

October 8, 2003

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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

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R. Gregory Browning, Ph.D., President, called the meeting to order at 1:00 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Anquetette Sloan, Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Anant R. Bhati, M.D.; David S. Buchan, D.P.M.; Deepak Kumar, M.D.; Patricia J. Davidson, M.D.; Andrew F. Robbins, Jr., M.D., Anand G. Garg, M.D., and Anita M. Steinbergh, D.O.

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

#### EXECUTIVE SESSION

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

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

The motion carried.

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

The following joined the meeting after the executive session: R. Gregory Porter, Chief Hearing Examiner; Sharon W. Murphy and Daniel J. Roberts, Hearing Examiners.

MINUTES REVIEW

**DR. GARG MOVED TO APPROVE THE MINUTES OF SEPTEMBER 10-11, 2003.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Mr. Browning announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Paul Evan Kelner, M.D., and Virginia K. Winter, M.D. A roll call was taken:

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

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

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

Mr. Browning 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.

Mr. Browning 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.

PAUL EVAN KELNER, M.D.

Mr. Browning directed the Board's attention to the matter of Paul Evan Kelner, M.D. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Kelner was accompanied to the meeting by his attorney, Eric J. Plinke.

Mr. Plinke stated that he appreciates the time and energy the Board put into reviewing this matter. He at this time introduced Dr. Kelner.

Dr. Kelner stated that he is 43 years old, and he has traveled a long road. He's fought with the disease of

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chemical dependency and he has made some poor decisions along the way. Dr. Kelner asked the Board for mercy and understanding. He stated that he has relapsed before, and a reasonable question would certainly be: what has changed? The answer to that question is that he has a personal relationship with God that he did not have before. He has faith today that was not present previously, and was particularly not present during the events that led him to coming before the Board today.

Dr. Kelner continued that, despite making some mistakes in judgment, he has worked hard at his recovery since last February. He has two twelve-step sponsors. He goes to multiple AA meetings per week. He's a caring, attentive father to his three children, and he is currently working three jobs to try to make ends meet. He will continue to do whatever it takes to maintain his sobriety and feed his children.

Dr. Kelner stated that practicing medicine is a privilege. He advised that he is a competent, empathetic physician. He has treated many patients who would attest to that. Dr. Kelner again asked for the Board's compassion and understanding, and he asked to be allowed to return to the practice of medicine in the not-too-distant future. In doing so, he will employ his spiritual growth, humility and lessons learned in the treatment of the patients that he serves. He will not let himself, the Board or God down.

Mr. Browning asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that, as the Board members have read in the Report and Recommendation, Dr. Kelner has a very long history of impairment before the Board. He had his first consent agreement in 1991, was released in 1993, relapsed for three months before he reported that to the Board in April 1996. He was in another consent agreement in June 1996, and then entered into a Step II agreement in August 1996. He completed his probation in August 2001, but relapsed again in November and didn't report the relapse to the Board until February 2002. In March 2002 he entered another Step I consent agreement. This time Dr. Kelner came to the hearing and told the Board that the reason that he had positive drug screens had been because he had taken medication given to him by a recovering girlfriend. Ms. Albers stated that for Dr. Kelner, a recovering addict, to associate with another recovering addict and take medicine given out of an unmarked bottle speaks volumes about this physician's judgment.

Ms. Albers noted that the Report and Recommendation stays a permanent revocation and suspends Dr. Kelner's license for three years. Ms. Albers stated that she thinks that this Board needs to consider how many chances it will give this physician.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF PAUL EVAN KELNER, M.D. DR. BHATI SECONDED THE MOTION.**

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that Dr. Kelner suffers from severe impairment. This was his third consent agreement with the Board. He's currently in a Step I agreement, and his license was suspended. This was his third relapse. The issue before the Board is whether it should permanently revoke his license or continue to allow him at some point to practice again. Dr. Steinbergh stated that she supports the Report

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and Recommendation, which allows Dr. Kelner to be suspended for three years, calculated from April 2, 2003, which is when he reported his relapse to the Board. Dr. Kelner then has the standard Order with regards to impairment, with a five-year period of probation upon reinstatement and probationary terms to meet. This Order would supersede the March 14, 2002 Step 1 Consent Agreement. Dr. Steinbergh stated that she agrees with this Order.

Dr. Buchan stated that Dr. Kelner is a severely impaired physician, and he doesn't believe Dr. Kelner's story. He doesn't believe that a man would take medicine out of an unmarked bottle. Because he doesn't believe he heard the truth in this case, he would be in favor of this Proposed Order, if not a more severe Order. At what point do you say, "This is it?" Dr. Buchan stated that he could and would be in favor of permanent revocation in this case. Dr. Buchan stated that Dr. Kelner was already operating under a stayed permanent revocation. He had an opportunity and he didn't take advantage of it. Dr. Buchan again stated that he doesn't believe Dr. Kelner's story, adding that the Board has heard too many stories over the years. This one is just not credible. Dr. Buchan stated that consistency is important. He would vote for this Report and Recommendation as the very least sanction, but he spoke in favor of a five-year suspension or permanent revocation.

Dr. Kumar stated that he doesn't want to repeat what has been said. He is troubled by the fact that this is a repeated occurrence for Dr. Kelner. How many strikes can the Board give him? He would be in favor of adding an automatic permanent revocation with a relapse.

Mr. Dilling reminded Dr. Kumar that due process requires that Dr. Kelner be given notice of charges and an opportunity to be heard. The "stay" part of the Proposed Order should be a message to Dr. Kelner that a violation of the terms leads him to permanent revocation of his license, but that Dr. Kelner would still be afforded an opportunity for a hearing.

Dr. Steinbergh stated that she agrees with Dr. Buchan, but she does question whether or not permanent revocation is appropriate for an impaired individual. If the Board takes a physician out of practice for a prolonged period of time, he will either come back or he won't. A long suspension is appropriate. She added that permanent revocation is devastating, but at some point it's clear that he's inappropriate to practice medicine. She is very doubtful that Dr. Kelner will be able to maintain his sobriety and return to the practice of medicine. Dr. Steinbergh added that she will go along with the majority of the Board on this case, but the length of the suspension is the answer. Being out for a long period of time is the answer. At least the Board hasn't permanently closed the door, although the March 2002 Consent Agreement was also a stayed permanent revocation. If the Board means what it says, that is what the Board would do.

Dr. Bhati stated that the issue is simple. Does the Board believe that Dr. Kelner is going to get better and function normally? Dr. Bhati stated that he's not sure, with all of the long history the Board has seen. If you look at the history, the Board has permanently revoked the licenses of physicians with three strikes against them. Dr. Kelner definitely does qualify for that decision. Dr. Buchan stated that he would be in favor of a five-year suspension in this matter, rather than three years.

Dr. Egner stated that she has a difficult time with this case because she doesn't know whether Dr. Kelner is telling the truth or not. It seems like an unlikely scenario; however, the Board doesn't have anything to say

that Dr. Kelner is lying. Dr. Egner stated that she's not in favor of prolonged suspensions. A three-year suspension is a very difficult suspension for anybody, because it will automatically require him to take the SPEX for reinstatement. He'll be far away from medicine. If he can't make it three years without a relapse, that tells the tale. Dr. Egner stated that this just wasn't clear-cut enough for her to find that permanent revocation is appropriate. Dr. Egner stated that she is in favor of the Report and Recommendation, and she spoke against a long suspension because she doesn't think it does what the Board is trying to do. If the Board feels that Dr. Kelner can be rehabilitated and returned to medicine, it ought to let him do so in a reasonable amount of time.

Dr. Steinbergh stated that the issue of whether or not to believe Dr. Kelner is somewhat inconsequential to her. She doesn't believe anything like that. Her discussion or decision does not hinge on that. The bottom line is that Dr. Kelner relapsed. If the Board is to believe that he'll be a responsible physician at some point, it has to believe that he will take responsibility for this.

Dr. Bhati referred to the mitigating circumstances mentioned in the Report and Recommendation, stating that he's not quite sure that Dr. Kelner's reporting six months after the relapse is a credible situation.

Dr. Robbins agreed with Dr. Egner. He stated that he can't be sure about the truth of Dr. Kelner's explanation, adding that, to say the least, he's pretty skeptical. He added that, if Dr. Kelner maintains sobriety for three years and then passes the SPEX and is able to do what the Proposed Order requires, he would be in favor of Dr. Kelner's returning to the practice of medicine. Dr. Robbins stated that he's not 100 percent sure that some of these actions and some of the excuses are not potentially true, and he would therefore be against the revocation, and would support the Proposed Order.

Dr. Kumar stated that one of his problems is that three years should be enough for someone to recognize what he should, but in the past Dr. Kelner relapsed five years out. That's why he has a problem with a three-year suspension. It has to be something more severe.

Dr. Bhati agreed with Dr. Kumar.

Dr. Buchan stated that he's troubled with the fact that the Board has a physician who relapsed under a stayed permanent revocation and the Board isn't going to respond as it said it would. It's troubling that the Board doesn't mean what it says.

**DR. BUCHAN MOVED TO AMEND THE MINIMUM SUSPENSION PERIOD OF THE PROPOSED ORDER TO FIVE YEARS. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Buchan stated that he feels that Dr. Kelner is a bright fellow, and there is hope and a possibility for Dr. Kelner. Based upon that possibility and the hope he has for Dr. Kelner that he would go with this longer suspension and not permanently revoke his license. He believes that Dr. Kelner can succeed, but he has taken this to the last bit of grace that Dr. Buchan can offer.

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

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

The motion carried.

Dr. Steinbergh asked whether the five years will be calculated from April 2, 2003. Dr. Buchan stated that it would.

**DR. BHATI MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF PAUL EVAN KELNER, M.D. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

VIRGINIA K. WINTER, M.D.

Mr. Browning directed the Board's attention to the matter of Virginia K. Winter. He advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF VIRGINIA K. WINTER, M.D. DR. BHATI SECONDED THE MOTION.**

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Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that this is a case of impairment. Dr. Winter was taking alprazolam for anxiety and panic attacks. At one point in 2002 Dr. Winter ordered 5200 dosage units of alprazolam. She subsequently became the focus of an investigation by the D.E.A. At the time she was investigated, she did return that which was unused, which was the major portion. She had a prescription from her physician for the alprazolam, but it was a twice-a-day dosage. Dr. Winter was taking eight to ten tablets a day, more than what her physician was prescribing. She had been using it intermittently since 1984. She was appropriate in her response. She was evaluated as an outpatient and, according to the record, has been doing fine. Dr. Steinbergh stated that she is concerned that Dr. Winter continues to use Phenergan for recurring nausea. Dr. Steinbergh stated that, in her mind, the impairment is no different.

Dr. Steinbergh stated that it's rather sad that this particular case will go into a Board Order, but Dr. Winter did plead guilty to one felony count of theft because of ordering the medications without an appropriate prescription. She got treatment in lieu of conviction. Dr. Steinbergh stated that she is in support of the Proposed Order for suspension for not less than 180 days, calculated from May 14, 2003, which also includes monitoring and probation for five years.

Dr. Robbins stated that he was stunned by the order of 5200 tablets over the phone, which, he thinks, speaks to the level of impairment of this physician. To think that that wouldn't be a red flag and wouldn't come back the way it did come back was stunning to him. He agrees that the Proposed Order is appropriate.

Dr. Bhati stated that Dr. Winter has a problem, and it's not a recent problem. It's been there since 1984. To order that much medication over the phone and charge it on her credit card, with the salesman urging her to buy more and more, shows in what bad shape Dr. Winter was. Looking at the other side of the story, a psychiatrist wrote a very nice recommendation for her, and other recommendations written were excellent. Dr. Bhati stated that he thinks Dr. Winter is in good shape now. The question is what will be achieved by a 180-day suspension.

Dr. Steinbergh stated that Dr. Winter's been summarily suspended. The Order is requiring her to complete a 28-day inpatient treatment program. She has until November to complete her requirements.

Dr. Bhati stated that she can get back to work in the middle of November. He stated that that's reasonable. He believes that she'll get the message. There will be a stayed permanent revocation in place, so the message should be clear that Dr. Winter has to stay clean.

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

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

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

The motion carried.

#### FINDINGS, ORDERS AND JOURNAL ENTRIES

##### RALEIGH SHIPP CALLION, M.D.

Mr. Browning advised that, by letter dated June 11, 2003, the Board notified Dr. Callion that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on allegations contained in the letter. The first notice not having been claimed, a second notice was mailed on July 9, 2003, and proper service was obtained. No hearing request has been received and more than 30 days have elapsed since the mailing of the second notice. The matter was presented to the Board for final disposition at this time.

**DR. STEINBERGH MOVED TO ADOPT MR. PORTER'S SUMMARY OF EVIDENCE AND PROPOSED FINDINGS, WHICH DEMONSTRATE THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE JUNE 11, 2003 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF RALEIGH SHIPP CALLION, M.D., AND TO ENTER THE PROPOSED ORDER. DR. BHATI SECONDED THE MOTION.**

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that this is another case of severe impairment. In this case, Dr. Callion didn't request a hearing. She indicated that she totally agrees with the Proposed Order of revocation. There's nothing more to be done without going to hearing.

Dr. Bhati stated that the Board doesn't have any other option in this case. If someone doesn't respond to a citation letter, it seems that he's accepted it.

Dr. Egner stated that she would consider a permanent revocation in this case. She added that, in a lot of these cases, the Board doesn't have a history with the physician and that's why it hesitates to impose the harsher sanction. The Board knows Dr. Callion very well. He has had two prior consent agreements. He was already under a Board-ordered stayed revocation when he relapsed. Dr. Callion didn't ask for a hearing and he knew that he was under an Order that put him in jeopardy of losing his license permanently.

Dr. Kumar noted that Dr. Callion was sober for seven years and then relapsed. He stated that a revocation

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is appropriate in this matter.

Dr. Buchan stated that, under the circumstances, he would agree with the Order, as written. He stated that he respects the permanency issue, but spoke in support of allowing Dr. Callion the hope of regaining his license somewhere down the road.

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

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

The motion carried.

ABDULHASSIB RASLAN, M.D.

By letter dated December 11, 2002, the Board notified Dr. Raslan that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio, based on allegations contained in the letter. Proper service of the notice of opportunity was obtained. A hearing request was received, but it was not received in a timely manner. The matter was presented to the Board for final disposition at this time.

**DR. STEINBERGH MOVED TO ADOPT MS. MURPHY'S SUMMARY OF EVIDENCE AND PROPOSED FINDINGS, WHICH DEMONSTRATE THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 11, 2002 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF ABDULHASSIB RASLAN, M.D., AND TO ENTER THE PROPOSED ORDER. DR. BHATI SECONDED THE MOTION.**

Mr. Browning stated that he would now entertain discussion in the above matter.

Dr. Egner stated that the Board has a lot of information in this case, considering there was no hearing. She stated that she believes the Board can make some conclusions. She stated that she would like to review this case, patient by patient. There are some things upon which she agrees with the expert, and there are some upon which she doesn't agree. She added that, although she thinks that there should be some changes to the findings of fact, she agrees with the Proposed Order. She doesn't find any reason to change the Order.

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Dr. Egner referred to Patient 1 and stated that she agrees with the expert that the patient should have been placed on magnesium sulfate and that the patient qualified as a severe preeclamptic. The other problem is that Dr. Raslan's discharge summary did not adequately reflect the events. Dr. Egner stated that she disagrees with the expert that the patient should have been transferred out. She believes that Dr. Raslan probably practiced in an area where transferring the patient out was not an easy thing to do. Dr. Raslan is a Board-certified OB/GYN and should be able to take care of a set of twins at 34 weeks with severe preeclampsia.

Dr. Egner stated that Patient 2 was a patient who delivered at 37 weeks by forceps. The expert felt that the forceps delivery should not have been done because the nurse says that the patient is pushing adequately. Dr. Raslan did not feel that the patient was pushing adequately, and the patient does have decelerations of the fetal heart rate when pushing. Dr. Egner stated that if the doctor feels that the patient is not pushing adequately, she believes he is the best judge of that. She does not agree with the State's expert on this case.

Dr. Egner stated that Patient 3 was a very complicated scenario, and the Board would benefit from having more information. This was a twin gestation with polyhydramnios and the possibility of a twin-to-twin transfusion. Twin "A" has hydrops and Twin "B" is delivered as an intrauterine fetal demise. The State's expert felt that the patient should have been transferred because of the high-risk nature of the pregnancy and the polyhydramnios. Dr. Egner stated that she doesn't feel that polyhydramnios alone should have made this patient be transferred, but early on there was a lot of thought that these were monoamniotic twins, meaning both babies in the same sac. Those are always sites for disaster. At 23 weeks they see a membrane; but even so, Dr. Raslan should have known that this was a setup for a very complicated pregnancy, and at the very least he should have had a consult from a perinatologist.

Dr. Egner stated that her problem is that she can't tell from the record who does the ultrasounds. In some of the previous patients, it appears the doctor does the ultrasounds, but she can't tell who did this. Dr. Egner stated that that is a crucial factor in the Board's making a decision. She added that Dr. Raslan probably shouldn't be doing an ultrasound on twins thought to be monoamniotic. They just run into too many problems. If Dr. Raslan is sending them someplace for ultrasounds, you expect those doing them to be expert, with a radiologist reading them. If someone didn't pick up on a baby that was hydrops, that in itself was a major problem. She doesn't think that the Board can ask Dr. Raslan to be better than a radiologist. Dr. Egner added that she doesn't know that to be the case. She stated that she doesn't think that Dr. Raslan had the knowledge or expertise to read the ultrasounds in this case, and he should have known that.

Dr. Egner stated that, concerning Patient 4, the State's expert found an inappropriate use of the Mityvac Vacuum Extractor. The facts of the case are a bit inconsistent in that sometimes you think the patient is pushing at nine cm and getting fundal pressure, and other times you think she's ten cm. Dr. Egner stated that the head was not well engaged, and it certainly was not a vacuum extraction type of delivery that should have been tried. Dr. Raslan had a good outcome because he aborted that and went to an emergency section, but he really shouldn't have put that vacuum on to begin with.

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Dr. Egner stated that Patient 5 is a Caesarean Section done, and the State's expert feels that Dr. Raslan did not have adequate anesthesia at the time that he did the section, although the section itself is indicated. Dr. Egner stated that she doesn't know that she knows the answer to that question. She noted that Dr. Raslan put in his operation notes, "she tolerated it fairly well." Dr. Egner stated that she thinks that the standard of care for a Caesarean section should be that the patient doesn't feel it at all. Unless Dr. Raslan felt that he was going to lose the baby, he shouldn't have gone in without adequate anesthesia. The C.R.N.A. doesn't even get there until after the baby is out. Dr. Egner stated that she could see where they would have employed general anesthesia at that time because to wait for an epidural to get higher would have been too long a delay. Dr. Egner stated that she tends to think that the patient probably did not have adequate anesthesia for her delivery.

Dr. Davidson stated that she believes that's an error. If you actually look at the anesthesia record, this was a concurrent continuous spinal and epidural. It was very hard to decipher who did what. The nurses didn't relay any information that the patient was uncomfortable. She looked for that. To keep calling this an epidural is incorrect. There was also a spinal running.

Dr. Egner stated that she would have given the patient more anesthesia.

Dr. Egner continued that, concerning Patient 6, the State's expert finds that Dr. Raslan did an untimely section and that there was too much of a delay for this patient with fetal distress. The problems here are that the standard of care in 1999 is different from today's standard in regard to this patient. This was a patient with a previous Caesarean section, and she received Cytotec to make her cervix more favorable for labor. At that time, Cytotec was used in VBAC (vaginal birth after caesarean section) patients. Dr. Egner stated that she doesn't think that the Board can fault Dr. Raslan for this. She added, however, that there is a real problem here in what happened with this patient. She's not sure Dr. Raslan is the one to blame. He wrote orders for 50 mcg of Cytotec, the patient gets 25. Maybe it was their system to put half a tablet in and see how the patient reacts first. Dr. Egner stated that she can understand that. The patient's cervix dilates to two to three cm and he writes in his progress notes to hold the Cytotec, but he doesn't write it as an order. The patient doesn't get any more Cytotec, and she does get an epidural. Then, an hour and a half after the epidural, the nurse gives her another Cytotec. That really does not make sense. It is not standard practice to continue to use Cytotec after you consider that a patient is in active labor and has an epidural. Now it is known that giving Cytotec to VBAC patients is dangerous because what happened with this patient can happen. She ruptured her uterus and had fetal distress. They are just extremely lucky that both the baby and the mother are alive.

Dr. Egner stated that Dr. Raslan came to the hospital when he was called, he got there in a timely fashion, and he did the section. If anything, she wonders what the nurse was doing here. Dr. Egner stated that she's not sure that Dr. Raslan is responsible for the nurse's behavior.

Dr. Egner stated that she would like to change some of the Findings of Fact, but she does have enough problems with these individual cases that she thinks the Proposed Order is appropriate.

Dr. Egner stated that Dr. Raslan's purchasing drugs for lay midwives is a clincher to the deal. That is totally inappropriate. She doesn't believe that any obstetrician can say that they didn't know that that

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would be illegal. Even if they didn't know that it was illegal, it was certainly ill-advised and unbelievably poor practice. That alone justifies the Proposed Order.

Dr. Talmage asked Dr. Egner to comment on the use of outlet forceps in the case of Patient 1.

Dr. Egner stated that she personally thinks that it's Dr. Raslan's judgment to use forceps if he feels they're indicated, and she doesn't have a problem with that.

Dr. Bhati stated that there are small types of forceps to deliver the premature baby. He added that he doesn't think that that really is the issue. The issue with Patient 1 is the IGR (intrauterine growth retardation) was recognized, the toxemia was recognized, but he didn't treat, except to deliver the patient. He didn't meet minimal standards of care. Dr. Bhati agreed with Dr. Egner that there isn't a problem with the forceps delivery for Patient 1.

Dr. Bhati stated that the big problem comes with Patient 3, when you have hydrops, the baby is swollen and there's a lot of fluid accumulation. On top of that, there is a monoamniotic sac, and it's so easy to have the cord compression done and almost one-third of babies die because of monoamniotic sacs. Dr. Bhati added that the last such case he had had to be kept in the hospital for the last twelve to thirteen weeks, completely on a monitor because the patient carried monoamniotic twins.

Dr. Bhati stated that he slightly disagrees with the expert's opinion on using the vacuum extractor on Patient 4. Dr. Bhati stated that the vacuum is applied when the cervix is 8 to 9 cm dilated. The expert noted that the cervix was not fully dilated. Dr. Bhati commented that it is obvious that the expert never used the vacuum extractor. Dr. Bhati stated that the record indicates that the head was down to the pubic bone. In another place it shows that the head was very high. If the head was high, Dr. Raslan made a mistake using the vacuum extractor. Dr. Raslan recognized the problem, stopped using the vacuum, and delivered the baby with a good outcome.

Concerning Patient 5, Dr. Bhati stated that if he has a fetal distress, and someone has spinal anesthesia, and he needs to give local anesthesia and go ahead and get that baby out, he would do it, and he has done it.

Dr. Bhati stated that concerning Patient 6, he agrees with Dr. Egner. The issue was totally a nursing problem. Should Dr. Raslan have been there? Probably, but he delivers 100 to 110 babies a year, and he's delivering in three different hospitals. Dr. Bhati stated that he can't blame Dr. Raslan for what occurred with Patient 6.

Concerning the lay midwife issue, Dr. Bhati stated that it is illegal to give her prescriptions drugs for her use and Dr. Raslan should not have done so. Dr. Bhati indicated agreement with the Proposed Findings in this regard.

Dr. Kumar stated that he has to trust in his OB colleagues on the Board. Dr. Kumar stated that he was not comfortable with the decisions and recommendations of the Board's expert. Referring to Patient 1, the expert stated that the patient should have been given magnesium sulfate. Dr. Kumar indicated that he understands that the issue isn't that clear-cut, and that it's up to the physician to make the decision as to

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whether it is appropriate or not.

Dr. Kumar referred to the expert's opinion that Patient 1's baby should have been transferred to a hospital with more extensive neonatal support and stated that the hospitals make the rules as to whether they'll be able to keep the baby in that particular situation.

Dr. Kumar stated that he has done cases on an emergency basis with basically minor local anesthesia. It appears that an anesthesiologist was not immediately available.

Dr. Kumar referred to the case of Patient 6. He noted that Dr. Egner pointed out that this case occurred in 1999, when there was a different standard of care. Dr. Kumar stated that there was more than just a different standard at that time because managed care was pushing the increase of VBAC rate rather than the C-Section rate. Hospitals were under extreme pressure to do VBACs. Many times nurses were told to do things because they wanted to get the numbers up. Dr. Kumar stated that he's not sure that it wasn't hospital policy to blame on this case.

Dr. Kumar stated that, based on the records, he can't justify suspending Dr. Raslan's license for one year. On the other hand, Dr. Raslan's selling medications to the lay midwife is troublesome to him.

Dr. Bhati stated that it's important for the Board to understand that toxemia in pregnancy is mild, moderate and severe. When you have severe toxemia, the patient can have seizures or could bleed, and both the mother and baby are in danger. Dr. Bhati stated that he would classify this Patient to have severe toxemia, and she needed treatment to prevent the seizures and possible bleeding. That was an essential thing. As far as transferring the baby at 34 weeks, it is really a departmental choice. The reason this baby should have been delivered in a better facility is because of the IGR. Dr. Bhati stated again that his main objection in this case involves Dr. Raslan giving drugs to the lay midwife.

Dr. Steinbergh stated that she's pleased the Board has multiple Board certified OB/GYNs on the Board who are able to come to terms with some of these cases. She stated that she believes this is a significant standard of care case. She felt that the Board Order was appropriate. Dr. Steinbergh spoke in support of the Board Order. She added that she agrees with all of the comments regarding Dr. Raslan's providing the lay midwife with prescriptive medications. She tends to understand, emotionally, where he may have been coming from in regards to being in the Amish community and taking over a practice from someone else who did this. However, she agrees with Dr. Egner's comments with regard to that.

Dr. Steinbergh stated that she does have an editorial change to make. She referred to the last paragraph regarding Patient 1 on page nine of the Proposed Findings and Proposed Order, and noted that the correct word should be "perineum," not "peritoneum."

**DR. EGNER MOVED TO TABLE THE MATTER TO REWRITE THE FINDINGS OF FACT FOR CONSIDERATION IN NOVEMBER 2003. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:

Mr. Albert

- abstain

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Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

The motion carried.

WILLIAM W. SPRICH, M.D.

Mr. Browning advised that by letter of August 13, 2003, the Board notified Dr. Sprich that it proposed to take action against his license to practice medicine and surgery, based on allegations contained in the notice. A signed certified mail receipt was returned to the Board from that mailing, documenting proper service of the notice. No hearing request has been received and more than 30 days have elapsed since the mailing of the notice. The matter was presented to the Board at this time for final disposition.

**DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE AUGUST 13, 2003 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DR. SPRICH, AND TO ENTER A ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Mr. Albert left the meeting at this time.

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CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSIONMARCIANO D. BAUTISTA, 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. BAUTISTA.  
DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

GARY ALLEN BLAHNIK, M.T. - CITATION LETTER

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

**DR. BHATI MOVED TO SEND THE CITATION LETTER TO MR. BLAHNIK.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

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MINAKSHI B. DESHMUKH, M.D. - CITATION LETTER

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

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

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

STEPHEN L. DICKSON, JR., M.D. - CITATION LETTER

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

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

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

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CHARLES RAYMOND FITZ, M.D. - LETTER OF PROPOSED DENIAL

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

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

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

JOHN F. KUNKEL, M.D. - CITATION LETTER

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

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

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

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JOEL H. RUBIN, 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. BHATI MOVED TO SEND THE CITATION LETTER TO DR. RUBIN. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

LUKE A. SIEGEL-SCHAEFER, M.T. - LETTER OF PROPOSED DENIAL

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

**DR. BUCHAN MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MR. SIEGEL-SCHAEFER. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

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PATRICIA A. SEILER, 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. SEILER. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

Mr. Albert returned to the meeting at this time.

AHMAD SHAHAMAT, 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. SHAHAMAT. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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RATIFICATION OF CONSENT AGREEMENTS

MAIYOOR S. VIDYASAGAR, M.D.

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

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

The motion carried.

PERSONAL APPEARANCES

ROBERT B. KAMERER, L.M.T.

Mr. Kamerer appeared before the Board pursuant to his request for release from the terms of his October 14, 1998 Consent Agreement. If approved, release from probation would become effective October 14, 2003.

In response to Dr. Steinbergh's questions, Mr. Kamerer stated that he is doing well. Since 1985 he has seen his psychiatrist every month. He has intermittent counseling. He is currently taking Depakote, Lithium and Wellbutrin. He also takes 5 mg of Risperdal, which has really been good for him.

In response to further questions by Dr. Steinbergh, Mr. Kamerer stated that he has an office in his house. He does sports massages, traveling around the state. He does some chair massage for parties, industry, that sort of thing. He also does some sports massage with private clients. He's not working full-time. The consent agreement requires that he work half time or less. In the summer he might work all week, but no more than ten massages per week. He'd like to have a little more work. He'd like to work in a contracted situation. He hasn't entertained that because of the consent agreement. Mr. Kamerer explained that he'd like to do chair massage in a hospital.

**DR. BHATI MOVED TO RELEASE MR. KAMERER FROM THE TERMS OF HIS OCTOBER 14, 1998 CONSENT AGREEMENT EFFECTIVE OCTOBER 14, 2003. DR. GARG SECONDED**

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**THE MOTION.**

Mr. Albert stated that Mr. Kamerer has been a good probationer; however, he does have outstanding documentation to be sent to the Board. He asked that the motion indicate that release would be contingent upon the Board's receiving certain items.

Mr. Browning asked for a new motion.

**DR. GARG MOVED TO RELEASE MR. KAMERER FROM THE TERMS OF HIS OCTOBER 14, 1998 CONSENT AGREEMENT, EFFECTIVE OCTOBER 14, 2003, SUBJECT TO RECEIPT OF ALL OUTSTANDING DOCUMENTATION. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

JESSICA A. ROSS, M.D.

Dr. Ross appeared before the Board pursuant to her request for release from the terms of the Board's Order of September 11, 2002. If approved, release from probation would become effective October 9, 2003.

In response to Dr. Bhati's questions, Dr. Ross stated that she is doing well, and is feeling better. She is currently working for a V.A. Hospital, and life is treating her much better.

**DR. BHATI MOVED TO RELEASE DR. ROSS FROM THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 11, 2002, EFFECTIVE OCTOBER 9, 2003. DR. GARG SECONDED THE MOTION.**

Dr. Garg asked for Dr. Ross' opinion of the ethics course she took at Case Western Reserve University (CWRU).

Dr. Ross stated that the CWRU Ethics course was excellent and she would recommend it to every

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physician. It is helpful for a physician to be aware of many issues that were brought up in the course that weren't addressed in training. She found it to be very helpful.

Dr. Steinbergh asked about the CWRU Medical Records course she took.

Dr. Ross stated that the Records course was also an excellent course. It confirmed that her recordkeeping was up to the par that she believed it was. They had helpful suggestions that match with today's coding procedures, so she found it very useful. Dr. Ross commented that oftentimes in practice you don't have time to do that. It was enforced, she took it, and she enjoyed both courses.

In response to further questions by Dr. Garg, Dr. Ross stated that each course was a two-day course, which she took three months apart.

Dr. Steinbergh asked Dr. Ross whether she has a better understanding of why she was before the Board and of the Board's responsibility in regards to its expectations of physicians and abandonment of practice.

Dr. Ross stated that she thinks that she does. She was caught in a difficult position, and one of the most important things for her to do is to make sure she never gets caught in that position again.

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

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

The motion carried.

RYAN P. HANSON, M.D.

Dr. Hanson made his initial appearance before the Board, pursuant to the terms of the Board's Order of June 11, 2003.

Dr. Steinbergh noted that this has been a difficult time for Dr. Hanson. His license was suspended, and he is currently serving a five-year probation. She asked Dr. Hanson to tell the Board about his personal introspection in regard to this.

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Dr. Hanson stated that he would first like to apologize to the Board for his not appearing at the time the Board considered the Report and Recommendation. He did not do so at the advice of his attorney, who is no longer his counsel. He sees this as an error in judgment on his attorney's part. Dr. Hanson stated that he stands behind his statements and that's where he is.

Dr. Kumar stated that he's not clear what Dr. Hanson means when he says that he stands behind his statements.

Dr. Hanson stated that he stands by the testimony he gave to the Hearing Examiner.

Dr. Kumar asked whether Dr. Hanson still runs in Berliner Park.

Dr. Hanson stated that he does not. He has found a different place to run.

In response to Dr. Egner's questions, Dr. Hanson stated that he is no longer under suspension. He is working full-time at the Student Health Center at Ohio State University. He has no other job besides that at this time.

Dr. Buchan asked Dr. Hanson what he has learned.

Dr. Hanson stated that he's learned that no one will believe you unless you're a police officer. People have very strong opinions about what they believe to be true and what they believe not to be true, and there's little you can do to dissuade them. He is a very ethical person with strong beliefs in providing good patient care and representing himself in the community as a good person, and he's very regretful that this entire episode happened, but it is not the way it was described, and there is not more that he can say to convince anyone to that.

Dr. Steinbergh noted that during the first year of his probation Dr. Hanson will be required to take a course on personal ethics. He asked whether Dr. Hanson has looked into that yet.

Dr. Hanson stated that he has looked into it somewhat. He has not yet found the right course for him. He's having difficulty finding courses pertaining to personal ethics. So far everything he sees relates to medical ethics.

Dr. Steinbergh stated that staff may be able to help Dr. Hanson in that regard. Ms. Bickers can provide the names of one or two people who develop personal ethics courses, and who could develop one for Dr. Hanson that address the issues that brought Dr. Hanson before the Board.

Dr. Buchan noted that Dr. Hanson has a five-year probation with the Board. He asked whether Dr. Hanson will get through it.

Dr. Hanson stated that he hopes to get through it, and he hopes it doesn't have to be five years.

**DR. BHATI MOVED TO CONTINUE DR. HANSON UNDER THE TERMS OF THE BOARD'S**

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**ORDER OF JUNE 11, 2003 AND THE BOARD'S POLICY OF DECEMBER 9, 1998, 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. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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.

Mr. Albert commented that the Board has had trouble getting Dr. Sava to appear before it. He noted that the Board's Order went into effect in April 2003. The Board has not received any of the required paperwork from Dr. Sava.

Dr. Sava stated that he is currently under Minnesota restrictions, and is in a recovery program dictated by the State of Minnesota, where he practices. He practices at the Mayo Clinic. He is following the Minnesota guidelines and is in total compliance. He has made the Ohio Board aware through Ms. Bickers that the process by which the State of Minnesota controls patients such as him is through the Health Professionals Association (HPA).

Mr. Albert advised Dr. Sava that he also has a license in the State of Ohio, and he's under an Ohio Order and is obliged to comply with that Order.

Dr. Sava stated that he has asked the HPA to send copies of all his quarterly reports to the Ohio Board. He has not ever heard that the Ohio Board has not received those quarterly reports.

Mr. Albert asked Ms. Bickers to tell the Board in what areas Dr. Sava is short.

Ms. Bickers stated that Dr. Sava has a couple of requests on the agenda. One is to approve the Minnesota monitoring, and to continue with the terms of the Ohio Order while Dr. Sava is in Minnesota, and to accept a supervising physician. She has not gotten any paperwork from the Minnesota program yet, but they have

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not yet been approved.

**DR. STEINBERGH MOVED TO APPROVE CONTINUING WITH THE TERMS OF THE OHIO ORDER WHILE DR. SAVA IS RESIDING AND PRACTICING IN MINNESOTA. DR. STEINBERGH FURTHER MOVED TO DENY APPROVAL OF THE MONITORING ESTABLISHED BY HPA IN LIEU OF OHIO'S.**

Dr. Steinbergh stated that she understands that Dr. Sava is under terms with Minnesota, but he is under separate terms with Ohio and must fulfill those terms.

**DR. STEINBERGH FURTHER MOVED TO APPROVE BARBARA L. ALLEN, M.D., TO SERVE AS DR. SAVA'S SUPERVISING PHYSICIAN.**

Dr. Steinbergh noted that there is a difference in the frequency of screens, etc. in the Minnesota and Ohio Orders. Dr. Steinbergh stated that she believes that Dr. Sava must comply with Ohio's Order.

**DR. STEINBERGH'S MOTION DIED FOR LACK OF A SECOND.**

Dr. Bhati stated that it is entirely Dr. Sava's responsibility to make certain that the reports due by the Board's Order are received by the Board.

Dr. Sava stated that when he submits screens and quarterly reports from his physicians, they go to the Minnesota Board and he does not get them. He has dictated repeatedly to HPA that copies be sent to the Ohio Board and they won't send them to Ohio. He can't do more than that. He is fulfilling all of the criteria of his recovery programs through Minnesota. He has no immediate plans or desire to come back to Ohio. None of his addiction problems involve the State of Ohio. He is in full recovery and in full compliance. He is doing his best to comply with what he's asked to do. He's also doing his best to have reports forwarded to Ohio. He doesn't know how he can generate them.

Dr. Bhati stated that Dr. Sava needs to sit down with the individuals involved and find a way to get it done, or he'll have to find another way to get his testing done and have reports submitted to Ohio.

Dr. Sava stated that helping him would be to acknowledge that he has a full program of monitoring by both Board site and HPA.

Dr. Bhati stated that he's happy that Dr. Sava is in a program in Minnesota, but he still needs to complete the Ohio requirements.

Dr. Sava stated that he's only asking to simplify the whole process. He has asked repeatedly to have his quarterly reports sent to this Board; but to have separate screens in addition to what he's doing now as well as separate reports on different dates is very difficult. He is working full time. All he's asking is that the Ohio Board accept the conditions of his probation in Minnesota, which include twelve urine screens per quarter and the other quarterly reports.

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Mr. Schmidt stated that the Board needs clarification of where things stand. Dr. Sava is out of state. Mr. Schmidt referred to the tolling provisions of the Board's Order and advised that Dr. Sava's probationary clock is currently tolled because he is out of state. Dr. Sava is asking the Board to turn the clock back on by accepting the out-of-state monitoring. The Board could go around and around about to what extent the Board could require someone who is out of state and who is on a tolled consent agreement or order to comply with Ohio's monitoring; but, in fact, what the Board has historically done is stop the clock when there is not compliance with its monitoring and instructed the physician to tell the Board when he's returned to Ohio, at which time the clock will pick up again. The Board has not historically taken discipline against a physician or considered it to be a violation when an out-of-state physician on a tolled consent agreement or order is not meeting the monitoring requirements. Mr. Schmidt commented that a physician could go through his entire career being on probation in Ohio, which nobody wants. Dr. Sava is asking that the Board accept the Minnesota monitoring as adequate to protect the people of Ohio while he is in Minnesota. The Board doesn't have to accept that. If it does not accept that, probation will remain tolled and the five years' probation won't begin. He won't be on probation until he returns to Ohio and submits to active monitoring by this Board, or, in the alternative, gives the Board a plan it can accept as providing adequate monitoring.

Dr. Garg stated that his only question would be, if the Board doesn't get some information from the Minnesota Board, it doesn't know that he's in compliance. The Board needs to get that information. He suggested that the consent agreements be structured accordingly so that the Board doesn't have to go through this. But in this case, Dr. Sava must comply with Ohio's terms. Dr. Garg added that Dr. Sava has indicated that he doesn't practice in Ohio, but the Board doesn't know that. He still has an Ohio license.

Mr. Schmidt stated that Dr. Sava is required to notify the Board if he returns to Ohio to practice. If he doesn't, that would be grounds for discipline in and of itself. The penalty now is that the clock isn't running.

Dr. Buchan stated that he would be interested in accepting Minnesota's monitoring, but he doesn't know how parallel their monitoring process is to Ohio's.

Dr. Steinbergh stated that that information is in the agenda materials. Her concern is one of precedent. The Minnesota terms are somewhat different from Ohio's. If terms in another state aren't as strong as Ohio's, the Board still has an obligation to maintain its consent agreements.

Dr. Egner stated that this is not a consent agreement, it's a Board order. That's not the same.

Mr. Schmidt stated that, legally, it is the same thing.

Dr. Egner stated that a Board Order is a Board Order. Can the Board change Orders on personal appearances?

Dr. Bhati stated that it can't for the first year.

Mr. Schmidt stated that the legally binding nature is not affected by whether it's a Board order or a consent

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agreement. Either way, it's legally binding.

Dr. Steinbergh stated that the Board must maintain its particular Order. That's what it's for.

Mr. Schmidt again directed the Board's attention to the language in the tolling provisions of its Order in this case. He stated that the Board can accept another state's monitoring if it determines that the purposes of probationary monitoring are being fulfilled. The purposes of probationary monitoring is to monitor the doctor's status; i.e., does he continue in his recovery from his disease of addiction, monitor practice to make sure that the public is not at risk, monitor all of the things the Board looks at. Every state is going to do it a little differently. Chapter 16 of the Ohio Administrative Code says that the Board can waive provisions of the Chapter where the Board determines that the public is being protected and that the general purposes are being carried out, which is similar to the language in this Order and similar to the language used in consent agreements. Mr. Schmidt stated that what the Board should be focused on is whether or not the purposes of this Order are being carried out by the Minnesota monitoring.

Mr. Albert stated that the Board doesn't know.

Ms. Bickers stated that the major differences between the Minnesota monitoring program and the Ohio Order is that, under the Minnesota Order, Dr. Sava has to submit to twelve random screens per quarter. The Board Order requires one screen a week or "as otherwise directed by the Board." If the Board is comfortable with accepting Minnesota's program, then he would be submitting twelve screens randomly per quarter as opposed to once a week. The Board Order does give the Board the discretion to do that. He would still have to comply with all of the other terms in the Order.

Mr. Albert stated that he thinks that the Board would be willing to accept that, but is it assured that he is doing those twelve screens? Does the Board have any paperwork from the Minnesota Board saying that he is complying?

Ms. Bickers stated that Dr. Sava hasn't had anybody approved to do that yet. That is what is before the Board today. If the Board approves the Minnesota program and approves Dr. Allen as the Supervising Physician, she will then start to send the quarterly reports, along with the random screens. Ms. Bickers stated that if the Board doesn't receive those reports after everything's approved, the Board can take action against Dr. Sava. Dr. Sava is not technically on probation until he gets these things approved. There is no violation yet.

Dr. Garg stated that he finds the twelve random urines per quarter to be appropriate. He would also approve Dr. Allen. However, the Board must receive documentation of Dr. Sava's compliance.

Dr. Buchan stated that this conversation should have taken place two months ago. He's disappointed that Dr. Sava brings it up two months later.

Dr. Steinbergh asked at what point the clock starts running.

Mr. Schmidt stated that the clock starts to run if and when the Board approves the Minnesota monitoring.

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If the Board doesn't approve it, the clock does not start.

**DR. GARG MOVED TO GRANT DR. SAVA'S REQUEST TO CONTINUE WITH THE TERMS OF THE BOARD'S ORDER WHILE DR. SAVA RESIDES AND PRACTICES IN MINNESOTA. DR. GARG FURTHER MOVED TO APPROVE THE MONITORING ESTABLISHED BY MINNESOTA'S HEALTH PROFESSIONALS ASSOCIATION, AND TO APPROVE BARBARA L. ALLEN, M.D., TO SERVE AS DR. SAVA'S SUPERVISING PHYSICIAN. DR. BUCHAN SECONDED THE MOTION.**

Dr. Robins suggested that Dr. Sava inform HPA that if the Ohio Board does not receive reports, his Ohio license will be jeopardized.

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

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

The motion carried.

Mr. Schmidt noted that Minnesota's monitoring of Dr. Sava will end in 18 months, in May 2005. His Ohio probation continues until April 2008. Mr. Schmidt stated that he presumes that Dr. Sava can continue in Minnesota's advocacy program during the remainder of his Ohio probation. If not, he will have to notify the Board that he cannot be monitored by them and set up a new monitoring system or the clock will again toll.

Several Board members suggested that Dr. Sava should appear before the Board at the time his Minnesota probation terminates to discuss continuing Ohio's terms.

**DR. BHATI MOVED TO REQUIRE DR. SAVA TO APPEAR BEFORE THE BOARD IN 18 MONTHS. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

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Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

#### PROBATIONARY REPORTS

Mr. Browning referred the Board to the Compliance Staff's reports of conferences with probationers on August 11-12, 2003. The reports indicate that all probationers are in compliance.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH: MARY JO FOOTE, P.A.; RICHARD M. GARWOOD, D.O.; LOUISE DELYTE MORRIS, P.A.; PAUL E. PANCOAST, M.D.; FRANK R. SHARP, M.D.; AND MICHAEL J. STANEK, D.O. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### PROBATIONARY REPORTS AND REQUESTS

##### GREGORY X. BOEHM, M.D.

Dr. Boehm's request for changes in the terms of his September 12, 2001 Consent Agreement was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCES WITH DR. BOEHM ON SEPTEMBER 8, 2003. DR. STEINBERGH FURTHER MOVED TO REDUCE DR. BOEHM'S APPEARANCE SCHEDULE TO EVERY SIX MONTHS,**

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**AND TO REDUCE HIS DRUG SCREEN REQUIREMENT TO TWICE PER MONTH. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

VICTOR BYKOV, M.D.

Dr. Bykov's requests for changes in the terms of his August 14, 2002 Consent Agreement were presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCES WITH DR. BYKOV ON SEPTEMBER 9, 2003. DR. STEINBERGH FURTHER MOVED TO: REDUCE DR. BYKOV'S APPEARANCE SCHEDULE TO EVERY SIX MONTHS; TO REDUCE DR. BYKOV'S DRUG SCREEN REQUIREMENT TO TWICE PER MONTH; TO REDUCE DR. BYKOV'S ALCOHOL AND DRUG REHABILITATION MEETINGS TO TWICE PER WEEK, WITH A TOTAL OF TEN MEETINGS PER MONTH; AND TO CHANGE THE CHEMICAL DEPENDENCY COUNSELOR TO AN INDIVIDUAL APPOINTED BY PHP.**

Dr. Steinbergh stated that she has a question about the A.A. meeting requirement. The Secretary and Supervising Member have recommended reducing the requirement to "twice per week, with a total of ten per month." She stated that that doesn't add up; twice per week would add up to eight meetings per month.

Dr. Egner agreed with Dr. Steinbergh.

Dr. Steinbergh also noted that Dr. Bykov has requested permission to cease keeping a drug log.

Ms. Bickers explained that at his office conference the Secretary and Supervising Member indicated that they would not recommend approving the drug log request. Dr. Bykov subsequently withdrew that request. As for the number of A.A. meetings be recommended, it means that Dr. Bykov must attend ten meetings per month, and at least two meetings per week.

Dr. Steinbergh again stated that that doesn't add up correctly, and suggested that the Board require eight

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meetings per month.

Several Board members indicated that they would prefer keeping it to a ten-per-month requirement.

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

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

The motion carried.

WALTER L. GEORGE, JR., M.D.

Dr. George's request for changes to the terms in his September 9, 2002 consent agreement was presented to the Board for consideration at this time.

**DR. BUCHAN MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. GEORGE ON SEPTEMBER 8, 2003. DR. BUCHAN FURTHER MOVED TO REDUCE DR. GEORGE'S APPEARANCE SCHEDULE TO EVERY SIX MONTHS, AND TO REDUCE HIS DRUG SCREEN REQUIREMENT TO TWICE PER MONTH. DR. GARG SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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ASHOK V. PADHIAR, M.D.

Dr. Padhiar's request for changes to the terms of his June 11, 2003 consent agreement was presented to the Board for consideration at this time.

**DR. BUCHAN MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. PADHIAR ON JUNE 11, 2003. DR. BUCHAN FURTHER MOVED TO APPROVE THOMAS R. WALTHER, M.D., TO SERVE AS DR. PADHIAR'S MONITORING PHYSICIAN WITH A TOTAL OF 10 CHARTS REVIEWED PER MONTH. DR. GARG SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

ROBERT R. SUMMERS, D.O.

Dr. Summers' request for a determination of frequency and number of charts to be reviewed by his monitoring physician, Plinio Velandia, M.D., was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCES WITH DR. SUMMERS ON SEPTEMBER 9, 2003. DR. STEINBERGH FURTHER MOVED TO REQUEST THAT DR. VELANDIA REVIEW TEN CHARTS PER MONTH. DR. BHATI SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

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

The motion carried.

PROBATIONARY REQUESTS

DAVID E. ALLEN, M.D.

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

**DR. STEINBERGH MOVED TO APPROVE R. TIMOTHY RICHARDS, M.D., TO SERVE AS DR. ALLEN'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED EACH MONTH. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:

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

The motion carried.

ROBERT M. BENSON, M.D.

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

**DR. STEINBERGH MOVED TO APPROVE JEFFREY L. MOORE, M.D., TO SERVE AS DR. BENSON'S TREATING PSYCHIATRIST. DR. GARG SECONDED THE MOTION.** A vote was taken:

Vote:

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

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Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

WILLIAM L. CRAWFORD, M.D.

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

**DR. STEINBERGH MOVED TO APPROVE DEAN R. BALL, D.O., TO SERVE AS DR. CRAWFORD'S MONITORING PHYSICIAN. DR. ROBBINS SECONDED THE MOTION.**

A vote was taken:

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

The motion carried.

JOHN H. GRAY, D.O.

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

**DR. STEINBERGH MOVED TO APPROVE GEORGE M. BESCAK, D.O., TO SERVE AS DR. GRAY'S MONITORING PHYSICIAN WITH A TOTAL OF TEN CHARTS REVIEWED EACH MONTH. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

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Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

BRIAN J. HUNTER, D.O.

Dr. Hunter's request for approval of an assessing psychiatrist was presented to the Board for consideration at this time.

**DR. BUCHAN MOVED TO APPROVE GREGORY B. COLLINS, M.D., TO SERVE AS DR. HUNTER'S ASSESSING PSYCHIATRIST. DR. ROBBINS SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

THOMAS A. NGUYEN, M.D.

Dr. Nguyen's request for approval of an assessing psychiatrist and a supervising physician was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE LUCIANO A. PICCHIO, M.D., TO SERVE AS DR. NGUYEN'S ASSESSING PSYCHIATRIST AND THOMAS R. HOBBS, Ph.D., M.D., TO SERVE AS DR. NGUYEN'S SUPERVISING PHYSICIAN. DR. BUCHAN SECONDED THE MOTION. A vote was taken:**

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Vote:

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

The motion carried.

STEPHEN R. PORTER, M.D.

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

**DR. GARG MOVED TO APPROVE THEODORE M. HUNTER, M.D., AS DR. PORTER'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED EACH MONTH. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:

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

The motion carried.

ALLAN H. SHIPPEL, M.D.

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

**DR. STEINBERGH MOVED TO APPROVE LLOYD C. BREWTON, M.D., TO SERVE AS**

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**DR. SHIPPEL’S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED EACH MONTH. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

BRUCE S. WORRELL, D.O.

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

**DR. STEINBERGH MOVED TO APPROVES JAMES L. KOLP, D.O., TO SERVE AS DR. WORRELL’S MONITORING PHYSICIAN WITH TEN CHARTS REVIEWED EACH MONTH. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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REINSTATEMENT REQUESTS

ASHFAQ TAJ AHMED, M.D.

Dr. Ahmed's request for reinstatement of his license to practice medicine and surgery, which was suspended by Board Order of June 9, 2003, was presented to the Board for consideration at this time.

**DR. STEINBERGH MOVED TO APPROVE DR. AHMED'S APPLICATION FOR REINSTATEMENT, SUBJECT TO THE TERMS OF THE BOARD'S ORDER OF JUNE 9, 2003. DR. BHATI SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

RICHARD DE LA FLOR, M.D.

Dr. De La Flor's request for reinstatement of his license to practice medicine and surgery, which was suspended by Board Order of August 9, 2000, was presented to the Board for consideration at this time.

**DR. BHATI MOVED TO REINSTATE DR. DE LA FLOR'S CERTIFICATE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO THE PROBATIONARY TERMS OF THE BOARD ORDERS OF AUGUST 9, 2000 AND MARCH 13, 2002, AND SUBJECT TO HIS PASSING SPEX WITHIN SIX MONTHS OF OCTOBER 8, 2003. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

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

The motion carried.

TERRENCE F. MCCOY, M.D.

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

**DR. STEINBERGH MOVED TO APPROVE THE COURSE IN PERSONAL AND PROFESSIONAL ETHICS, OFFERED BY IDA SCHICK, Ph.D., M.S., FACHE, AS REQUIRED BY PARAGRAPHS C (4) AND C (5) OF THE BOARD'S ORDER OF JULY 9, 2003, PROVIDED THE COURSE INCLUDE SEXUAL BOUNDARY ISSUES. MS. SLOAN SECONDED THE MOTION.**

A vote was taken:

Vote:

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

The motion carried.

BASSAM M. DAHMAN, M.D.

Dr. Dahman's request for approval of a monitoring physician, pursuant to the terms of the Board Order of February 12, 2003, was presented to the Board for consideration at this time.

Dr. Steinbergh noted that Dr. Dahman, who is a pediatric surgeon, has nominated Earnest Perry, M.D., who is a general surgeon. She asked whether a general surgeon would be an appropriate monitor in this case.

Several Board members indicated that it would, and noted that Dr. Perry is the Chairman of the Department of Surgery at Forum Health-Western Reserve Care System, Youngstown, Ohio.

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**DR. STEINBERGH MOVED TO APPROVE EARNEST PERRY, M.D., TO SERVE AS DR. DAHMAN'S MONITORING PHYSICIAN. DR. BUCHAN SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

## LICENSURE

### PHYSICIAN ASSISTANT APPLICANTS

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

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

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

The motion carried.

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EUCLID CLEVELAND CLINIC PAIN MANAGEMENT – P.A. UTILIZATION PLAN

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

**DR. STEINBERGH MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY EUCLID CLEVELAND CLINIC PAIN MANAGEMENT, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION.**

A vote was taken:

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

The motion carried.

FAMILY PHYSICIANS OF HUBER HTS. – P.A. UTILIZATION PLAN

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

**DR. STEINBERGH MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY FAMILY PHYSICIANS OF HUBER HTS., CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

THE TOLEDO JOINT REPLACEMENT AND ORTHOPAEDIC CENTER – P.A. UTILIZATION PLAN

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

**DR. STEINBERGH MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY THE TOLEDO JOINT REPLACEMENT AND ORTHOPAEDIC CENTER CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

PHYSICIAN ASSISTANT APPLICANTS

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

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

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

The motion carried.

PHYSICIAN LICENSURE APPLICANTS

At this time the Board considered applications for certificates to practice telemedicine and for licensure as doctors of medicine and surgery, doctors of osteopathic medicine and surgery and doctors of podiatric medicine and surgery (Exhibit C).

Telemedicine

**DR. STEINBERGH MOVED TO APPROVE THE APPLICANTS LISTED FOR TELEMEDICINE CERTIFICATES, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. GARG SECONDED THE MOTION.** A vote was taken:

Vote:

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

The motion carried.

D.O.s

**DR. KUMAR MOVED TO APPROVE THE APPLICANTS LISTED FOR LICENSURE AS DOCTORS OF OSTEOPATHIC MEDICINE AND SURGERY, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:

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

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Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

M.D.s

**DR. GARG MOVED TO APPROVE THE APPLICANTS LISTED FOR LICENSURE AS DOCTORS OF MEDICINE AND SURGERY, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

LUKE MEDICAL PRACTITIONERS – P.A. UTILIZATION PLAN

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

**DR. GARG MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY LUKE MEDICAL PRACTITIONERS CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

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Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

#### ACUPUNCTURIST APPLICANTS

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

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

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

The motion carried.

#### MILITARY PHYSICIAN ASSISTANTS

Mr. Browning referred the Board to Mr. Dilling's memorandum of September 23, 2003, a copy of which shall be maintained in the exhibits section of this journal, which addresses a request received by the Board as to whether or not military physician assistants training at Miami Valley Hospital need a certificate of registration from the State Medical Board.

Dr. Garg asked Mr. Dilling for his position on this issue.

Mr. Dilling stated that this essentially boils down to the U. S. Government stating that federal law says that the P.A.s who would be practicing in Miami Valley Hospital are doing so as "performing authorized duties

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for the Department of Defense,” and, as such, are excepted out under the federal law. Mr. Dilling stated that the state statute has a little bit different wording. Mr. Dilling stated that he would argue on public policy grounds that this isn’t what was intended by the statute. These aren’t the types of duties that were envisioned when the statute was made into law by the federal government. They were dealing with duties of health care practitioners practicing in a defense facility, in war time, or something to that effect. When you start talking about training to do these duties, you’re talking about a separate creature. What the federal government is saying is that these physician assistants will be practicing in a civilian hospital, on civilians, as part of their training, in case of war. If something goes wrong, or if there’s something to do with their credentials that needs checked, the federal government will do it. They are saying that the State doesn’t have the authority to act because the individuals do not have state licenses.

Mr. Dilling commented that this isn’t necessarily an easy legal issue. He continued that to him, from a policy perspective, the issue is clear.

Ms. Albers agreed with Mr. Dilling, stating that the Board has a great public policy argument that this was not intended for when these people would be practicing on civilians in a civilian facility. If the Board pushes this and gets sued, she doesn’t know where it would come out.

Mr. Browning asked for guidance on the issue.

Dr. Bhati stated that if they want to practice in civilian hospitals, they have to follow Ohio law. If they are in a federal facility, the Board doesn’t have any control; but if they want to work at a civilian facility, they’re not under control of the federal law, but of the state law.

Mr. Dilling stated that federal law 10 U.S.C. 1094 says that if they’re performing authorized duties for the department of defense and they have a license somewhere in the United States, they don’t have to get a license in Ohio. Practically speaking, they could go ahead and practice and say that this is the way they construe the law. He added that he doesn’t think that will happen because Miami Valley Hospital is going to refuse to take that liability until it is certain, whether by the federal government suing the Board or the hospital suing the Board, that that is the correct reading of the statute.

Dr. Kumar stated that there are a lot of integrated residency programs where Wright Patterson Air Force Base (WPAFB) residents rotate through the civilian hospitals. Are those medical residents required to have a training certificate in the state of Ohio?

Mr. Dilling stated that that was the Board’s previous decision. The University of Cincinnati came to the Board a couple of years ago and asked that question. The Board said that a training certificate would be required, and the Board offered to move these certificate applications through the system as quickly as possible. The Board indicated that it would do everything it could to support the U.S. Government, but added that it felt that the statute requires, in those types of situations, a license in Ohio. The U.C. people indicated that they didn’t necessarily agree with the Board, but indicated that they would obtain training certificates for their residents.

Mr. Dilling continued that, to add to this situation, he got a call about a week ago from the U.C. individuals

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who previous appeared before the Board, indicating that their legal counsel have a new take on this and they would like to discuss it with the Board. Mr. Dilling stated that it appears to him that someone is looking at this and deciding that they are going to press the issue. How far they are willing to push on this is unpredictable. Mr. Dilling stated that his take on this is that they aren't going to do anything unless they push the Board through the courts.

Dr. Kumar stated that, for the sake of patient safety in the hospitals where there are so many residents cross covering everything else, there should be a certificate from the State of Ohio to allow their training.

Dr. Steinbergh stated that if they are just in a military hospital, and all they are doing is taking care of military personnel, that's different. When they're in civilian hospitals training and seeing Ohio civilians, they need an Ohio license.

Dr. Kumar commented that even in military hospitals they don't just take care of military personnel. They have large civilian contractors who work on the base and some of them will be treated at the base, as well.

Dr. Talmage stated that they're under a federal contract, so it's the same as treating the military. They are employees of the Department of Defense.

Dr. Kumar stated that they are not employees of the Department of Defense. They are subcontracted out of the Department of Defense to various consultants. They provide a lot of business, they are independent practice people, and he's seen them get treatment at WPAFB. He stated that it's a very blurry situation in that regard. Dr. Kumar stated that he would be very uncomfortable in not requiring them to have a license.

Dr. Robbins referred to the Memorandum of Understanding between WPAFB and Miami Valley Hospital and asked whether Miami Valley Hospital is okay with this proposal.

Mr. Dilling stated that you could assume that there is some compensation.

Dr. Steinbergh stated that it puts Miami Valley at such a risk that it's hard to understand how they could agree.

Dr. Robbins agreed with Dr. Steinbergh.

Mr. Dilling commented that no hospital in the state likes licensure.

Dr. Talmage stated that there seems to be concern that these people may not be properly credentialed or may not be properly qualified. Dr. Talmage stated that that is absolutely untrue. Every military hospital has a credentials committee, they credential these people – both P.A.s and physicians. This is basically back to the issue of a national license. If there is a national license, does Ohio recognize that? These people have a license, they have the training, they are privileged. They're not turning loose a bunch of wildcats in this hospital. He added that he doesn't necessarily disagree with the fact that the Board wants to look over the credentials that have already been looked over.

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Mr. Dilling stated that that's only one aspect of it.

Dr. Steinbergh stated that when the Board discussed this previously, she believes that its members were all pretty much impressed with the credentialing process, but it was just simply holding the physician accountable for civilians treated by a military physician not licensed in Ohio. They do so that the government holds the physician accountable, but that may not be acceptable to a civilian. A civilian may expect the Board to hold them accountable in the state. To her, that's the only issue.

Dr. Garg stated that when a civilian receives treatment in a military hospital, it assumes that the military is taking care of quality control.

Dr. Talmage stated that, in the military system, you cannot individually sue a physician, a P.A. or anybody else. Pursuant to the Gonzales Act, the Government decides whether it will allow you to sue the U.S. Government. Technically, physicians do not have to have liability insurance if they are a military physician, but, in practicality, they usually do carry some liability insurance because the Gonzales Act may not completely protect you in all states or in all situations.

Ms. Thompson stated that there are additional issues. If you put unlicensed military personnel into a civilian hospital, nurses can only take orders from properly and duly licensed physicians. The nurses won't be able to carry out orders. There are additional problems with unlicensed military physicians writing medication orders in civilian facilities. It's not just the Medical Board that will have issues with this proposal. There are issues for the Nursing Board and Pharmacy Board, as well.

Dr. Kumar proposed making a motion requiring that these individuals obtain Ohio licensure.

Mr. Browning asked for input from the Attorney General's office. He asked Ms. Albers whether the Attorney General would support the proposal being articulated by the Board.

Ms. Albers stated that she has researched this, and she doesn't know how the Board would come out in a declaratory judgment action, but she does think that the Board has a great public policy argument to protect the rights of Ohio's citizens.

Mr. Browning stated that that is a great public policy argument, but the Board needs a great legal argument.

Ms. Albers stated that she doesn't know how that would come out. She stated that she can only give the Board her opinion as its assigned legal counsel. If the Board wants a formal opinion from the Attorney General's Office, it can go that route. She suggested that the Nursing Board and Pharmacy Board can also request an opinion. She added that the down side is that a formal opinion from the Attorney General's Office is public, and if the decision goes against the Board, it's out there.

Mr. Browning asked whether Ms. Albers can go back to her office and ask others for their opinions.

Ms. Albers stated that she has done that within the Health and Human Services Section of the A.G.'s Office.

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Dr. Robbins suggested that it was a money issue. Why wouldn't the government want them to be licensed? He commented that they're all going to be licensed because they are all qualified.

Mr. Dilling stated that he looks at it as a 50/50 proposition. The way the language is written, it's written in such a way that a Court could rule that these are authorized duties of the Department of Defense and the Board is going to have to live with it. On the other hand, this has been around for quite some time. If they were so confident that they were right about this and that this really is what was intended when the law was adopted, they would have pounded on the Board long ago. They wouldn't have been talking with the Federation about getting states in line. They would slam dunk it. Part of why they haven't done that is the public policy argument. Mr. Dilling expressed doubt that, if this goes public, and articles are written about it, the public is not going to be jumping on the bandwagon.

Mr. Browning stated that he wouldn't necessarily agree with that. The country's in the middle of a war, the Defense Department's point of view could hold sway. The Board has to decide this on the merits. Does the Board have a strong legal argument as well as a strong public policy argument to proceed with the Board's position.

Dr. Garg suggested obtaining an official position from the Attorney General's Office.

Dr. Robbins stated that it would be one thing if they were foisting upon the state individuals who were poorly trained, but because of imminent danger and war the country needs them to be as trained as they can be; but that's not what he's hearing. He's hearing that the P.A.s that are coming in would be slam-dunk approved because they are totally qualified and this is nothing more than a money issue. The whole issue is money – it's only to save the fee.

Mr. Browning stated that it's probably a combination of money and control. They want the control. They want some autonomy where they're in a gray zone right now.

Dr. Talmage stated that Ms. Thompson's points are well-taken. What status do these people have for practitioners of other Boards? What status do they have to give an order and have a nurse carry out the order? That would be more his concern. He agreed with Dr. Robbins that these individuals will get credentialed, but there are so many intertwining systems here that to not be credentialed and to have other people put themselves at risk who are not covered by the Gonzalez Act would be a hazard. The Board owes it to those people to ask that they be credentialed. The monetary and filling out the records issue and subjecting them to scrutiny probably isn't a great deal of difficulty. The military goes through the FCVS just as every state does. They would have picked up a DUI or something like that that the Board would also pick up. Asking for an Attorney General opinion seems to be an appropriate thing to do.

Dr. Kumar stated that many hospital residency programs require residents to hold licenses. This is only for P.A.s. With due respect to the Attorney General's Office, he believes the Board should take the stand that licensure is required and see what they do. If they try to go after the Board after that point, then see what the Attorney General says.

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**DR. TALMAGE MOVED TO ADVISE THAT IT IS THE POSITION OF THE BOARD THAT LICENSURE OF MILITARY HEALTH CARE PROVIDERS IS IN THE BEST INTEREST OF THE STATE OF OHIO. HE FURTHER MOVED TO REQUEST AN OPINION FROM THE ATTORNEY GENERAL REGARDING THAT STANCE. DR. GARG SECONDED THE MOTION.**

Dr. Garg stated that the thing about that is that the Board can say this, but if the Board isn't going to get legal representation, it can't go forward. That is the purpose of obtaining the Attorney General's opinion.

Dr. Kumar stated that he believes the Board can hold going to the Attorney General as a later step.

Dr. Buchan stated that he's not sure that the Attorney General will support Dr. Talmage's initial premise. Based upon that, he's in favor of Dr. Kumar's suggestion. Never ask a question you don't absolutely know the answer to, and he doesn't absolutely know the answer to that question.

Dr. Talmage stated that you have to be prepared that the answer is no, but he believes that the Board has to ask the question in this case. Does the Board pursue it?

Dr. Buchan stated that he'd render an opinion and see what they say.

Mr. Dilling stated that, for now, the Board can tell the military that its opinion stands, but that, in deference to them, it is going to ask for an Attorney General opinion. He agreed that he doesn't know what the Attorney General will rule, either, but he believes that the Board should ask for the opinion. It will become public, and people will talk about it. There are some good things that can come out of asking for an Attorney General opinion.

Dr. Kumar stated that if military physicians and P.A.s can work in non-military situations for training purposes, but the hospital requires an Ohio license, can the hospital enforce that?

Mr. Dilling stated that the hospital doesn't have to cut a deal with the government. Hospitals can set their own credentialing standards, etc., and they can require licensure. He again stated that he doesn't think that hospitals are pro-licensure.

Dr. Kumar and Dr. Steinbergh disagreed with Mr. Dilling.

Dr. Kumar stated that he sits on the Board of a hospital, and he also sits on the Executive Committee, and they value licenses.

Mr. Browning stated that a motion has been made that maintains the Board's current position on this matter and requests an Attorney General opinion.

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

Vote: Mr. Albert - aye

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Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

#### REPORT ON CLINICAL SKILLS EXAMINATION

Mr. Browning deferred to Dr. Bhati and Dr. Steinbergh.

Dr. Bhati stated that he and Dr. Steinbergh traveled to Philadelphia to inspect the facilities for the Clinical Skills Examination. He stated that he was very impressed with the presentation. He stated that the NBME is trying to do its best to keep the cost as low as possible and to build as many centers as they can. They're planning to have about five centers right now. Dr. Bhati stated that there is a significant cost involved in building those centers.

Dr. Bhati stated that they were taken to the ECFMG center and observed the actual examination taking place. There are trained actor patients, whose interaction with the examinees is recorded, and who subsequently grade the doctor. The examinee writes his report on each patient, which is subsequently evaluated by a physician. Dr. Bhati stated that it's a pretty comprehensive thing, and he changed his mind, although he still believes that there are an inadequate number of centers.

Dr. Bhati stated that one concern he has is that they expect that about one percent people will fail after taking the examination three times. He has concern that these individuals who have gone through medical school and who have passed all three parts of the USMLE will be denied licensure because of the assessment. He stated that he wishes there was some way to pick up these people earlier in the education process. Dr. Bhati stated that the assertion is that these are people who would be in trouble with the state medical boards and have malpractice suits, but there are no statistics to back that assertion. Dr. Bhati stated that he's not sure that that assertion is accurate.

Dr. Talmage stated that it's based on the Canadian study.

Dr. Robbins asked what percentage fails the USMLE.

Dr. Steinbergh stated that they predict that three to five percent will fail the CSE initially, and essentially all but one percent will pass.

Dr. Garg stated that he believes that the failure rate for USMLE is seven percent, and it's higher for IMGs

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on the first take. It's higher for America IMGs than for non-American IMGs.

Dr. Bhati stated that this is a done deal and the Board doesn't have a whole lot of say in this matter. He stated that he's argued for months that the test isn't needed and that these problems should be discovered in the medical schools, but the counter argument is that students are also being tested in medical schools but they still have to take the USMLE.

Dr. Steinbergh stated that their issue is that not enough medical schools are actually assessing their students' clinical skills. Although some schools are doing it, the issue was that no one was really objectively testing. For licensure purposes, if the Boards test graduates' academic abilities, they should also be evaluating their clinical abilities to practice medicine.

Dr. Steinbergh continued that this issue was discussed last month when the Executive Committee met with the O.S.M.A. Executive Committee. Mr. Browning and a couple of the O.S.M.A. representatives indicated that they would like to see an independent evaluation done soon.

Dr. Bhati stated that the A.M.A. is totally opposed to this, and is involved in a lawsuit right now. They have assigned a certain amount of money for legal fees. That will also be attached to the people who take the examinations.

Dr. Garg stated that the money has to come from somewhere.

Dr. Steinbergh questioned Dr. Bhati's statement.

Dr. Bhati stated that the cost of the examination is going up because of legal fees.

Dr. Garg stated that the Canadian study was the most valid study, after which the ECFMG started using a CSE in its examination. This was not just a one or two-year study. The Canadians have been using this examination for about seven years; however, they have only examined about 1,700 individuals over a year, while in the United States it will be given to 17,000 to 18,000 individuals. Dr. Garg stated that you cannot have a study until you have given the examination for a few years. It will be about five years before a valid evaluation can be done.

Dr. Kumar stated that this will be combined with ECFMG. On the surface, it seems great, but the practicality is that someone who is taking the ECFMG examination in London or wherever will have to come to America to take the CSE because that part will not be available out of the country. Those people are not going to get visas to come to the United States just to take the CSE.

Dr. Steinbergh stated that right now the ECFMG does the examination, and these are candidates for licensure in the United States. They are all examined in Philadelphia.

Ms. Thompson advised that IMGs have been taking the CSE portion of the ECFMG in Philadelphia since 1998.

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Dr. Steinbergh stated that all of the students that she and Dr. Bhati saw two or three weeks ago were ECFMG, and they all come to Philadelphia, Pennsylvania to take the CSE. The same sites that will be utilized for United States' medical students will also be used by those taking it for their ECFMG.

Dr. Garg stated that this examination is part of ECFMG today. It can only be taken in Philadelphia. You can take the written examination in any country, but you do not get your ECFMG certificate until you have taken and passed the CSE in Philadelphia. What the new system will do will be to remove the CSE from the ECFMG and put it in the USMLE. He commented that, somehow, the Federation will have to reimburse the ECFMG for giving up part of its examination.

Dr. Steinbergh stated that the ECFMG is not going to change. Everyone will be using the same site for the CSE, but she doesn't believe that the ECFMG is going to be giving up this part of its examination.

Dr. Kumar stated that when this is only given in Philadelphia, virtually no IMG will be able to take that examination.

Dr. Steinbergh stated that they do now.

Dr. Kumar stated that he can tell how they come in. If he has a brother, whose son he can sponsor to come as an immigrant, he can come and take it. If you are not in contact with anybody in the United States, you won't be able to get a visa to come here.

Dr. Steinbergh asked what the difference is.

Dr. Kumar stated that he took the ECFMG examination, and he didn't have anyone in the United States. He was able to take it in India. At that time, he got his certification and he could apply for residency programs here. Now, with this system, the only place the ECFMG exam will be given will be either half in other countries and the rest here or totally here. If it's totally here, those people can't take an examination here.

Dr. Garg stated that he believes there is a missed point. As far as IMGs, this is a better deal. They will take ECFMG minus the CSE in Philadelphia, and they can come in and have their training. Once they have taken training, they have to take USMLE and the CSE for licensing. Dr. Garg stated that he doesn't think that this will have anything to do with the visa requirement or candidates coming from any country for this purpose.

Mr. Browning asked that staff follow up with information on that.

Dr. Bhati stated that the ECFMG CSE is not necessary to get into the residency program. He understands that it will be taken with USMLE III, just as an American graduate would.

Dr. Garg disagreed.

Mr. Browning again stated that staff will get some follow-up information for the Board on these issues.

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Dr. Robbins stated that he would also like to know, if one percent or five percent is the expected failure rate, what would happen to a school who's graduates have a 15 percent failure rate. Is there some hammer here to force the medical schools to do what some are not doing. If ten percent fail from one school, they should close the school down or get them to conform to proper teaching and training.

Mr. Albert stated that when Federation representatives addressed the Board on this issue, one example used was that some students coming out of medical schools can't take a blood pressure.

Dr. Robbins stated that that school should be closed.

Dr. Bhati questioned how many doctors who have appeared before the Board for problems in their practices might have been picked up through CSE. He stated that he doesn't believe one would have been picked up.

Dr. Garg agreed with Dr. Bhati and stated that he doesn't agree with the statistics.

Mr. Dilling stated that this topic will be on the Board's November agenda.

#### ADMINISTRATIVE REPORT

Mr. Dilling referred the Board to his written report, a copy of which shall be maintained in the exhibits section of this journal.

Mr. Dilling advised that this morning he discussed with the Executive Committee a proposed letter to be sent to the Ohio Ethics Commission, asking for a formal opinion as to whether or not staff or Board members can have fees waived for auditing a course. The Executive Committee felt that the letter was a good idea, and it will be mailed immediately.

#### REPORTS BY ASSIGNED COMMITTEES

##### EXECUTIVE COMMITTEE

Mr. Browning advised that the Committee primarily listened to Mr. Dilling's administrative report.

Mr. Browning at this time deferred to Mr. Albert to discuss an issue he raised at the meeting.

Mr. Albert suggested that, in cases where a previously approved course is submitted for approval by a probationer, the Board authorize the Secretary and Supervising Member to approve the course without requiring that it be brought to the full Board. Mr. Albert stated that the Board has a list of courses that it has previously approved. If the course submitted by the probationer is on that list, and if the course is appropriate for that particular probationer, the Secretary and Supervising Member would approve it.

Dr. Garg spoke in favor of the suggestion.

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**DR. BHATI MOVED TO AUTHORIZE THE BOARD'S SECRETARY AND SUPERVISING MEMBER TO APPROVE PREVIOUSLY APPROVED COURSES SUBMITTED BY PROBATIONERS. DR. GARG SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

#### PRESCRIBING COMMITTEE

Ms. Baldwin advised that the Committee reviewed the latest draft of the "Gifts to Physicians" article for the Board's Winter-Spring 2004 Newsletter. Ms. Baldwin reviewed the changes made by the Committee members.

**DR. BHATI MOVED TO APPROVE THE REVISED ARTICLE ON "GIFTS TO PHYSICIANS" FOR INCLUSION IN THE NEWSLETTER. MR. ALBERT SECONDED THE MOTION.**

Dr. Talmage asked whether the article is now consistent with the A.M.A. guidelines.

Ms. Baldwin stated that it is.

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

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

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Dr. Steinbergh - aye

The motion carried.

Ms. Baldwin advised that there was no meeting of the Committee on Prescriptive Governance since the Board's September meeting.

Ms. Baldwin continued that Mr. Dilling reported on the Compassionate Care Task Force and advised the Committee that Ohio raised its grade to C, based on a re-evaluation of Ohio's regulations regarding pain management. The Task Force continues to meet monthly, and a white paper regarding pain management in the state is due in March 2004.

#### IMPAIRMENT COMMITTEE

Mr. Albert advised that the Committee reviewed documentation from a new treatment center in Cincinnati, and finds that it meets all of the Board's criteria for approval.

**DR. STEINBERGH MOVED TO GRANT THE CENTER FOR CHEMICAL ADDICTIONS TREATMENT IN CINCINNATI, OHIO A CERTIFICATE OF GOOD STANDING.**

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

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

The motion carried.

#### QUALITY ASSURANCE COMMITTEE

Dr. Egner stated that the Committee has nothing to report this month.

#### LEGISLATIVE LIAISON & RULES REVIEW COMMITTEE

Mr. Browning referred to the summary sheet distributed by Mr. Wayda, a copy of which shall be maintained in the exhibits section of this journal, concerning pending legislation of interest to the Board.

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Dr. Steinbergh asked whether the Committee held any discussion on H.B. 71.

Mr. Wayda stated that at this time H.B. 71 was not going anywhere, and the Chair of the Health Committee had indicated that there was not enough support. Support was found and the indication is that Speaker Householder made great efforts to bring the parties together. There was an extended negotiation session with O.S.M.A., O.H.A., and a number of other interested parties, that resulted in a substitute bill. The substitute bill is, in part, a “wait and evaluate” kind of bill. There’s a moratorium on new construction of hospitals unless a “certificate of intent” to build a new hospital has been filed, which led to a rash of filing of certificates of intent. There was some effort to protect physicians in their privileging from the major public hospitals if they have ownership interest in any of the specialty hospitals. There was an amendment to exempt the Dayton Heart Hospital from classification as a specialty hospital for purposes of these regulations.

Mr. Browning asked Mr. Wayda how he would describe the direct correlation between what the Board does and this bill. Is there a significant connection? Does this bill have any direct bearing on the Board’s work?

Mr. Wayda stated that he doesn’t personally believe that it does. He added that he believes that the Board also took that position when the O.H.A. representatives were here eight months ago and presented the bill at the end of the last General Assembly. The position the Board took then was that it was an interested party, but it is not taking a position one way or another.

#### LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed a revised Limited School renewal application for both Ohio schools and out-of-state schools. The application was tabled for additional revision and subsequent discussion in November.

Dr. Buchan stated that the Committee reviewed an application for a certificate of good standing as a Massage Therapy school from Mercy College of Northwest Ohio.

**DR. GARG MOVED TO GRANT MERCY COLLEGE OF NORTHWEST OHIO A CERTIFICATE OF GOOD STANDING. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

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Dr. Garg - aye  
Dr. Steinbergh - aye

The motion carried.

Dr. Buchan stated that the Committee also reviewed the Massage Therapy Advisory Committee's proposed amendments to rule 4731-1-13, the Examination failure, additional training rule, and recommends proceeding to hearing on the revised rule. He advised that this rule pertains to those who fail the massage therapy examination three times.

**DR. GARG MOVED TO PROCEED TO HEARING ON AMENDED RULE 4731-1-13.  
DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Egner and Dr. Davidson left the meeting at this time.

#### LICENSURE COMMITTEE

Dr. Garg stated that the Committee discussed four applications.

#### Samuel Tobias, M.D.

Dr. Garg stated that Dr. Tobias' application for endorsement licensure was first considered by the Committee in September. At that time Dr. Tobias had not completed 24 months of approved graduate medical education through the second year level, but was requesting that the Board find his previous training and experience as being equivalent. In September the Committee asked for additional information concerning Dr. Tobias' fellowship program. Dr. Garg stated, however, that at this time the Committee felt that the issue is moot since Dr. Tobias has since completed 24 months of training in the United States and now meets licensure requirements.

**DR. KUMAR MOVED TO APPROVE DR. TOBIAS' APPLICATION FOR ENDORSEMENT**

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**LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION.**

Dr. Talmage commented that Dr. Tobias did give the Committee a day-to-day schedule of what he does in his fellowship, and the Committee did find that it is equivalent to a residency.

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

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

The motion carried.

Phyllis Amponsaa Nsiah-Kummi, M.D.

Dr. Garg advised that the Committee reviewed Dr. Nsiah-Kummi's request for special accommodations under the Americans with Disabilities Act of 1990 (ADA) for USMLE Step 3. He noted that Dr. Nsiah-Kummi was allowed double time for USMLE Steps 1 and 2, and the Committee recommends approval of her request for Step 3.

**MR. ALBERT MOVED TO GRANT DR. NSIAH-KUMMI'S REQUEST FOR DOUBLE TIME TO COMPLETE USMLE STEP 3. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

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Francisco I. Regueyra, M.D.

Dr. Garg stated that the Committee reviewed Dr. Regueyra's request for restoration of his Ohio license, which lapsed on April 1, 2000. Dr. Regueyra had advised that he has not practiced since that time. The Committee recommends approval, subject to his passing the SPEX.

**DR. BUCHAN MOVED TO RESTORE DR. REGUEYRA'S LICENSE TO PRACTICE MEDICINE AND SURGERY, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, AND CONTINGENT UPON HIS PASSING THE SPEX. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Egner returned to the meeting at this time.

Collie Trant, M.D.

Dr. Garg stated that the Committee reviewed Dr. Trant's application for endorsement licensure. Dr. Trant has advised that he has not practiced clinical medicine since November 1992, but has had administrative duties only for the past ten years. The Committee recommends approval, subject to his passing the SPEX.

**DR. KUMAR MOVED TO APPROVE DR. TRANT'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS AND CONTINGENT UPON HIS PASSING THE SPEX. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

#### P.A. COMMITTEE

Dr. Talmage stated that the Committee reviewed a number of supplemental utilization plans.

#### Buckeye Urology

Dr. Talmage advised that the above has requested approval for the P.A. to perform insertion of filliform and follower catheters. The PAPC has recommended approval of this; however both the P.A. Committee and the full Board have denied approval in the past. The Committee reconsidered the request following the Board's expert's testimony that this is a procedure for which a P.A. should be approved. Dr. Talmage noted that this procedure is listed in the "A" list of procedures approved in the Board's rules. Those are procedures that can be approved with sufficient training.

Dr. Talmage stated that the Committee had considerable discussion about this request, and subsequently tabled it to get guidance from its expert on the training that should be required.

Dr. Garg commented that the Committee was not comfortable with its expert's opinion on this.

Dr. Talmage stated that the expert's opinion was that it was within the capability of a P.A., but he didn't speak to the training that should be required. He again stated that the Committee tabled this matter.

#### Southwest General Health Center

Dr. Talmage stated that the above has requested permission for their P.A.s to perform vein and artery harvesting as part of cardiovascular surgery. There would be 100% direct supervision. The P.A. would observe the physician performing 25 procedures, and the physician would then observe the P.A. performing 25 procedures to determine competency. This would be done in a hospital setting.

Dr. Talmage stated that there is considerable precedent for vein harvesting. He noted that the education process did not address artery harvesting. The Committee recommends approval of vein harvesting only, and will gather additional information regarding artery harvesting.

**DR. GARG MOVED TO APPROVE SOUTHWEST GENERAL HEALTH CENTER'S REQUEST FOR VEIN HARVESTING ONLY, WITH 100% DIRECT SUPERVISION. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote: Mr. Albert - aye

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Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

#### FINDINGS, ORDERS AND JOURNAL ENTRIES

##### WILLIAM W. SPRICH, M.D.

Mr. Dilling advised that the Board earlier considered the matter of Dr. Sprich, and moved to enter an order of revocation, based on action taken against Dr. Sprich's Illinois license. The Board held no discussion on this motion. Mr. Dilling suggested that there be some discussion to explain why this Board voted for revocation on this matter when the Illinois Board only reprimanded Dr. Sprich.

**DR. EGNER MOVED TO RECONSIDER THE MATTER OF WILLIAM W. SPRICH, M.D.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Steinbergh stated that she moved to revoke Dr. Sprich's license because there was an action on Dr. Sprich's Illinois license. This Board offered Dr. Sprich the opportunity for a hearing, and he didn't take that opportunity. Dr. Steinbergh stated that it is not unusual for the Board to revoke a license when there has been no hearing to determine what has happened. A non-permanent revocation allows the physician to request a hearing so that the Board can learn all of the facts of the case.

Dr. Bhati stated that this was a bootstrap case and the Board didn't have all the information it needed to

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make a final determination. He didn't feel that the Board had any option but to revoke, requiring Dr. Sprich to apply for restoration and request a hearing to get his license back.

Mr. Dilling cautioned the Board that the Courts won't like to hear the Board say that there is nothing else it could do. The Illinois action was a reprimand. The Board does have a stipulation from the physician that he failed to recognize a mechanical malfunction in a piece of equipment during surgery, and that the patient had suffered non-fatal injuries as a result. Illinois accepted that stipulation and issued a reprimand.

Mr. Dilling stated that, under a revocation order, the physician can reapply for his or her license, but then he or she must go through the entire licensure process, including applying with FCVS and obtaining source document verification.

Mr. Dilling continued that, in this case, the Board can't go to Illinois and subpoena patient records. The Board would have a hearing over the same materials it has before it today.

Dr. Bhati stated that the Board gave Dr. Sprich the opportunity to be heard and he didn't even respond to the Board's letter.

Dr. Steinbergh stated that Mr. Dilling's point is that, even if Dr. Sprich did go to hearing, the Board wouldn't get anything more than what it has.

Mr. Dilling stated that Dr. Sprich could give the Board his statement as to why he stipulated or what this means. But Dr. Sprich doesn't have to come to the hearing; he doesn't have to give his side. Whether the Board can legally subpoena Dr. Sprich from out of state is a question. Mr. Dilling stated that the Board is going to get cases like this where it's saddled with the stipulation itself. The Board won't always get all of the facts in all of the cases.

Dr. Robbins stated that if the license meant anything to Dr. Sprich, he would have responded at the very least to the Board's citation letter. This tells him that his Ohio license is not very high on Dr. Sprich's list of priorities.

Mr. Dilling stated that that may be a natural assumption to make, but the Board needs to make it clear on the record that he's not being disciplined for not showing up, and that the Board is not taking an action of revocation because it's the only thing that the Board can do.

**DR. KUMAR MOVED TO ENTER AN ORDER OF REPRIMAND IN THE MATTER OF WILLIAM W. SPRICH, M.D. DR. BUCHAN SECONDED THE MOTION.**

Dr. Buchan reviewed the information the Board did have, which was contained in the August 13, 2003 Citation letter. Dr. Sprich was working on an anterior disc. In burring, he broke a piece of the burr off and didn't go after it. The patient ended up with vocal cord paralysis and loss of fine motor skills. That's all the Board knows.

Dr. Steinbergh stated that she believes that that is serious.

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Dr. Buchan stated that he understands. Dr. Buchan stated that he is disappointed that Dr. Sprich did not have a higher value for his Ohio license, but he can understand the reprimand and moving on.

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

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

The motion failed.

**DR. STEINBERGH MOVED TO ENTER AN ORDER OF REVOCATION IN THE MATTER OF WILLIAM W. SPRICH, M.D. DR. BHATI SECONDED THE MOTION.**

Dr. Steinbergh stated that the record before the board indicates that there was a mechanical malfunction in the equipment Dr. Sprich used in surgery. He failed to recognize the problem, and because of equipment fragmentation, the patient suffered from vocal chord paralysis and loss of fine motor skills. This was a significant patient harm issue.

Dr. Robbins agreed, stating that this was an egregious act. He added that there's not enough on the record to mitigate the egregiousness of the act. On that basis, he supports the motion for revocation.

Dr. Steinbergh added that this is a public safety issue.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- nay
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain

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Dr. Steinbergh - aye

The motion carried.

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

Thereupon at 5:24 p.m. the October 8, 2003 meeting of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on October 8, 2003, as approved on November 12, 2003.



R. Gregory Browning, President



Lance A. Talmage, M.D., Secretary

(SEAL)

