. Steinbergh.

Dr. Buchan commented that he found this case to be another personal tragedy to review. He noted that Dr. Dougherty graduated from medical school in 1992, his residency in 1997, and he's just never been able to hold it together. Dr. Buchan stated that he feels that the Board has no recourse but to do exactly what the Report and Recommendation suggests; that is, to permanently revoke Dr. Dougherty's license.

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Dr. Kumar stated that he agrees with the Order as proposed. He noted that the Board has been compassionate with Dr. Dougherty, but that only goes so far. Dr. Kumar commented that Dr. Dougherty not only hid things from the Board, but he tried to hide things from his supervising physician, and he thought he would never get caught. When the method of urine testing was changed, things fell apart for Dr. Dougherty. Dr. Kumar stated that he doesn't think that Dr. Dougherty will be rehabilitated, and for that reason, he supports permanent revocation.

Mr. Browning stated that, from a consumer perspective, for all the same reasons, this adds up to permanent revocation.

A vote was taken on Mr. Browning's motion to approve and confirm:

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

The motion carried

JOHN PAUL HANYAK, M.D.

Dr. Davidson advised that Dr. Hanyak has requested to address the Board; however he is not yet present. She therefore tabled the matter until his arrival.

PHILIP F. MYERS, M.D.

Dr. Davidson directed the Board's attention to the matter of Dr. Myers. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

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

Mr. Byers stated that they hope that the Board has had the chance to seriously consider the objections that

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were filed, and has had a chance to look at the totality of the record and the Report and Recommendation, as well. Mr. Byers stated that he hopes that Board members will realize that this case is distinct from many other family prescribing cases. The distinctions of Dr. Myers' situation from many of the others that have appeared before the Board are the fact that there were no criminal charges against any party involved and the patient who was involved has never been treated or diagnosed as a substance abuser or as suffering from any kind of impairment. This is not one of those cases where there was family prescribing going on to feed a habit. There are simply no issues of addiction in this record on behalf of the patient that's involved.

Mr. Byers stated that Dr. Myers also learned the previous week that, if he suffers a license suspension, his group's insurance plans prohibit him from practicing under those plans for a period of two years. Mr. Byers stated that he knows that the Board can't make decisions based on what may or may not happen in the future, but he thinks that this is pertinent to the Board's consideration when it adjudicates the matter today. Mr. Byers suggested that the Board might impose some community service, turning Dr. Myers into the Board's emissary. Dr. Myers has already talked with many of his physician peers and told them the dangers of family prescribing. He would be willing to go on a speaking circuit or do any kind of community service to spread the Board's message. There's no one better to spread that message than someone who has been through the process.

Mr. Byers at this time introduced Dr. Myers.

Dr. Myers commented that he is very nervous and will refer to notes. He added that he will try to maintain the protocol of referring to Patient 1 in that term, but he'll probably slip up.

Dr. Myers stated that he had a close family relationship with Patient 1 for about twelve years when she developed pelvic pain that was ultimately diagnosed as endometriosis. A few years after that, she underwent a TAHBSO (total abdominal hysterectomy bilateral salpingo-oophorectomy) in an attempt to cure her pain. This seemed to help temporarily, but the pain returned. During this time she was started on Percocet. When her regular physician retired and transferred to Maine, they switched to Dr. Jay Williamson, who is a physician with whom Dr. Myers worked at the medical school. Dr. Myers stated that he has a great deal of respect for Dr. Williamson's knowledge, ability and compassion.

Dr. Myers continued that 1999 was the worst year of his life. In February, he and his wife had to file Chapter 11 bankruptcy as a result of insurmountable debt from a failed private practice and dealings with a predatory lending company to which they had been referred by a business professional, which wasn't very helpful. In the end of March 1999, he walked into his parents' house on his mother's birthday to find her in cardiopulmonary arrest. He started CPR, directed the paramedics when they arrived, and then drove his father to the hospital, where he watched the ER team work for an hour and 15 minutes. He then told them to stop, and he held her hand until her heart stopped.

Dr. Myers stated that, in the first week of May 1999, they surrendered the house in which they raised their children as part of the bankruptcy agreement. That same week, his uncle, who had married him and his wife and most of their cousins, died. In June another uncle died. Dr. Myers commented that he saw more out-of-town relatives in those three months than he'd seen in the previous 20 years. In December of that

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year, his wife's father went into the hospital for what turned out to be a terminal admission for lung cancer.

Dr. Myers stated that it was during this time, in the fall of 1999, that Dr. Williamson made the decision to reduce Patient 1's medication from the six or seven tablets a day to five. He understood at the time, because he was present at that visit, that Dr. Williamson was trying to see if she could get by on a lesser amount of medicine, as do all physicians who are responsibly taking care of people on chronic psychotropic medications or chronic narcotic analgesics. Dr. Myers asked Dr. Williamson whether he would prescribe an adjunctive medication and he said, "no." Dr. Myers then asked whether Dr. Williamson would want Patient 1 to try more physical therapy and again he said, "no." Dr. Myers asked Dr. Williamson what she should do if the pain wasn't controlled on the five tablets of medication he prescribed a day. Dr. Myers stated that he remembers Dr. Williamson advising her to try the best she can, but to remember that she's been on this medicine long enough that if she runs out, she'll go withdrawal and she may have seizures.

Dr. Myers stated that Patient 1 reduced her medication to five a day for about four days and was miserable. She increased it to six or seven and ran out a few days early. Dr. Myers stated that he contacted Dr. Williamson, who told him that he would re-prescribe the medication and she should try again. Dr. Myers stated that she tried reducing the medication a second time and again wound up taking the six to seven she'd been on before. Dr. Williamson again re-prescribed the medication and again advised that she try it again. Dr. Myers stated that, the third time they reduced it, she ran out on a Friday, which was normally Dr. Williamson's day in the office, so he didn't think anything of the day, but when he called in the morning, he got no response. He called again in the afternoon, and Dr. Williamson's nurse called him back at about a quarter to five and said that Dr. Williamson wasn't in the office and no one else in the practice would renew the medication for him. The nurse indicated that Patient 1 should have enough medicine to last until her scheduled appointment the following Tuesday.

Dr. Myers stated that, with no recourse to any of the other attendings in the office, he wrote the first prescription for 24 tablets to get her to her appointment on Tuesday, as an emergency. On Tuesday, when they saw Dr. Williamson, he told Dr. Williamson exactly what had happened, that he didn't feel that Dr. Williamson's staff's response was appropriate, and he asked Dr. Williamson for help. Dr. Williamson renewed the prescription for 100 doses, which was the five a day he expected to last for 20 days.

Dr. Myers stated that, unfortunately, this pattern continued. Whenever he could reach Dr. Williamson, he would renew the prescription; but when he couldn't reach Dr. Williamson, the staff in the office was not responsive and he personally renewed the prescription. Dr. Myers added that, on three occasions, he took her to emergency rooms in the community. He told the ER doctors at the emergency room who her doctor was, what the situation was, that she was out of medication, and to please report this to Dr. Williamson. The ER doctors would renew three, four or five days' worth of medications.

Dr. Myers stated that the amount of medication he supplemented was almost exactly what had been previously prescribed and has been a lot less than what she'd been prescribed during the previous three years by another physician. Dr. Myers stated that he doesn't claim to be a better physician than Dr. Williamson. He doesn't pretend to be a better diagnostician or therapist. He does claim that he has had

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a greater experience with Patient 1 and has observed her in pain most hours of the day for over 15 years. To prescribe a narcotic analgesic in an inadequate dose is hard for him to understand. If the medication itself is appropriate, shouldn't the dose be adequate to assuage the patient's pain?

Dr. Myers stated that he told Patient 1 on several occasions that he couldn't continue to prescribe like this, and they looked for another physician. He talked with several physicians in the Akron/Fairlawn area, where they were living, and they all told him that they didn't deal with chronic pain or chronic pain medication therapy. They switched doctors after they moved to the Kent area and after Dr. Williamson became aware of Dr. Myers' prescribing and terminated them appropriately. The new physician has been using methods that the Board has outlined as proper for chronic pain, and has directed Patient 1 to specialists who have been able to diagnose her problem. On May 25 this year, Patient 1 underwent a laparoscopy by Dr. Bob Flora, who is a urogynecologist at Akron City Hospital. He found extensive adhesions from the diaphragm to the bladder. It took him an hour and a half to get into the abdomen and pelvis. When he did get into the abdomen and pelvis, he found adhesions between the descending colon in the bladder and later advised that normal peristalsis through the bowel would cause pain because of traction on pelvic organs. Dr. Flora found spasm under anesthesia in the left pelvic wall that was inducing pain in her back and masking the back pain they thought they were treating.

Dr. Davidson at this time advised Dr. Myers that this is meant to be a five-minute discussion. She asked him to wind up his statement.

Dr. Myers stated that Dr. Flora also diagnosed interstitial cystitis, which is a chronic ongoing condition. Patient 1 is now undergoing treatments to try to ease her pain.

Dr. Myers stated that over the last 18 months, since the Pharmacy Board and the Medical Board have been investigating his prescribing, he's talked with more than six practitioners with whom he works regularly or on a part-time basis about the hazards of prescribing to family members. He's told them all that the hazards of prescribing relate not only to the patient's not getting the care that he or she needs by being unable to accurately report to the primary physician how they're really doing and by giving the primary care physician an inaccurate view of the therapy prescribed. He also tells them that the guidelines also exist to protect the physician. Only in a true emergency, when no other course is available, should a practitioner prescribe for family, and then only infrequently and according to the existing guidelines.

Dr. Myers stated that it is to his shame and regret that he didn't follow those guidelines. It's been almost three years since the last prescription was written, and he assured the Board that it will never happen again.

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

Ms. Berrien stated that she absolutely agrees with the proposed sanction in this case. The facts of this particular case justify a one-year suspension. Ms. Berrien stated that she just heard excuses more than she heard remorse or declarations that he would not do it again.

Ms. Berrien continued that, as the Board is well aware, it can decide each case on its own facts and circumstances; however, in his written objections, Dr. Myers attempted to compare this case to the case of

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Dr. Hugunin, another physician who prescribed for a family member. She stated that the Board considered Dr. Hugunin's case at its August 2005 meeting. She noted that one similarity is that both physicians prescribed for about three years. Dr. Hugunin prescribed twelve times, while Dr. Myers prescribed a total of 73 times. Another similarity is that both physicians were deceitful in using different pharmacies to fill these prescriptions. The record in Dr. Hugunin's case didn't specify how many different pharmacies he used, but, if the Board will recall, some Board members indicated that they were bothered by the fact that Dr. Hugunin was pharmacy shopping to cover up his acts and to get around the system. In this case, at hearing, Dr. Myers at first testified to using six or seven pharmacies, but later admitted to using 16. Shopping around at 16 different pharmacies, prescribing 73 times, and not maintaining any medical records or communicating with the primary care physician, all in less than three years, demonstrates willful misconduct.

Ms. Berrien continued that the timing of Dr. Myers' prescribing also shows willful misconduct. When Patient 1's primary care physician started a schedule to wean her off the controlled substances, Dr. Myers started prescribing Percocet and Valium to her. The manner in which he was prescribing was also indicative of willful misconduct. On most of the prescriptions, he wrote, "emergency – PCP not available." Today Dr. Myers stated that he knew the primary care physician, and he knew that Patient 1 had regular visits with him. Patient 1 was also seeing other physicians at this time. Dr. Myers and the primary care physician held privileges at the same hospital as Dr. Myers. Dr. Myers knew how to get in touch with Patient 1's primary care physician at the office, at the hospital and even at his home, because he had Dr. Williamson's private phone number. Ms. Berrien stated that, even if the primary care physician wasn't available, there was a physician on call at the practice at all times. When Dr. Myers wrote on the prescriptions, "emergency – PCP not available," he knew that that was not true.

Ms. Berrien stated that the fundamental rule is that physicians don't prescribe for family members unless it is an emergency. Dr. Myers prescribed 73 times in less than three years. That wasn't an emergency; it was repetitive.

Ms. Berrien stated that the Board recognizes the special relationship between a physician and a family member. There are compassionate and emotional ties. That is why the Board has the rule. A physician can be overwhelmed by compassion and lose his good judgment. The rule also protects the physician from being put into a compromising position and being compelled to write prescriptions. In his written objections, Dr. Myers said that he started prescribing with an innocent mindset, and the first two times he may have told her primary care physician. At some point, Dr. Myers' mindset and his conversations with the primary care physician stopped, and it turned into deliberate disregard of the Board's rules.

Ms. Berrien advised that pharmacists warned Dr. Myers about prescribing for Patient 1. Some of them refused to fill the prescriptions. Yet, Dr. Myers continued to write the prescriptions. At the same time he was writing the prescriptions, he was telling Patient 1 that he shouldn't be doing this. Ms. Berrien stated that that is outright disregard. Also, in Dr. Myers' written objections, he said that this was an isolated incident involving one patient, where the patient wasn't harmed. Ms. Berrien stated that this did involve one patient, and she may not be addicted, but there was harm. Her physicians and her primary care physician thought that she was abiding by the schedule that they had for her and that she was being weaned off the controlled substances, because they didn't know that Dr. Myers was prescribing for her and that he

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was supplementing her prescriptions. By deliberately keeping Patient 1's physicians in the dark, Dr. Myers delayed any further treatment or therapy that may have eased Patient 1's chronic pain.

Ms. Berrien stressed that an "isolated incident" doesn't occur 73 times. That develops into a pattern. Ms. Berrien asked that the Board adopt the Report and Recommendation, as written.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF PHILIP F. MYERS, M.D. DR. KUMAR SECONDED THE MOTION.**

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

Dr. Steinbergh spoke in support of the Report and Recommendation in this case. She stated that, although she wasn't present in August when the Board discussed Dr. Hugunin's case, she did review the record and she agrees that there isn't a comparison in this. There is no question that Patient 1 was in pain, and any physician who is compassionate would want to help a patient in pain. Regardless of the decision of the attending physician to wean the patient off the pain medications, if the patient was in pain, one would think that one would want to get a second opinion and not delay the treatment of the patient. Over the years this woman has suffered. She suffered at the hands of two physicians: One who probably wasn't adequately prescribing, but attempting to care for her, and the other, Dr. Myers, who was misprescribing, overprescribing and delaying treatment of Patient 1. Dr. Myers had no medical record to substantiate any decision-making he may have done in regard to this patient.

Dr. Steinbergh stated that she does agree that this was not an isolated incident. She noted the frequency of times that Dr. Myers prescribed, and recounted a few such incidents: On May 4, 2000, Dr. Myers prescribed 24 Percocet, and three days later he prescribed 12 Percocet. Dr. Steinbergh stated that you can see a pattern: One day he prescribed 10, the next day 25, two days later 20. This is not consistent with occasional help if he can't reach the patient's physician. Dr. Steinbergh commented that she thinks that the relationship between Dr. Myers and Dr. Williamson was inappropriate in the sense that one was attempting to support the other's, perhaps, lack of treatment. Nevertheless, prescribing in this fashion was inconsistent with the Board's rules and the laws of the State of Ohio. Dr. Myers definitely delayed appropriate medical care for this patient.

Dr. Steinbergh stated that cases such as this vary a little bit, and you can't compare one to another exactly. Sometimes the Board does modify suspension time if it thinks the physician's intention was good. Dr. Steinbergh stated that, in this case, a stayed permanent revocation, with a suspension of his certificate for an indefinite period of time, but not less than one year, and consistent probationary conditions are appropriate.

Dr. Kumar stated that he sees what the Board did in August. Though there are some different circumstances and a different set of events, with more prescribing in this case than the last, he doesn't see the difference being of a magnitude that would call for six times more penalty in this case than in the last. The facts were basically the same, although in this situation, the prescribing had been more frequent, and there was more pain and suffering for the individual. Dr. Kumar stated that he is uncomfortable with a

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one-year suspension at this time.

Dr. Buchan stated that he's also familiar with the Hugunin case, and he has read the minutes concerning that case. Prior to that he reviewed this case thoroughly. Dr. Buchan stated that he believes the Board made the appropriate decision in August. As he reviewed this case, he had already decided that the Report and Recommendation, as written, was too harsh. Dr. Buchan stated that this incident is not likely to recur. At the end of the day, Dr. Myers made a bad choice. He spent 80% of his time today, talking about justifying that bad choice. Dr. Buchan commented that he wishes that Dr. Myers had spent 80% of his time today talking about why he made the bad choice, and that he was remorseful for it. Dr. Buchan stated that he didn't hear that from Dr. Myers.

Dr. Buchan continued that he does believe that Dr. Myers understands what he did. Based upon the fact that there was no personal greed or self-interest involved in this case, the Board should sanction him, impose a period of sanction, and then allow Dr. Myers to get on with his practice and on with his life. Dr. Buchan stated that this is a harsh order, based upon what, at the end of the day, was a bad choice by Dr. Myers, but he thinks that Dr. Myers and others will learn, and that the Board needs to let Dr. Myers return to practice.

Dr. Egner asked what Dr. Buchan would recommend.

Dr. Buchan stated that he would like to hear more discussion on this matter, and then he may make a proposal.

Dr. Egner agreed, stating that she had the same feelings about this case as she did about the case the Board heard in August. This is against the rules and there needs to be a sanction. Dr. Egner stated that there was patient harm in this case, and there always is in cases such as this. This case went on for a longer period of time and there were more prescriptions written than in the previous case. She asked whether that equates to a longer suspension, and added that she doesn't know. Whether the Board suspends Dr. Myers for one day or one year, the repercussions are very long lasting.

Dr. Robbins stated that last month he came across as being more severe, and he feels pretty much the same this month. Dr. Robbins stated that what happened in this case was egregious; it was willful. It occurred over the course of a number of years, delaying treatment. The rules are there specifically for this kind of a situation. No one was saying that Patient 1 didn't have pain. He thinks that she was in a lot of pain, but the way she was treated was totally inappropriate. They went to 16 different pharmacies.

Dr. Robbins added that he was disappointed in Dr. Myers' statement today. He stated that he wishes that Dr. Myers had spent a lot more time apologizing for the action, not justifying the action. Dr. Robbins stated that he doesn't know if Dr. Myers gets it. But, like the Hugunin case, he thinks that the Board can come up with a compromise. He would prefer a longer suspension.

Dr. Varyani stated that everyone is talking about the similarities, the differences, and the penalty imposed in August, but the difference here is that Dr. Myers knew what he was doing. Unfortunately, because of the narcotics given over such a prolonged period, the patient did not go in for the final diagnosis. It was

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delayed because of Dr. Myers' decision to relieve the patient's pain. Dr. Varyani stated that he feels sorry for Patient 1, but one must realize that it's not just the deceit or the willful writing of prescriptions, but Dr. Myers delayed treatment for at least three years. The patient could have had the laparoscopy two years earlier. Dr. Varyani stated that he doesn't think that this is something mild, and he doesn't think a one-year suspension is too much. Dr. Varyani stated that he would support the current motion.

Ms. Sloan agreed with Dr. Varyani. She commented that the length of time in which Patient 1 did not receive appropriate treatment and suffered is alarming to her. Ms. Sloan stated that the deceit was definitely there. She stated that it was intentional on Dr. Myers' part to deceive not only the pharmacists but also the other doctors involved with this case. Ms. Sloan stated that she agrees with the Report and Recommendation, as written.

Dr. Kumar stated that the comment has been made that the treatment that Patient 1 needed was delayed by three years or so. He stated that, to some degree, that is accurate; but the patient had a hysterectomy two and a half years ago and the patient's symptoms did improve for a period of time after that. Dr. Kumar agreed that Dr. Myers should have sought a second opinion, but one shouldn't jump to the conclusion that a laparoscopy would immediately relieve the problem. It takes a few years for adhesions to develop.

Dr. Buchan stated that he doesn't disagree with some of his colleagues today, but, having reviewed a lot of these cases over the years, he is ultimately motivated by what will best serve the public. Dr. Myers was in the trenches with a clear record for a number of years. Dr. Buchan stated that he has some compassion for this physician as a practitioner in this state. He doesn't feel the public will be served any better if the Board takes him out of practice for 30 days or if the Board takes him out for a year and 30 days. The decision speaks for itself. What he did was absolutely wrong, for all the reasons that Board members have described; but his sentiment for this physician today is to take him out of practice, but he doesn't think the public is better served by taking him out for a longer term.

**DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. MYERS BY REMOVING THE STAYED PERMANENT REVOCATION LANGUAGE, BY CHANGING THE MINIMUM SUSPENSION PERIOD TO 90 DAYS, AND BY LOWERING THE PROBATIONARY PERIOD TO TWO YEARS RATHER THAN THREE. DR. KUMAR SECONDED THE MOTION.**

Dr. Steinbergh spoke in opposition to the motion. She stated that, regarding the comments made about post-hysterectomy and so forth, the bottom line is that, in this degree of pain and requiring this amount of medication, there should be no delay in getting an appropriate diagnosis. This patient's ultimate diagnosis and treatment was unquestionably delayed.

Dr. Steinbergh noted that the Hearing Examiner's Proposed Order is already outside of the Board's guidelines. She feels to move further outside of the guidelines is inappropriate. Dr. Steinbergh stated that it's also very important to her that the Board respects what its consumer members say. She noted that Ms. Sloan has spoken and Mr. Albert, as Supervising Member, can't speak. She asked Mr. Browning for his comments on this case.

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Mr. Browning stated that these cases are always personal tragedies. People get involved with family members for what they think are the right reasons, emotionally and otherwise, and things fall apart. Bad decisions are usually followed by more bad decisions. Trying to be helpful can often turn into bad medicine in a hurry, and that's what happened here. It wasn't just like you had a physician doing what any physician would do. Mr. Browning stated that there ought to be a penalty in this case and the Board has to send a message to one and all that it won't tolerate these decisions, even though Board members understand the decision on a human level.

Mr. Browning stated that he agrees that a one-year suspension is reasonable on one hand, and on the other, his sense is that some sort of compromise is reasonable in this case. He stated that he feels a 90-day suspension is too short and sends the wrong signal. He would support a suspension of twice that length or more.

Dr. Robbins stated that he refuses to potentially classify Dr. Williamson as someone who is inept in taking care of this patient, and he feels that is what has been presented here. He has no idea whether Dr. Williamson is or isn't inept, but he refuses to accept that he is. Dr. Robbins stated that he believes that it is possible, without exception, that the patient was able to manipulate Dr. Myers because of the personal relationship. Although he feels for Dr. Myers being in that situation, that's why the rule is in place. If Dr. Williamson had been able to do the job that he was there to do, things would have been different. Dr. Robbins stated that he could not support a suspension period of only 90 days, but he could probably support double that.

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

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

The motion failed.

**DR. STEINBERGH MOVED TO AMEND THE MINIMUM SUSPENSION PERIOD IN THE PROPOSED ORDER IN THE MATTER OF DR. MYERS TO 180 DAYS. DR. ROBBINS SECONDED THE MOTION.**

Dr. Steinbergh noted that the rest of the Proposed Order would remain the same.

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Dr. Buchan spoke against the motion, adding that he thinks that the “permanent revocation” language in the Proposed Order is too harsh in this particular case. Dr. Buchan added that the message is clear without that language. Dr. Buchan stated that he would like to show some support for this physician.

Dr. Steinbergh stated that the reason she has not removed the “permanent revocation” language is that the Board’s guidelines call for permanent revocation when someone fails to perform according to minimal standards of care.

Dr. Buchan stated that he understands that, but he appreciates the guidelines for what they are. The merits of this case suggest a different course for this physician.

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

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY’S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF PHILIP F. MYERS, M.D. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

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Dr. Davidson - aye

The motion carried.

JOHN PAUL HANYAK, M.D.

Dr. Davidson at this time removed the matter of John Paul Hanyak, M.D. from the table. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

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

Dr. Hanyak thanked the Board for the opportunity to speak. He stated that the question at heart is whether or not his license should be permanently revoked due to cognitive deficits after a brain tumor. Dr. Hanyak stated that he is here, basically, for personal, selfish reasons. He wouldn't be able to live with himself without restating his case. Dr. Hanyak stated that he doesn't have an attorney, not out of arrogance, but because his attorneys won't accompany him here because of, what he feels, is the real issue. Dr. Hanyak stated that this is a dollar issue. His disability company stands to pay out close to \$8 million over the next 20 years by his being disabled. If he comes here to fight to get his license back, they clearly will gain by that.

Dr. Hanyak stated that he's not naïve enough to realize that he can go back and work 80 hours a week, like he did previously. He loves the practice of medicine and continues to love what he's done. Dr. Hanyak advised that he had a solo practice and was very successful at it. He did very well at St. Ann's Hospital and had just about every leadership position at that hospital that you could possibly have, as well as probably the busiest practice in the hospital. After his brain tumor he attempted to return to work on a part-time basis. It didn't take long to figure out that the numbers didn't add up. By the time he paid his overhead, he was breaking even. Dr. Hanyak stated that he was in a financial position for four years where breaking even wasn't that bad a deal. He wasn't collecting disability at that time, but he was doing what he loved and he did it without, to his knowledge, ever hurting a patient.

Dr. Hanyak advised that he then decided to get smart and make things work in his favor and formed another group practice. Prior to this, he had organized the physicians in the Westerville community to make a group. In 1994 to 1996 he organized Central Ohio Primary Care. With that experience, it was somewhat easy for him to get another group of five to seven physicians together to operate in a group practice setting where things were very doable. Dr. Hanyak stated that he probably sees three to five patients a week. These are patients who don't want to see another physician. Dr. Hanyak advised that he has no intention of ever starting a private practice again, partly for the selfish reasons that the free disability money is nice. Dr. Hanyak stated that it's ironic for him to be here when he gets two or three letters a month from his colleagues saying that they're finding something else to do because they're frustrated with medicine, and here he is saying, "take my money away and I'll go back and do it." Dr. Hanyak commented that this might be more evidence for the Board that he might not be all mentally there.

Dr. Hanyak stated that the bottom line is that he did see the Board's expert witness from the Cleveland

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Clinic. At no point in his career has anyone told him to seek help or that he has a problem. All the things the Board has “against him” are his own admissions; he’s worried about himself. That’s been used against him rather effectively. He asked that the Board consider the source of all that. He was a person who was very depressed at the time and probably hypercritical of his own abilities in retrospect. Dr. Hanyak stated that the Board also has to look at the fact that he’s seen probably ten people with the credentials of the Board’s expert witness who came to a totally different recommendation. They feel he should be able to practice under a limited basis.

Dr. Hanyak stated that he certainly doesn’t envy the Board’s position in a case like this. He commented that next week’s headlines might read that he went off the deep end and hurt somebody and the Medical Board let him do it. That’s the bottom line, and he doesn’t know how to answer that. He stated that if the Board starts saying, “let’s take somebody’s license away because something might happen,” that’s kind of scary.

Dr. Hanyak stated that he left his hearing with the understanding that the Board’s expert advised that there are two ways he could continue to practice: A teaching position without clinical duties, which is fine, but he asked what hospital system will hire someone who’s license is permanently revoked; or in a supervisory position. He commented that whether that supervision should be 100% or someone reviewing his charts, doesn’t really matter to him. Dr. Hanyak stated that he could live with either option.

Dr. Hanyak again stated that he doesn’t want to go back to practice and see new patients. He’s got a group of physicians and their families who elect to see him to this day. Dr. Hanyak stated that he would think that their judgment would account for something. These are people who still have enough faith in his ability to send their wives and children to see him. That says something to him. Dr. Hanyak stated that he will just sleep better knowing that whatever is decided here today, he’s made his case and his fate is in the Board’s hands.

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

Mr. Wilcox stated that this case was originally litigated by Rebecca Albers. He stated that he has had a chance to read the Report and Recommendation, and he did speak to Ms. Albers about this case.

Mr. Wilcox stated that Ms. Albers wanted him to relay the fact that she does support the Report and Recommendation of the Hearing Examiner in this matter. As anyone knows who read through this case and the circumstances behind, it’s a very tragic case. Mr. Wilcox stated that, although he has sympathy for Dr. Hanyak, and he’s sure the Board does as well, the Board must keep focused on its duty to protect the public. Given the facts of this case and the report of Dr. Noffsinger, he believes that the Board should simply not allow Dr. Hanyak to be a licensed physician, and he does support revocation.

**DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY’S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JOHN PAUL HANYAK, M.D. MR. BROWNING SECONDED THE MOTION.**

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

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Dr. Steinbergh stated that she will have to abstain from voting on this case because she does know Dr. Hanyak very well, but she would like to make a comment on this case.

Dr. Davidson advised that if Dr. Steinbergh feels that she must abstain from voting, she must also abstain from commenting on the case.

Dr. Buchan stated that Dr. Hanyak came today and asked the Board members to search their hearts, and he's done that. Dr. Buchan stated that he knows Dr. Hanyak as a fine physician, and he's forced to reflect on the record and only the record and he will do just that.

Dr. Buchan stated that Dr. Hanyak brings before the Board, and the evidence from the expert suggests, that Dr. Hanyak is unable to practice. Dr. Buchan stated that he was waiting to hear Dr. Hanyak mount a case to the contrary, but, unfortunately, in his opinion, the data and the objective information before the Board today doesn't leave much choice but to accept the Hearing Examiner's recommendation.

Dr. Buchan noted that the record reflects that Dr. Hanyak was a fine physician, and he added that he knows that to be true. However, in terms of public protection, he doesn't feel that he can speak against the evidence, and he must go along with and support the Proposed Order. Dr. Buchan again stated that, at the end of the day, Dr. Hanyak was a fine physician, and he will continue to be a fine man.

Dr. Kumar stated that, like everyone else, he's having extreme difficulty in going through this unfortunate set of circumstances. Dr. Kumar stated that he knows that the Board must protect the citizens of this state, but using the word, "revocation," comes out too harsh on a physician who has provided so much service for such a lengthy period of time. He stated that he wishes there was a category such as "inactive license because of health reasons" or some such thing. He suggested that the Board might want to create something like that for cases such as this.

Dr. Kumar suggested that instead of revoking Dr. Hanyak's license, the Board might indefinitely suspend that license. He stated that that might be less painful. He stated that he would like to see language that sounds less punitive than the term, "permanent revocation."

Dr. Egner stated that there is an alternative; Dr. Hanyak could have retired. That's what most physicians do when they get to a certain age or are at a stage when they're not up on things. She stated that there are sad and unfortunate reasons that a physician can't practice medicine anymore, such as a physician getting cancer, or a surgeon getting a tremor. Board members all know someone who has gone through something like that. Physicians wonder what they would do if it happened to them, because being a doctor is their identity. Physicians have given their lives to making this their main identity. Dr. Egner stated that she's very sorry for Dr. Hanyak; it's a tragic thing to happen. But, she added, that she doesn't think that Dr. Hanyak can practice. She noted that the "revocation" proposed is not a permanent one. If by some miracle Dr. Hanyak's cognitive function returns to normal, and he can prove that, there's an avenue to get his license back. Dr. Egner stated that she must agree with the Report and Recommendation.

Mr. Browning stated that Dr. Egner's statement is a great summary of the situation, and he concurs.

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Dr. Robbins indicated that he also concurs, but he thinks that Dr. Kumar's statement had some merit as well. He asked whether there is any potential of Dr. Hanyak voluntarily surrendering his license. He stated that he would personally not like to have to put a revocation on Dr. Hanyak's record.

Dr. Egner stated that she thinks that the Board can assume that that was thought of. She stated that Board members have these discussions a lot. They have questioned before why physicians don't give up their license. When the Board has the general discussion, the staff has advised that, generally speaking, that option is always offered.

Dr. Davidson asked whether there is any further discussion. There was not.

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

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

The motion carried.

#### PERSONAL APPEARANCES

Dr. Davidson advised that, since Dr. Sava has a plane to catch, he would make his scheduled appearance at this time and the Board would resume its regular agenda afterward.

#### GUY M. SAVA, M.D.

Dr. Sava made his initial appearance before the Board, pursuant to the terms of the Board's Order of April 2, 2003.

In response to Dr. Davidson's questions, Dr. Sava stated that he is doing very well in his recovery program. He is in his fourth year of recovery from all substance abuse. He is now chairman of a physician-serving-physician committee in Mankato, MN. He is Chief of Neurosurgery at the Immanuel St. Joseph's-Mayo Health System facility. He is attending at least three meetings a week, occasionally four. At the present time he's still submitting weekly urine screens. He has tremendous support, not only from his family, but from his colleagues and patients. Dr. Sava stated that he is thankful that this came to a

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head when it did and that he received the appropriate treatment and aftercare. Dr. Sava stated that, as far as he's concerned, everything's going very well.

Dr. Sava stated that he has been dismissed from the State of Minnesota from any disciplinary action with them. He served a three-year term with them, but has since been completely dismissed from any restrictions on Minnesota's part. He has settled his penalty with the DEA, and he continues to send them copies of any scheduled prescription he writes on a monthly basis. Dr. Sava stated that the financial penalty, which was enormous, has been paid. The DEA has accepted Minnesota's termination of probation.

Dr. Steinbergh asked whether Dr. Sava understands the conditions of the Board's Order.

Dr. Sava stated that he does understand.

Dr. Davidson noted that Dr. Sava would not see the Board again until his release from probation.

Dr. Sava asked whether this is the appropriate time to address the question of the frequency of urine screens.

Dr. Davidson suggested that he bring that request up with Ms. Bickers and Mr. Albert.

Dr. Buchan asked whether Dr. Sava has any other questions of the Board.

Dr. Sava stated that he does not.

**DR. BUCHAN MOVED TO CONTINUE DR. SAVA UNDER THE TERMS OF THE BOARD'S ORDER OF APRIL 2, 2003. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Buchan left the meeting at this time.

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FINDINGS, ORDERS AND JOURNAL ENTRIESJOHN CARL GAETANO, D.O.

Dr. Davidson advised that, on July 28, 2005, the Board sent a letter via certified mail, return receipt requested, stating that it had reason to believe that Dr. Gaetano was unable to practice according to acceptable and prevailing standards of care pursuant to Section 4731.22(B)(26), Ohio Revised Code, to wit: "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," and ordering Dr. Gaetano to undergo an examination. Dr. Gaetano was duly notified of the examination order and its scheduled date. Dr. Gaetano failed to appear for the scheduled chemical dependency evaluation. Further, at no time did Dr. Gaetano inform the Board that his failure to appear was due to circumstances beyond his control.

Dr. Davidson further advised that Section 4731.22(B)(26), Ohio Revised Code, provides that "failure to submit to a mental or physical examination ordered by the Board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence." Thus, the matter of Dr. Gaetano was before the Board for final disposition.

**DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JULY 28, 2005 NOTICE AND TO ENTER THE PROPOSED ORDER, EFFECTIVE IMMEDIATELY. DR. SAXENA SECONDED THE MOTION.**

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

A vote was taken:

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

The motion carried.

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Dr. Buchan returned to the meeting at this time.

JAMES BRAND OTTNEY, JR., M.D.

Dr. Davidson advised that, on July 1, 2005, the Board sent a letter via certified mail, return receipt requested, stating that it had reason to believe that Dr. Ottney was unable to practice according to acceptable and prevailing standards of care pursuant to Sections 4731.22(B)(19) and/or 4731.22(B)(26), Ohio Revised Code, and ordered Dr. Ottney to undergo an evaluation. Dr. Ottney was duly notified of the evaluation order and its scheduled date. Dr. Ottney failed to appear for the scheduled examination. Further, at no time did Dr. Ottney inform the Board that his failure to appear was due to circumstances beyond his control.

Dr. Davidson further advised that Section 4731.22(B)(19), Ohio Revised Code, provides that "failure to submit to a mental or physical examination . . . ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence." In addition, Section 473 1.22(B)(26), Ohio Revised Code, provides that the failure to submit to an examination, ordered by the Board, to determine whether the habitual or excessive use or abuse of drugs, alcohol, or other substances has impaired the ability to practice "constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence." Thus, the matter of Dr. Ottney was before the board for final disposition.

**DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JULY 1, 2005 NOTICE AND TO ENTER THE PROPOSED ORDER, EFFECTIVE IMMEDIATELY. DR. ROBBINS SECONDED THE MOTION.**

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

Dr. Steinbergh stated that the Proposed Order is consistent with past actions of the Board.

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

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

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Dr. Steinbergh - aye  
Dr. Davidson - aye

The motion carried.

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMAR SUSPENSION

DONALD RAYMOND KISER, D.O. – CITATION LETTER

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

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

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

The motion carried.

Dr. Talmage left the meeting at this time.

CARL MICHAEL FERRARO, M.D. – CITATION LETTER

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

**DR. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. FERRARO. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

Dr. Talmage returned to the meeting at this time.

CAROL ELAINE LEWIS, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

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

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

The motion carried.

DAVID A. RATH, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

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this Journal.

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

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

The motion carried.

SUZANNE ANTOINETTE HARITATOS, 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. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. HARITATOS. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

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Mr. Browning left the meeting at this time.

RATIFICATION OF CONSENT AGREEMENTS

MIKE WOOLIANG CHOU, M.D.

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

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

The motion carried.

MAHENDRA KUMAR MAHAJAN, M.D.

Dr. Kumar noted that the consent agreement indicates that Dr. Mahajan has advised that he isn't licensed anywhere else, but Mr. Katko's memorandum indicates that Dr. Mahajan has an Indiana license.

Mr. Katko advised that he was informed subsequent to his drafting the consent agreement that Dr. Mahajan holds an Indiana license. Dr. Mahajan has corrected that error on his signed copy of the agreement.

Dr. Kumar stated that in this case Dr. Mahajan signed blank prescriptions in a Department of Health clinic. Dr. Kumar stated that this creates the potential for other physicians to fall into the same trap. Dr. Kumar suggested that the Board tell the Department of Health that some of its field offices are promoting this practice. He commented that this physician was the one who picked up that this was wrong, and he exposed the whole thing.

Dr. Saxena agreed that the Health Department clinic had that policy. She noted that these physicians are not full-time employees there. They come in and work once a month or once a week and the signed prescriptions are kept in a locked box. Dr. Saxena stated that the Board should address this with the Department of Health.

Dr. Saxena noted that there is a chart review requirement in this agreement. She noted that Dr. Mahajan

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has had a practice in another area for 24 to 25 years, and he's been in good standing. Will the Board serve any purpose by reviewing his charts?

Dr. Davidson stated that this is an agreement already agreed to by the physician and his attorney. The Board can't micromanage this. The Secretary and Supervising Member will hear Dr. Saxena's concerns and consider them in the next similar case.

Dr. Kumar stated that there was no attorney in this case. When the physician signed the consent agreement, he sent a cover letter stating that certain things should be presented to the full Board.

Ms. Gilbert assured the Board that anything that was put in the letter was addressed with the physician so that he would know what was being presented to the full Board.

Dr. Davidson at this time agreed that notifying the Department of Health about the policy of some of its clinics was something the Board should do.

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

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

The motion carried.

PATRICK BRIAN CESTONE, JR., M.D.

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

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

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

The motion carried.

CARLA MELINDA MYERS, D.O.

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

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

The motion carried.

ANDRE PROCHOROFF, M.D.

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

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

The motion carried.

#### PERSONAL APPEARANCES

##### JEREMY W. AMPS, M.D.

Dr. Amps appeared before the Board pursuant to his request for release from the terms of the Board's Order of September 9, 2004.

In response to Dr. Kumar's questions, Dr. Amps stated that he is doing great. He is in his last year of residency. He will do a spine fellowship at the Cleveland Clinic next year. Dr. Amps stated that his fellow residents and attendings were very understanding of what happened, and they were able to work with him. Things are okay now.

In response to further questions by Dr. Kumar, Dr. Amps stated that he has spared his fellow residents from most of the details of what happened, but he has talked with them about some of the issues. The main rule he's learned is to make sure that he obeys all the rules of medicine and all the rules of the law. He's been able to talk with other residents. Dr. Amps commented that a number of residents don't realize that they're not allowed to write prescriptions for people who aren't patients. He's been able to tell others that and help others stay out of trouble.

Dr. Kumar asked whether Dr. Amps also recognizes that he cannot write medications such as narcotics for close family members. Dr. Amps stated that he does, and he has addressed that with his fellow physicians.

Mr. Browning asked whether this subject was ever covered in Dr. Amps' education.

Dr. Amps stated that it was covered, but not in a very clear way. He remembers one lecture on a psychiatry rotation where the issue was discussed. They talked about different scenarios in which physicians might be involved in the future. His understanding coming away from that lecture is that you have to be very careful with writing prescriptions for people to whom you're personally connected. He again stated that this was one very brief lecture that they had.

Mr. Browning asked whether Dr. Amps' colleagues might be in the same boat, and whether Dr. Amps has any recommendations on how that could be changed.

Dr. Amps stated that he does think that. He added that all residents, when they're beginning their residency, should have a lecture about these rules.

Dr. Egner stated that this happens in conjunction with his psychiatry rotation, so you get the impression that the manipulative psychiatric patient might trick you into writing prescriptions that are inappropriate.

Dr. Steinbergh asked Dr. Amps what medical school he attended.

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Dr. Amps stated that he attended the University of Texas at Galveston.

Dr. Varyani stated that there is a lecture of about one hour on this called "Ethics." Students go there to enjoy the lecture, and they just shut themselves off because it's not going to be in the books or exams anyway. It's an expensive lecture, but most people don't pay attention to it.

Dr. Steinbergh asked Dr. Amps how many people are in his neurosurgical residency.

Dr. Amps stated that there are about twelve people in the program.

Dr. Steinbergh asked what percentage of those individuals are going into spine fellowships as opposed to doing brain surgeries.

Dr. Amps stated that, of those twelve, one did last year or two years ago, and there were at least one or two others. He stated that he thinks a lot of people do a lot of spine treatment without doing the spine fellowship. He stated that he would like to do brain surgery, but he thinks that a large number of opportunities are no longer in existence. He commented that a large number of benign brain tumors are being treated by radiosurgery now. Most cerebral aneurysms are being treated by interventional radiology.

Dr. Steinbergh commented that her hospital appears to be credentialing more neurosurgeons who do spinal work than open brains. They're having a problem finding people to do brain surgery.

Dr. Amps stated that he thinks a lot of them would be happy doing it, but there is a concern with practicing neurosurgeons that there is an insurance issue.

**DR. KUMAR MOVED TO RELEASE DR. AMPS FROM THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 9, 2004. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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PAULA CLARK ADKINS, M.D.

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

In response to Dr. Davidson's questions, Dr. Adkins stated that she's attending four meetings a week, she's active with the youth at her church, and she's doing weekly urine drug screens and meeting with her psychiatrist every three months. Dr. Adkins stated that she's still trying to get credentialed to get back to work. She's been reinstated in North Carolina and a consent order is pending in West Virginia.

Dr. Adkins stated that she's trying to get her life back into order, and it seems to be going well. She's learned a whole lot from the experience. Dr. Adkins commented that it has been very painful, but it's been a year of tremendous growth, probably more than any year in her life. Overall she feels like she's doing the best she's done in her life. Instead of a door closing, it's actually kind of opened, and that's nice. It's a bit frustrating trying to get on with her life and live, but if it was easy it wouldn't hit home or stay with her.

Dr. Adkins stated that she really appreciates the Board's working with her and with the consent order and offering her a second chance. It's very important.

Dr. Davidson commented that Dr. Adkins is currently dealing with four different states.

Dr. Adkins stated that it's been difficult because she was living in West Virginia when everything came up in North Carolina, and others haven't known what to do with her; but it's getting sorted out and straightened out.

In response to Dr. Kumar's questions, Dr. Adkins stated that she surrendered her North Carolina license and then entered into a consent order, which has been ratified by that Board. She advised that her problems began because she had a physical ailment. She was using Tussionex; she has horrible coughing problems due to allergies once every couple years. She was under a tremendous deal of stress. She'd taken Tussionex intermittently for years, but she found that it relieved her stress during a stressful time, and it snowballed. Now when she gets coughing spells, she takes Tessalon Perles and Albuterol. She added that that's working quite well.

Dr. Kumar asked Dr. Adkins whether she understands the terms of her consent agreement.

Dr. Adkins stated that she does and she added that Ms. Bickers has been wonderful in helping her with any questions that she's had.

Dr. Kumar stated that, although this may seem punitive to Dr. Adkins, that is not the Board's purpose. The Board wants Dr. Adkins to recover.

Dr. Buchan noted that stress may be Dr. Adkins' trigger, and she found a way to relieve that stress chemically. He asked what she does now.

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Dr. Adkins stated that she's learned other techniques. She learned, first of all, that there has to be time for herself in her schedule. She had cut all that out. Changing how she lives her life every day has been a big help. The second thing is that she's put things into perspective. She's not the center of the universe. She added that she's also opened her eyes. This experience has opened her eyes. She thinks she's back to the person she always had been. Dr. Adkins stated that she went through a horrible period and didn't reach out for help. She definitely doesn't do that now. She communicates a lot better. Dr. Adkins commented that she's learning Yoga as well.

In response to further questions by Dr. Buchan, Dr. Adkins stated that she never liked alcohol and it has never been a source of comfort for her.

Dr. Adkins stated that this is the fourth board she's been before, and she's impressed. She stated that she's sat in the room for a little over an hour and listened. She's impressed with the way the Board members discuss things and give their opinions. She stated that of the four boards, this board is totally different, and she is very impressed.

The Board expressed its appreciation for Dr. Adkins' statement.

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

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

The motion carried.

TODD GILBERT GOTTSCHALK, D.O.

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

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Dr. Steinbergh advised Dr. Gottschalk that she was dismayed to see why he is before the Board. She asked Dr. Gottschalk to tell the Board what's been going on and how he's dealing with this issue.

Dr. Gottschalk stated that that's a difficult question. If someone asked him how he was doing, he would say, "fair." He's not working as a physician right now. He lost the employment he had lined up in Las Vegas because of his consent agreement.

Dr. Steinbergh asked whether Dr. Gottschalk understands why the offer was withdrawn.

Dr. Gottschalk stated that he doesn't. He said that it's a complicated process. He understands the Consent Agreement to say that he's not a danger to patients. He basically has an unrestricted license, except for the counseling that was ordered for his personal life. Concerning his dealings with the Center for Marital and Sexual Health in Beachwood, they basically said that his behavior was quirky and that he crossed the line from quirkiness in a few incidents, and that it really didn't cross over into his professional life.

Dr. Gottschalk stated that he doesn't understand why the offer was withdrawn.

Dr. Steinbergh stated that she thinks that when a group reads a consent agreement such as his, there's a real question about the moral and ethical beliefs of the physician. These are character flaws, and they are things that a State doesn't like in its physicians. There is a question about the quality of his moral being, and that's what he needs to work on. That's the issue. He can't say that things don't cross over.

Dr. Gottschalk stated that one thing he has learned is that you don't realize that being a physician is more than a job or a profession. It's a standing in the community, it's almost like being a pastor. There's more expected of you than of a plumber. Dr. Gottschalk stated that you don't realize that when you're just working every day. Some of it's unfair. Nobody wants to think of sexual matters when it comes to their physician. It's kind of like with your parents, you don't want to know anything about it. It's almost like physicians are asexual.

Dr. Steinbergh asked Dr. Gottschalk where he went to medical school.

Dr. Gottschalk stated that he attended the College of Osteopathic Medicine at Pacific.

Dr. Steinbergh stated that she thinks that when young people go to medical school, one of the first things that happen is that you learn that professionalism is critical. You are now someone that the public looks up to and respects. You are taking their health and their lives in your hands. There is no question that you stand above the plumber. Now, the plumber has to be ethical in his dealings with the public and be honest in terms of advice and so forth, but the physician is someone to whom people come to share their very being with. Dr. Steinbergh stated that she thinks that young people need to think about that, and she has to believe that they talked to him about that in medical school.

Dr. Gottschalk stated that he thinks that they teach mainly about the relationship with patients and the boundaries with patients. There's not a lot of talk about your personal life or don't embarrass the profession.

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Dr. Steinbergh stated that he needs to understand that who you are in the community is important.

Dr. Gottschalk stated that that's part of the whole issue with counseling. You don't really see that when you feel like you're not a good person inside. That's the whole issue with counseling, and that's why the center didn't think he needed counseling. The counseling that they recommended was more for his own personal benefit than it was for the protection of patients. His counselor actually said that if he didn't have extensive counseling, he would be alone, die alone, and she didn't want to see that happen to him. That's a self-esteem issue.

Dr. Gottschalk added that one thing he also learned, he's done all these things all along, and his military career is also probably going to be effected by this, his professional career. He was teaching physicians at various Ohio Osteopathic schools, and even though he had those accoutrements, he still didn't feel like an important person. You don't realize how high up you've gone until you get to the bottom. That kind of made him realize what an honor and privilege being a physician was. You can lose everything, including your ability to be a physician.

Dr. Talmage stated that the previous week he gave a lecture to the first-year medical students at the Medical University of Ohio, and advised them that physicians are held to a much higher standard. The concern of the public is that the physician is in such an intimate position to know about and to examine them, that you have the opportunity to cross that boundary with patients far more than anybody else does. If there is any tendency to cross boundaries at any point in his or her life, even though it's totally private, the risk to the patient that you will cross that boundary is magnified in the public's mind so much that it's intolerable. The Board does hold to that and, where other people could do things such as soliciting a prostitute or having an affair, the Board finds that behavior in physicians to be intolerable. That is what society expects the Board to do. Physicians have the obligation to fulfill the expectations of society. Physicians have to be very circumspect and hold themselves to a higher standard. There are just things you can't do. Dr. Talmage stated that it's important for one's self-esteem to adhere to that higher standard in order to practice your profession.

Dr. Egner stated that Dr. Gottschalk took erotic videos of women without their knowledge. She asked whether that was correct.

Dr. Gottschalk stated that that's what the consent agreement says, but that's not exactly correct.

Dr. Egner stated that that's what he admitted to in the consent agreement.

Dr. Gottschalk stated that he wasn't going to bring that up, but it is something he would like to address at a later date.

Dr. Egner stated that that's what he admitted to. He also did it with the daughter of someone who was living in his home. Dr. Egner stated that that's not quirky behavior, and it's not "oh, the standard is really high that I now have to meet;" that's immoral. It is completely unethical. He wasn't asked to meet a higher standard. If he can't meet this standard, he shouldn't be a physician. Dr. Egner stated that that's really the issue here. She stated that Dr. Gottschalk really makes light of what he did and indicates that he

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didn't know that people were thinking that physicians should be better than a plumber. Dr. Egner stated that they should be, but added that she doesn't even want her plumber doing this.

Dr. Gottschalk stated that he had disagreed with the findings with his attorney, and his attorney said that that was the best that he could do as far as the wording. The instances of the video recordings were not surreptitious, and there were only adult females involved in that. What he actually did that got him in trouble is not even mentioned in the findings. Dr. Gottschalk stated that he agrees that what is written in the consent agreement is unethical and immoral. It's not illegal behavior. He commented that, if using videotape or that type of thing in a sexual way is illegal, then a lot of adults consensually...

Dr. Egner stated that it is illegal if it's not consensual.

Dr. Gottschalk stated that it was consensual. This all came about from talking to the counselor at the center. That's one of the problems; there was a kind of odd relationship with the counselor at the center. He went there without direction from the Board. He went there on his own. It started out like an evaluation, and then it turned into counseling, and then it went back to an evaluation. All of these behaviors he was talking about are things in the past, as he was growing, when he was in college. The main thing was that he would audiotape sexual encounters with women. Dr. Gottschalk stated that he agrees that that's immoral, unethical and boorish behavior. The videotaping was with a girlfriend and that was consensual. What he actually did that was not in the consent agreement and that actually got him in trouble involved the daughter of his live-in girlfriend. It was not an erotic encounter; it was an invasion of her privacy. A video camera was placed where she would be seen in an undressed state. Dr. Gottschalk stated that he tried to get the findings of fact corrected. His attorney didn't seem to understand the difference, and he was in Kosovo at the time.

Dr. Egner advised that now that Dr. Gottschalk has clarified that, she feels exactly the same way. She stated that she's sorry that Dr. Gottschalk doesn't. She added that she feels he is sitting here and he's not getting it.

Dr. Gottschalk stated that he gets it completely. He's not making light of it, nor is he saying that that's any better. It's actually worse.

Dr. Steinbergh stated that she asked Dr. Gottschalk if he understands why he wasn't hired as a physician in Las Vegas after his prospective employers read the consent agreement. Dr. Steinbergh stated that such things do carry over into a professional life. It increases the risk to patients.

Dr. Gottschalk stated that he didn't understand that before, but he does now. Every aspect of his life has been affected by this: Financial, professional, personal. He's been humiliated in front of his colleagues and his patients, and he's embarrassed his partners and his family. Dr. Gottschalk stated that he doesn't want to seem like he's making light of it, but at the same time he still feels like he can practice medicine and he's able to practice medicine. He was practicing medicine for six months in Kosovo.

Dr. Steinbergh stated that Dr. Gottschalk is talking about the skills that doctors learn, and the academic approach of caring for patients. She stated that she understands what he's saying, but the Medical Board's

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mission is one of public protection. The Board has to have this conversation for a lot of different reasons, and in his case, it's for this reason. When the Board has to discipline a licensee, it's very serious to them. She stated that no one is going to take away his medical degree; he did, in fact, earn that academic credential. But Dr. Gottschalk's ability to practice with that degree is going to be significantly limited because of his actions. Dr. Steinbergh stated that it is a privilege to practice medicine; it is not his right. Dr. Steinbergh stated that the Board knows that he can practice medicine because of his degree and because of his training, but the Board isn't sure that it wants to allow him to. That's the difference and what he has to think about. The Board sets the bar high for the privilege of practicing medicine in this state.

In response to Dr. Kumar's questions, Dr. Gottschalk stated that he is single and has never been married.

Mr. Albert commented that Dr. Gottschalk keeps bringing up his service in Kosovo. He stated that Dr. Gottschalk is not going to get any pity from him for that, stating that he, himself, served in World War II and in Korea. Mr. Albert stated that he can guarantee Dr. Gottschalk that if this ever happens again, he will never practice medicine in the State of Ohio again.

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

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

The motion carried.

TAMMY M. HABERBERGER, D.O.

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

In response to Dr. Steinbergh's questions, Dr. Haberberger stated that she does understand her consent agreement. She was convicted of Disorderly Conduct in Columbus in 2002. Dr. Haberberger stated that

she does now understand the rules concerning the prescribing of Controlled Substances. She commented that she's read every rule ever written on that topic since that time.

Dr. Steinbergh commented that the dual diagnosis of impulse control disorder and attention deficit is no small matter for any physician. She noted that an emergency room physician has to make decisions very quickly and very accurately, and this concerns her. Dr. Steinbergh asked Dr. Haberberger where she is in the process of improving her own self-control.

Dr. Haberberger stated that the process didn't just start with the June 8 agreement. It was questioned when she was a young child. She was tested as a young child, and was told that she just needed to have something in which she was interested. She always had a high IQ, but she didn't want to pay attention in class. She didn't have any trouble from about her sophomore year on. She always did well in school, never had trouble studying, always got a 4.0. Where it kind of came into play was when she first came to Columbus. People have said that there's no way that she could have gone through all her education, went to medical school after just three years, got a 4.0 at Duquesne, be near the top to middle of her class, and have ADHD. Then other people question it. From her standpoint, she's dealing with this on a regular basis with her psychologist, too. He gives her articles to read, and they talk about them. The one thing she's learned from this is that she became a doctor when she was 24 years old, and she feels that her problems were more a result of immaturity than ADHD. She noted that she didn't go through the normal phases she was supposed to go through. She didn't party in college or high school. She's not sorry that she didn't do that, but this is the only way she learned that lesson. Dr. Haberberger stated that you grow up really fast when someone threatens to take away your whole life.

Dr. Haberberger stated that if the Board were to speak to people who knew her two to four years ago, they would ask, "who is this person I'm talking to right now," because she's so dramatically focused on how to grow up. She's been to several psychiatrists, at least eight, and done everything they asked her to do. They tried medicine and that didn't work. Dr. Haberberger again stated that her conclusion would be that there is a lot of immaturity there. All of the sudden she's this figure in the community who's supposed to know everything, and she has people who are 60 years older than her, much wiser than her, coming to her. That was a lot to handle initially, and she probably handled it by acting out a little bit more.

Dr. Haberberger stated that she did all the things in the consent agreement, and she's sorry for doing them, but she's not at all sorry for where she is today.

Mr. Browning asked whether Dr. Haberberger takes issue with her psychiatric diagnosis.

Dr. Haberberger stated that she does not. The only issue is that seven different people have said seven different things. Her current psychiatrist has diagnosed "something not otherwise specified, impulse control, ADD mild control and seasonal affective disorder." She agrees with that diagnosis.

Dr. Haberberger stated that she has been taking Effexor since she was 15 years old for depression during the winter months. She can't stand dreary weather and she does physically respond to that. She's been on Effexor ever since. It works for her.

Dr. Haberberger stated that the other major issues she's had have been insomnia, that may or may not have come from a car accident. She broke her neck in medical school. The neurosurgeon gave her a long list of things she may or may not have, but to be honest, she remembers having trouble sleeping back to

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childhood. Her brother and father also have insomnia. That's always been an issue for her. She was great in medical school because she could study for three days in a row without any sleep and with zero substance. She doesn't think it was an addiction problem. She needed the medicine because she couldn't fall asleep.

Mr. Browning asked whether Dr. Haberberger ever had addiction issues.

Dr. Haberberger replied that she has not. She had her first drink of alcohol when she was 23 years old.

Dr. Steinbergh asked Dr. Haberberger how she is in the emergency room.

Dr. Haberberger stated that she currently doesn't have a residency; she's been searching. She added that she thinks that she's a great ER physician. She studied all her life to be one. She thinks she's a great doctor.

Dr. Steinbergh stated that she agrees that 24 years old is simply too young to be a practicing physician. She was always concerned about five-year programs, where kids went to college, came out at the age of 21 and there they were. Dr. Steinbergh stated that she wanted to know how Dr. Haberberger felt about how she is, internally, in relationship to patient care in an emergency room setting. The impulse issue was a concern for her.

Dr. Haberberger stressed that it has never been a question about patient care. All of her attendings gave her the highest praise. She was accepted into probably 15 to 16 ER residency programs at the age of 24. She was well prepared. Dr. Haberberger stated that she used to audit national emergency medicine conferences when she was 17 or 18 years old. She spent 11,000 hours with an ER attending in the emergency department before she ever went to medical school, shadowing him all along the way. That was her life. It was something that she'd always known. No one has ever brought to her attention that it's interrupted patient care.

Dr. Kumar asked Dr. Haberberger about the disorderly conduct conviction.

Dr. Haberberger stated that she was living with one of the nurses at her hospital, the nurse's husband and their four kids, sort of helping to be a nanny for the kids. The husband was a young guy, struggling to do part-time jobs and so on and so forth. Dr. Haberberger commented that she loves kids. She lived there about a year, and an issue of the nurse's infidelity to her husband arose, and she wanted Dr. Haberberger to cover for her. Dr. Haberberger stated that she confronted the nurse on this particular evening and told her she wouldn't be part of this game anymore and that she was moving out. The next thing she knew, her head hit the wall of the hallway and the nurse was repeatedly beating her to a pulp in the hallway. Her nose was broken, she had a minor closed head injury. Dr. Haberberger stated that she doesn't even remember it happening. The nurse then called the police, who came and took her to jail for disorderly conduct. The judge saw all the pictures, heard the entire story and was extremely angry with how it went about. Her lawyer advised her to negotiate down to a disorderly conduct, stating that it would be off her license in a year, and it's not that big of a deal. Dr. Haberberger continued that she chose to not press charges against the other woman, and that person was never questioned about the situation.

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Dr. Haberberger continued that when she went to her DME's office the following day, she had been beaten to a pulp and he had his security take pictures. There wasn't a part of her body that wasn't bruised. The DME immediately called over to where the nurse was working and asked security to go see her. They went and saw her and said that she didn't have a mark on her. Nothing ever happened after that. That's when she started her probation.

**DR. KUMAR MOVED TO CONTINUE DR. HABERBERGER UNDER THE TERMS OF HER JUNE 8, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. SAXENA SECONDED THE MOTION.**

Dr. Robbins asked Dr. Haberberger what she does for fun.

Dr. Haberberger stated that she loves to rollerblade, lift weights, jog, watch movies, and she loves reading forensics on the Internet. She added that forensics is her favorite thing in the world. She stated that her undergrad degree was in psychology, and so she loves to do forensics. She also spends time with her family, but she lives in a very small town, and all of her friends have moved out. The only thing to do there is go to a bar, and she doesn't do that. She basically watches movies and exercises.

A vote was taken:

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

The motion carried.

STEPHEN BARRY LEVITT, M.D.

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

In response to Dr. Kumar's questions, Dr. Levitt stated that he understands his consent agreement and doesn't have any questions concerning it. Dr. Levitt advised that he's sorry for anything that he did. He's in the midst of doing his community service, seeing indigent patients in Dayton as part of his consent

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agreement. Dr. Levitt stated that everything is going along well. He's seeing these patients at three different locations: Two in Montgomery county and one in Miami County. He's turned in a list of 84 patients he's seen.

Dr. Kumar asked whether he's seeing 84 separate patients, or if he's counting each time he sees a patient, whether or not it's a revisit.

Dr. Levitt stated that they are counted by patient visits. He added that most of them are in the initial phase and haven't been back for repeat visits.

In response to Dr. Robbins questions, Dr. Levitt stated that he's single and has four dogs.

In response to Dr. Egner's questions, Dr. Levitt stated that he's seen 80 indigent patients since June. He sees them during his regular patient visits. He sent out letters to most of the indigent clinics in Dayton, telling them that he would see any patient that they have with a dermatological problem at no charge. He may see three one day and none the next. He sees whoever is referred to him by the clinics. He stated that he must see 200 such patients within a year and a half. He's way ahead of schedule.

In response to Dr. Talmage's questions, Dr. Levitt stated that he does mainly general dermatology. He does a very small amount of cosmetic dermatology. He's in a group of nine dermatologists, and he's a general dermatologist.

Dr. Talmage asked whether Dr. Levitt has found an ethics course to attend yet.

Dr. Levitt stated that he has submitted a course prepared by the head of the Ethics Dept. at Xavier University, and they're waiting for approval in order to start that.

Referring to Dr. Levitt's admission to having "notarized" a document, despite the fact that he was not a notary public, Dr. Buchan asked Dr. Levitt for an explanation. Dr. Levitt stated that he had a power of attorney for his father, who is a notary. He added that he thought that he was allowed to notarize with that power of attorney. Dr. Levitt stated that a notary does not say what is in the document, he just notarized the signature. Dr. Levitt stated that he has since learned that you can't notarize with a power of attorney.

Mr. Browning asked whether Dr. Levitt used someone's notary stamp.

Dr. Levitt stated that he used his father's stamp. He thought the power of attorney authorized that. He again stated that he wasn't validating what was in the document, only the signature on the document.

Several Board members expressed disbelief that Dr. Levitt would reach the conclusion that he could notarize documents under his power of attorney.

Mr. Browning commented that, had Dr. Levitt's father been an attorney, Dr. Levitt wouldn't have thought that he could practice law under the power of attorney.

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Dr. Levitt agreed, but added that he's asked a number of attorneys whether someone who holds an unrestricted power of attorney for a notary can notarize something, and several of them didn't know that answer.

In response to Mr. Browning's questions, Dr. Levitt stated that his view is that it was an honest mistake on his part. All he did was authorize the individual's signature.

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

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

The motion carried.

THOMAS GEORGE OLSEN, M.D.

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

In response to Dr. Steinbergh's questions, Dr. Olsen admitted that he made an error in judgment during a difficult domestic relations situation. He regrets that decision.

Dr. Steinbergh noted that Dr. Olsen also failed to advise the Board of a DUI on his license renewal application. She commented that that has to be a big lesson.

Dr. Olsen stated that it is a big lesson. He stated that he really thought that a DUI was a traffic violation and did not classify as a misdemeanor. He should have looked at that more closely.

Dr. Steinbergh asked whether the question on the license application was unclear to him.

Dr. Olsen stated that he doesn't recall exactly what was asked. He stated that he knows that he didn't put a lot of thought into it, and that was his error.

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Dr. Steinbergh commented that she thinks that a lot of doctors do that by mistake. It registers to them that it's not important; but it registers to the Board as being very important. The lesson to all physicians is to be as honest as they can possibly be on their applications.

Dr. Olsen agreed.

In response to Dr. Robbins' questions, Dr. Olsen stated that he has six children, the oldest being 26 and the youngest are seven-year-old twins. He sees the twins a lot.

Dr. Kumar asked Dr. Olsen how many free patient visits he has had so far.

Dr. Olsen stated that he believes his records, which he submitted to Ms. Bickers, indicate that he has seen a little over 100 patients. He does his differently than Dr. Levitt does. He takes one afternoon and he sees the patients that have come to the practice through their notification to the individual clinics in Dayton. He spends one afternoon a week, and he has seen a little over 100 patients so far. He has to see at least 600 in one and a half years.

In response to Dr. Buchan's questions, Dr. Olsen stated that he occasionally has a drink now. He drinks less than he did five years ago.

Dr. Buchan stated that upwards of 90 plus percent of people who have a DUI today are impaired. He stated that that's not a new statistic. In the 1970s that statistic was less than 10 percent. Today the standards are different, the consequences of that choice are severe, and people are usually more guarded. People who have DUIs today catch the Board's attention because, possibly, they're not in control. Dr. Buchan added that Dr. Olsen's bad choice of having Dr. Levitt notarize a statement with false information in it speaks to itself.

Dr. Saxena asked whether Dr. Olsen has taken a personal ethics course.

Dr. Olsen stated that he and Dr. Levitt have submitted a course for approval. He noted that the individual at Xavier University has prepared the course required by the consent agreement, and they will be taking that.

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

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

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

The motion carried.

BARBARA JEAN WILLOWS, D.O.

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

In response to Dr. Davidson's questions, Dr. Willows stated that she is doing very well, and she is relieved to be here to get a tremendous amount of guilt off her chest for the errors that she's made: The OMVI in 2002, which she didn't report to the Board; and she was dishonest on her renewal application by not admitting her misdemeanor. Dr. Willows stated that that has weighed very heavily on her. Dr. Willows stated that she's glad to relieve the burden.

Dr. Egner stated that the Board appreciates Dr. Willows' honesty today.

Dr. Buchan stated that the Board doesn't forgive and forget, but it does forgive and move forward. He asked Dr. Willows how she's feeling.

Dr. Willows stated that she's feeling very well. She stays quite busy with three A.A. meetings a week, a Caduceus meeting a week, which is her favorite, and one Parkside aftercare meeting a week also. It's putting her in contact with a great number of very interesting people from all walks of life. She truly enjoys that. She's also seeing a therapist for individual counseling, and she and her husband are undergoing marital counseling.

Dr. Buchan asked Dr. Willows how long she's been impaired.

Dr. Willows stated that she can't answer that.

Dr. Buchan asked whether she's ever participated in aftercare before this event.

Dr. Willows stated that right after her OMVI in 2002 she called Parkside right away and they didn't have any available beds. They tried Talbot Hall, which also had no available beds. She then entered the intensive outpatient care program at Talbot Hall. Dr. Willows stated that she certainly learned never to drink and drive from Talbot, but that is all she learned. She has incredible recommendations in terms of Parkside. It was probably one of the best things that ever happened to her. She was very happy to go there, because she thinks she was on a slippery slope, and that brought it all to a head.

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In response to Mr. Albert's questions, Dr. Willows stated that she did have inpatient treatment for 28 days at Parkside. It had terrible food and an uncomfortable bed, but the counselors there were tremendous.

In response to Dr. Buchan's questions, Dr. Willows stated that she did drink socially after treatment, but not since signing her consent agreement. She went to A.A., as required by the Bureau of Motor Vehicles, for a certain number of months. She stated that she rather enjoyed it and continued going for about a year. Dr. Willows stated that she believes that she was in denial that she had a problem. She just knew that she shouldn't drink and drive. She stopped going to A.A. when she started social drinking, because to go A.A. you have to want to stop drinking. That's why she stopped going. That was a bad mistake. Her last drink was at the last staff meeting of her family practice, which was June 2, 2005.

Ms. Gilbert pointed out that Dr. Willows went through inpatient treatment this year. That is not addressed in her Step I agreement, but will be addressed in her Step II agreement.

Dr. Willows indicated that her first treatment was at Talbot Hall's outpatient program, which is not a Board-approved program, and she understands why it is not.

Dr. Buchan asked whether Dr. Willows is in agreement with the concept that she can't drink socially.

Dr. Willows stated that she is.

In response to Dr. Saxena's questions, Dr. Willows stated that she had a dual diagnosis. She is taking medication for her depression, and she finds that, if she doesn't drink, she's not depressed. She can't blame anything as being the reason for her drinking. There are precipitating factors, including marital problems, financial problems, and her mother dying. She is totally responsible for her drinking.

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

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

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The motion carried.

Dr. Steinbergh explained that Dr. Willows is a colleague, and she therefore abstained.

PAUL PO-TSANG YANG, M.D.

Dr. Yang made his initial appearance before the Board, pursuant to the terms of the Board's Order of April 14, 2005.

In response to Dr. Davidson's questions, Dr. Yang stated that things have been going pretty well for him. He has recently contacted Dr. Schick at Xavier University, who is going to prepare a course outline for the Board's approval. He's supposed to start the course in January since Dr. Schick has four other physicians before him on her schedule.

In response to Dr. Buchan's questions, Dr. Yang stated that he incorrectly responded to a question on his application concerning suspensions or denial of privileges. Dr. Yang stated that he was working at Kaiser Permanente in Westminster, Colorado, and he was put on paid administrative leave. That was interpreted as a suspension. He was put on paid administrative leave because he had some issues with staff, resulting in adverse interactions.

In response to Dr. Steinbergh's questions, Dr. Yang stated that he's still working in Wilmington, OH. His practice is going very well there. He advised that he does feel that he can learn from the events in Colorado. He stated that he was stressed at the time, but that's not an excuse. He needed to learn how to get along better with staff. He feels that his relationships with the nurses and medical assistants here in Ohio are good. He's had performance evaluations, where his employers indicated that other staff think highly of him and that they get along fine.

Dr. Steinbergh asked whether Dr. Yang discerns a difference in cultural differences between Colorado and Ohio in their approach to group behavior, respect for one another, and colleagues and coworkers.

Dr. Yang stated that he finds the atmosphere in Ohio to be much more collegial. He finds that the people here are much more supportive. He's also learned to adapt. He realizes that what he did in Colorado was inappropriate. He agrees that physicians have to uphold a higher standard in terms of professional conduct. He added that he does think that there was a different culture involved in Colorado. He was working in an HMO, and, in hindsight, he probably would have left that practice at some point anyway, not just because of his staff interactions, but because of his concerns about the care being delivered at the place. He advised that when he began work in Ohio, his bosses were very forthcoming about what was expected of him. He did not have that experience in Colorado. His Ohio bosses did know about his problems in Colorado.

Dr. Kumar stated that Dr. Yang has indicated that he felt that he was being treated differently from other physicians in Colorado. He asked whether Dr. Yang now thinks that that was correct thinking on his part.

Dr. Yang stated that he does think that there was different treatment for different physicians at the facility.

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He will always believe that. Dr. Yang stated that he also has a personal belief that there were certain individuals there who did not care for him and were not sad to see him leave because of any potential threat he might have posed to their position as either a team leader, supervisor or physician in charge.

**DR. KUMAR MOVED TO CONTINUE DR. YANG UNDER THE TERMS OF THE BOARD'S ORDER OF APRIL 14, 2005, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

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

There were no requests to consider a matter separately.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH: MOHAMMAD A. ADAS, M.D.; MARK L. ALLEN, M.D.; NICHOLAS C. DIAMANTIS, M.D.; DARRELL A. HALL, M.D.; JEANNE M. KIRKLAND, M.D.; GRANT F. KOHER, D.O.; TIMOTHY S. KRESS, M.D.; ROBERT E. MARSICO, JR., M.D.; MICHAEL J. O'BRIEN, D.O.; THOMAS R. PICKETT, P.A.; NYKOLAI VASIL PIDHORODECKYJ, M.D.; ROBERT S. REEVES, JR., M.D.; MARK ALLEN RENZ, M.D.; LAWRENCE B. ROTHSTEIN, M.D.; AHMAD SHAHAMAT, M.D.; CHRISTOPHER S. SHAW, M.D.; ROBERT D. SMARSCH, D.O.; DAVID P. SPEARS, D.O.; JEFFREY W. WINHOLT, M.D.; VIRGINIA C. WOODROW, M.D.; JOHN F. ZAK, D.M.D., M.D.; DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:**

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- TO APPROVE CY D. YOUNG, D.O., TO SERVE AS CHARLES B. BERTANI, D.O.'S MONITORING PHYSICIAN, WITH 20 CHARTS REVIEWED PER MONTH;
- TO GRANT ROBERT R. BRIGHTWELL, D.O.'S REQUEST TO DISCONTINUE HIS ANTABUSE REQUIREMENT;
- TO APPROVE RALPH D. WADE, D.O., TO SERVE AS JASON V. CHURCH, M.D.'S SUPERVISING PHYSICIAN; AND TO ACCEPT THE DRUG SCREENING PROCESS CONDUCTED BY COMPASS VISION;
- TO APPROVE RONALD A. SACHS, M.D., TO SERVE AS L. JEAN COOPER, M.D.'S TREATING PSYCHIATRIST ONLY;
- TO APPROVE RICHARD R. DELAFLOR, M.D.'S REQUEST TO REDUCE HIS A.A. ATTENDANCE REQUIREMENT FROM FIVE PER WEEK TO THREE PER WEEK;
- TO APPROVE PETER FRAGATOS, M.D.'S REQUEST TO REDUCE HIS REQUIRED COUNSELING SESSIONS TO ONCE EVERY SIX WEEKS;
- TO APPROVE PABLO D. HERNANDEZ, M.D., TO SERVE AS MARK T. HALLE, M.D.'S NEW MONITORING PHYSICIAN;
- TO APPROVE JORDAN E. HOPKINS, M.D.'S REQUESTS TO DISCONTINUE HIS ANTABUSE REQUIREMENT, ELIMINATE HIS WORK HOUR RESTRICTION, REDUCE HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS, AND TO REDUCE HIS DRUG SCREEN REQUIREMENTS TO TWO PER MONTH;
- TO APPROVE ADAM S. MARTIN, M.D.'S REQUESTS TO DISCONTINUE HIS DRUG LOG REQUIREMENT, AND TO REDUCE HIS A.A. REQUIREMENT TO AT LEAST TWO MEETINGS PER WEEK, WITH A MINIMUM OF TEN PER MONTH;
- TO APPROVE MELANIE B. KORN, M.D., TO SERVE AS WILLIAM O. MURTAGH, JR., M.D.'S TREATING PSYCHIATRIST;
- TO GRANT ERDULFO PAZ PAAT, M.D.'S REQUEST FOR APPROVAL OF CASE WESTERN RESERVE UNIVERSITY'S *INTENSIVE COURSE IN MEDICAL ETHICS AND PROFESSIONALISM* AS FULFILLING PARAGRAPH B.4. OF THE BOARD'S ORDER OF MARCH 10, 2004;
- TO DISCONTINUE THE CHART MONITORING REQUIREMENT OF THOMAS A. RANIERI, M.D.;
- TO APPROVE MICHAEL J. BONITATI, M.D., TO SERVE AS GEORGE A. SOUTHIERE, JR., M.D.'S NEW MONITORING PHYSICIAN; AND

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- **TO GRANT ROBERT JOHN VAN KIRK, JR., M.D.’S REQUEST FOR APPROVAL OF CASE WESTERN RESERVE UNIVERSITY’S *INTENSIVE COURSE IN MEDICAL ETHICS AND PROFESSIONALISM*.**

**DR. STEINBERGH FURTHER MOVED TO APPROVE PATRICK DENNISON, D.O.’S REQUEST FOR APPROVAL OF CASE WESTERN RESERVE UNIVERSITY’S *INTENSIVE COURSE IN MEDICAL ETHICS AND PROFESSIONALISM* TOWARD FULFILLMENT OF HIS REQUIREMENTS FOR REINSTATEMENT OF HIS LICENSE.**

**DR. STEINBERGH FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT “A”, THE P.A. APPLICANTS LISTED IN EXHIBIT “B”, AND THE P.A. UTILIZATION PLANS SUBMITTED BY THE FOLLOWING: ADVANCED LAPAROSCOPIC BARIATRIC SURGERY; COMMUNITY HEALTH PARTNERS; DIGESTIVE HEALTH CARE CONSULTANTS; HOLMES FAMILY PRACTICE; DON-EUN LEE, M.D.; LIFE STAGES FAMILY CARE SPECIALISTS; MID OHIO MEDICAL SPECIALISTS; NAEEM LUGHMANI, M.D.; OSU DEPT. OF MEDICINE; MARY SCOTT, M.D.; TIMELESS SKIN SOLUTIONS; TOLEDO CLINIC INC. – ORTHOPAEDICS; TOLEDO RADIATION ONCOLOGY; WADSWORTH RITTMAN AREA FAMILY PRACTICE; AND STEPHEN WATSON, M.D. DR. TALMAGE SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

## REPORTS BY ASSIGNED COMMITTEES

### EXECUTIVE COMMITTEE

Dr. Davidson stated that the Executive Committee recommends sending Mr. Whitehouse to two courses: *Leading with Vision, Value & Strategy*, to take place October 18 through 21 at Ohio University; and *Measuring Performance: How Well Are We Doing Our Jobs?*, to take place November 2 through 5 at the

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Citizen Advocacy Center Annual Meeting in Denver Colorado.

**DR. DAVIDSON MOVED TO AUTHORIZE MR. WHITEHOUSE TO ATTEND THE TWO COURSES. DR. BUCHAN SECONDED THE MOTION.** Mr. Browning abstained, all other members voted aye. The motion carried.

Dr. Davidson advised that Ms. Lubow has announced that she is leaving the Board's employ. Ms. Lubow will be transferring to the Attorney General's Office. Dr. Davidson stated that the Board will be sorry to lose Ms. Lubow, and added that her 21 years of institutional memory will not be easily replaced. She stated that she hopes to have a luncheon in the next week or so in Ms. Lubow's honor, and hopefully some of the local Board members can attend.

Dr. Egner asked when Ms. Lubow is leaving.

Mr. Whitehouse stated that Thursday, September 22, will be her last day.

Dr. Steinbergh stated that Ms. Lubow will be sorely missed, especially by those who have been on the Board for many years. Ms. Lubow supported the Board, helping in all its endeavors, including the preparation of lectures. Ms. Lubow has been very creative in her writing. She stated that Ms. Lubow has helped to guide the Board throughout each meeting and Board deliberations. She very frequently was someone who helped to keep the Board on point. Dr. Steinbergh stated that she doesn't feel that Ms. Lubow is someone who can be easily replaced. She stated that she will miss Ms. Lubow, and she wishes her well.

Dr. Buchan concurred, stating that Ms. Lubow has left an indelible mark, and he appreciates Ms. Lubow's efforts. He stated that he hopes that the Board will have the opportunity to show its appreciation. Dr. Buchan added that Ms. Lubow won't be replaced, adding that she has made a great impact, and he's personally very grateful for her presence.

Dr. Davidson reminded Board members of the retreat to be held the following day.

#### LICENSURE COMMITTEE

Dr. Robbins advised that the Committee discussed the issue of graduate medical education equivalency criteria. He stated that prior to Dr. Garg's leaving the Board, the two of them had several discussions regarding this issue. Dr. Robbins stated that the Licensure Dept. has advised that, although this doesn't involve an extreme number of applicants, it may be wise to try to streamline the process better. What the Committee would like the Board to discuss today is a possible recommendation to find equivalency if an individual seeking license in Ohio is either a member or fellow of the Royal College of Physicians. Dr. Robbins stated that there are six to seven of these colleges. He referred to information provided by Ms. Rieve which lists the requirements to become a member of the Royal College. Becoming a fellow requires training over and above that required for membership.

Dr. Robbins stated that the individual must pass an examination, similar to the U.S.M.L.E. One of crucial

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factors is the Part 2 clinical exam, also called the PACES exam. The applicant must have had at least two and a half years postgraduate training before taking the PACES exam.

Dr. Robbins stated that the Committee recommends that, if the applicant is a member or fellow of one of the Royal Colleges of Physicians, by definition being a member or fellow has the equivalent of two years of postgraduate medical education, per the Ohio statute. Dr. Buchan stated that the Committee has heard that some members of the Board also feel that someone should not come into the United States with no U.S. experience whatsoever. Trying to be sensitive to that, the Committee is suggesting that the Board require an additional one year of training in the United States. Dr. Robbins stated that this would make life easier for the licensure staff. He added that he understands from talking with some Board members that some feel that there should not be any equivalence and that everyone should be required to have two years of U.S. training. Dr. Robbins stated that he would like some definition when dealing with equivalencies, so that the issue doesn't take up as much of the Board's time as it seems to be taking up.

Dr. Talmage suggested surveying the other 50 boards to see what they do. He stated that if Ohio is the only state that finds equivalency and becomes the gateway state, it will end up with a lot of international medical graduates.

Dr. Robbins stated that he's not sure the Board has investigated the other 49 states.

Dr. Talmage suggested that the Board should be consistent with the other 49 states.

Ms. Wehrle stated that a couple of months ago the Committee did discuss this. She stated that the A.M.A. has a great chart of training requirements. She stated that there are two issues: One is the number of years of postgraduate education required for licensure, and the other is that the statutes allow the Board to find equivalency. Not all states have that latter option.

Dr. Robbins stated that he would feel better if it were finalized one way or the other. If the Board as a whole feels that there should be no equivalency, that two years of training must be done here in the United States, that's fine with him. It would stop a lot of debate during meetings. However, the Board hasn't decided that there should be no equivalency. With the door open, it becomes difficult. Dr. Robbins stated that he would be happy to go either way, and he feels that the licensure staff would also be happy to go either way; however, the Board is spending a lot of time determining these equivalency issues.

Dr. Steinbergh stated that she's glad that Dr. Robbins consulted with Dr. Garg, since he was an authority on that, and he gave the Board a good sense of what one might think about in looking at equivalency. She stated that the information provided was nicely done, but she wondered whether the Board could get the same information from some of the other countries to understand what their educational backgrounds mean, in regard to United States educational background. Dr. Steinbergh noted that the Board sees a lot of applicants from the Royal College of Physicians, but there are also a few from other countries.

Dr. Robbins stated that at this time he is not recommending that the Board find equivalence from any other countries. The only equivalent the Board has found that meets U.S. standards is the Royal College. The Board doesn't have information to evaluate the education in other countries. He stated that he believes that

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he can make the case that members or fellows of the Royal College of Physicians have the equivalence of two years of graduate medical education. He indicated that he would like to hear Board discussion as to whether or not a year of U.S. training is necessary for members or fellows of the Royal College.

Dr. Kumar stated that the staff did a great job in looking at the Royal College of Physicians, and he feels that they are equivalent. The issue becomes, if the Board finds equivalency for one college of physicians, there will be applicants coming in from other countries. What happens if a particular individual presents documents that are almost equal. Would the Board look at those as equivalent, or will it just blankly deny admission. He stated that that is a concern if the Board opens the door to equivalency.

Dr. Kumar stated that, personally, he finds that allowing approval of equivalency does serve a purpose and should be allowed. However, even if they have equal education and training, the laws of practicing, the types of practicing, the different pain prescribing laws, etc., are totally different. Dr. Kumar expressed concern about the Board letting them just come in and start a practice. If people come in and do one year of clinical research, and they have no patient contact, he doesn't think that he would consider that as training for equivalency purposes of granting licenses. Dr. Kumar stated that he would like to have at least six months, preferably a year, of formal, clinical training.

Dr. Kumar added that he thinks that the Board should also be open to the possibility that applicants from other countries may be able to show elements that meet equivalency standards. He doesn't think that they should be totally dismissed.

Dr. Robbins stated that he wouldn't say that they would be totally dismissed. He stated that the Committee's proposal this month is a way to help simplify the situation. Others who aren't members or fellows of the Royal College would apply, just as they do now, and the Board would have to make a decision. He added that he has heard the way the Board has ruled, and most equivalencies were granted for members and fellows of the Royal College. If that's taken out, the Board has the option of granting equivalence, just as it has the option now. It would be a tough standard to meet, but the Board isn't saying that there's no way that they could show equivalency. The Board would have to decide on a case-by-case basis. Dr. Robbins commented that he doesn't know how the Board can delve into the training of every other country.

Dr. Saxena stated that the Board should be getting information as to what the other Boards are doing. She expressed concern about losing good physicians to other states with fewer restrictions.

Dr. Buchan stated that the Board answered the question many years ago. For many years, the Board held firm and rigid to the 24 month training issue. Fellowships didn't count, it was pretty black and white. Dr. Buchan stated that over the past couple of years, the Board has softened that position. Dr. Buchan spoke in support of requiring 24 months. He stated that he doesn't know what two and a half years of training in Edinburgh means. He doesn't know if that's an 80-hour work week or a 40-hour research time. What he does understand is that if the applicant comes to Ohio with an ACGME 24-month training program, he can approve that. Dr. Buchan stated that that's the law right now. Dr. Buchan indicated that he needs more information to understand this better. Dr. Buchan stated that he doesn't know if the Board can simplify it.

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Dr. Davidson stated that Ms. Rieve has prepared a large packet of information about the equivalency issue, and she encouraged Board members to look at it. She stated that Dr. Varyani brought up the question of whether or not a physician from Ohio would be able to go to England to practice. The Committee is also going to look into that issue. The Committee will also provide the Board with a chart of what other states do. The Committee will also continue to push the Federation to work on uniform standards for international medical school evaluations.

Dr. Davidson stated that the Board needs to initiate discussion with the medical schools to get a better relationship. She stated that those schools want easier licensure for their international graduates. They'll work with the Board, but they will also go to the Legislature to get it done.

Dr. Steinbergh stated that there has been a lot of discussion through the International Association of Medical Regulatory Authorities (IAMRA), the Federation's international group, and she feels that the Board should be able to query them at this point.

Ms. Wehrle stated that the Board staff has, and added that they've been helpful in finding the information about the Royal College.

Dr. Steinbergh stated that if the Board takes a look at the types of people that are applying, the Board may be able to narrow it down to a couple of groups and solidify that. The Royal College members and fellows are clearly the big group. Dr. Steinbergh noted that the Board is always getting pressure from the Cleveland Clinic and other large institutions who need some of these doctors on staff, and who want to get them licensed. Dr. Steinbergh stated that the Board needs to be more flexible. If the universities want to be able to attract international graduates, and they believe that these graduates can add something to their programs, the Board will have to be more flexible. Dr. Steinbergh stated that the Committee is looking in the right direction in terms of looking at this issue.

Mr. Browning stated that, essentially, the Board is trying to quantify its own standards and then evaluate the Royal College and others to see how they compare. His question is whether the Board has the capacity on staff to do that or does the Board need to find someone else to do it. He stated that you can write down the information the Board staff has gathered, but what does it mean. The Board doesn't know what the Royal College's written examination is and how it equates to Ohio's standard.

Dr. Varyani stated that he believes that he, Dr. Kumar and Dr. Saxena know what the English exams are like. He added that, more and more, there appears to be a shortage of physicians in the United States. Everybody is recruiting physicians from other countries. The Cleveland Clinic and University Hospitals all want physicians to come. He suggested that the Board be a little pro-active now.

Mr. Browning stated that someone has to turn this into a project and comb through it on both sides: Quantify it and measure it.

Dr. Kumar stated that it obviously will be a very difficult, time-consuming process. If the Board is going to require a year of U.S. exposure, why not require two years?

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Dr. Robbins stated that there are a couple of applications coming up, one at Cleveland Clinic and one at Children's Hospital in Cincinnati. These are world-renowned people who don't have two years of U.S. training. The institutions want to bring these high-powered people into the state to run programs and they want them to have licenses.

Dr. Varyani stated that two months ago the Board gave a license to such an individual who is now Chairman of Medicine at the Cleveland Clinic.

Dr. Robbins stated that he's told one caller that, if the applicant is the greatest bariatric surgeon in the world, and he's been in the United States for a while, it's incredible that he's not boarded.

Mr. Albert asked if that individual is from the Royal College.

Dr. Robbins stated that he was. In that situation, the policy the Committee is proposing would apply. The applicant could get a visiting faculty certificate for a year, and then have the year's experience in the United States.

Mr. Albert asked what would happen if the applicant was from Berlin.

Dr. Robbins stated that the Board has such an application today. Based on what has been provided, the Board doesn't have enough information upon which to act.

Mr. Browning stated that it sounds like the Board is leading with the Royal College, when, in fact, it should be leading with clarification about measurable criteria. If institutions' meet or exceed that criteria, they would be eligible.

Dr. Steinbergh asked who measures that.

Mr. Browning stated that that's the problem. That is why he questions the capacity of the Board to determine this.

Dr. Davidson stated that the Board is obviously not going to decide anything on this right now. The questions on the table are for next month.

Dr. Buchan asked whether the Board can get ACGME's requirements and maybe get a handle on some of those measurable quantitative issues.

Dr. Steinbergh suggested that this has been done.

Ms. Wehrle stated that it has.

Ms. Schmidt advised that the ABMS has a chart of what it will accept as equivalent training. The Royal College is included on that chart.

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Dr. Davidson asked that that information be provided to the Board.

Dr. Robbins at this time advised that the Committee also reviewed some applications.

Betty B. Bibbins, M.D.

Dr. Robbins advised that Dr. Bibbins application was presented to the Committee because Dr. Bibbins has not been engaged in the active practice of medicine since December 1997. The Committee recommends requiring her to pass the SPEX or recertification examination for licensure.

**DR. KUMAR MOVED TO APPROVE DR. BIBBINS' REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, AND CONTINGENT UPON HER PASSING THE SPEX OR THE RECERTIFICATION EXAMINATION OF THE AMERICAN BOARD OF OBSTETRICS AND GYNECOLOGY. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

David C. Epstein, M.D.

Dr. Epstein's request for endorsement licensure was considered by the Committee. Dr. Robbins noted that Dr. Epstein has not been engaged in active practice since June 1989.

**MR. BROWNING MOVED TO APPROVE DR. EPSTEIN'S REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, AND CONTINGENT UPON HIS PASSING THE SPEX OR THE RECERTIFICATION EXAMINATION OF THE AMERICAN BOARD OF ANESTHESIOLOGY. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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Vote:

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

The motion carried.

Peter J. Keim, M.D.

Dr. Keim's request for endorsement licensure was considered by the Committee. Dr. Robbins noted that Dr. Keim has not been engaged in active practice since November 1999.

**DR. ROBBINS MOVED TO APPROVE DR. KEIN'S REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, AND CONTINGENT UPON HIS PASSING THE SPEX OR THE RECERTIFICATION EXAMINATION OF THE AMERICAN BOARD OF FAMILY PRACTICE. DR. KUMAR SECONDED THE MOTION. A** vote was taken:

Vote:

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

The motion carried.

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Yoav Littner, M.D.

Dr. Robbins advised that Dr. Littner is a graduate of a non-LCME school who has not completed 24 months of approved training in the United States. Dr. Littner has requested that the Board consider his previous training and experience as being equivalent. Dr. Robbins noted that Dr. Littner has completed one year of U.S. training, and he stated that the Committee recommends that he be required to complete a second year for licensure in Ohio.

**MR. BROWNING MOVED TO ADVISE DR. LITTNER THAT HE WILL BE ELIGIBLE TO APPLY FOR LICENSURE AFTER HE COMPLETES 24 MONTHS OF TRAINING IN THE UNITED STATES. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

John William Sweetenham, M.D.

Dr. Robbins advised that Dr. Sweetenham is a graduate of a school that is not accredited by the LCME who has not completed 24 months of approved graduate medical education in the United States.

Dr. Sweetenham has requested that the Board consider his previous training and experience as being equivalent to the 24 months. Dr. Robbins noted that Dr. Sweetenham is both a member and fellow of the Royal College of Physicians and Surgeons of the United Kingdom. He also has a license in Arizona and a visiting professor license in Colorado. From April 2000 until August 2004, Dr. Sweetenham was Professor of Medicine in Medical Oncology at the University of Colorado in Denver. From August 2004 until the present time, he served as Professor of Medicine, Medical Oncology, at the Arizona Cancer Center. Dr. Robbins advised that the Committee recommends the Board approve Dr. Sweetenham's application.

**DR. STEINBERGH MOVED TO FIND THAT DR. SWEETENHAM'S PREVIOUS TRAINING AND EXPERIENCE IS EQUIVALENT TO 24 MONTHS OF TRAINING THROUGH THE SECOND YEAR LEVEL AND TO GRANT DR. SWEETENHAM A LICENSE. DR. SAXENA SECONDED THE MOTION.**

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Dr. Buchan spoke against the motion for reasons he expressed earlier.

Dr. Davidson stated that in this case the Board would be accepting Dr. Sweetenham's Royal College affiliation and his five years in the United States as the additional one year recommended by the Committee.

Dr. Talmage stated that he doesn't feel at all uncomfortable with granting this application.

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

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

The motion carried.

Vijaya Venkataram, M.D.

Dr. Robbins advised that Dr. Venkataram has not been engaged in the active practice of medicine since January 2003. The Committee recommends approval, subject to SPEX or recertification exam.

**DR. ROBBINS MOVED TO APPROVE DR. VENKATARAM'S REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, AND CONTINGENT UPON HER PASSING THE SPEX OR THE RECERTIFICATION EXAMINATION OF THE AMERICAN BOARDS OF INTERNAL MEDICINE OR NEPHROLOGY. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed applications for certificates of good standing from the following schools: Elmcrest College, Harmony Path School of Massage Therapy, and High Tech Institute. The Committee recommends approval of all three.

**DR. BUCHAN MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO ELMCREST COLLEGE, HARMONY PATH SCHOOL OF MASSAGE THERAPY, AND HIGH TECH INSTITUTE. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

MINIMAL STANDARDS COMMITTEE

Dr. Kumar stated that the Committee discussed the Department of Health's (DOH) draft document entitled "Ohio Department of Health Updated Recommendations for HIV, HCV and HBV Infected Healthcare Workers, 2005," and whether the Board needs to update its own rules regarding this topic. Dr. Kumar stated that, as of this time, the DOH has not finalized its document. The Committee will prepare to modify the Board's rules when the document is finalized.

LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Browning stated that the Committee discussed drafting a letter of opposition to the P.A. bills.

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Dr. Davidson referred to Mr. Whitehouse's written administrative report, a copy of which shall be maintained in the exhibits section of this journal, which states that he did send a letter of opposition to H.B. 117 to Representative Tim Schaffer, the Chair of the House Commerce and Labor Committee.

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

Thereupon at 5:28 p.m. the September 14, 2005 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on September 14, as approved on October 12, 2005.



Patricia J. Davidson, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

