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**MINUTES****THE STATE MEDICAL BOARD OF OHIO****October 13, 2004**

Anquetette Sloan, President, called the meeting to order at 10:00 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Patricia J. Davidson, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Anant R. Bhati, M.D.; David S. Buchan, D.P.M.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Andrew F. Robbins, Jr., M.D.; and Anand G. Garg, M.D. The following did not attend the meeting: 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; Lauren Lubow, Senior Executive Staff Attorney; Shannon F. Baldwin, Executive Staff Attorney; Lori S. Gilbert, Chief Enforcement Attorney; Mary Crawford, Interim Chief Enforcement Coordinator; Mark R. Blackmer, Marcie P. Burrow, Sally J. Debolt, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, Kathleen S. Peterson and Charles A. Woodbeck, Enforcement Attorneys; Lawrence D. Pratt, Rebecca J. Albers, Kyle C. Wilcox, Gregory A. Perry, Tara L. Berrien, and Mark A. Michael, 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. ROBBINS MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONFER WITH THE ATTORNEY GENERAL'S REPRESENTATIVES ON MATTERS OF PENDING OR IMMINENT COURT ACTION. 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
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye

The motion carried.

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

Mr. Albert, Mr. Browning and Dr. Davidson left the meeting following the executive session.

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

#### MINUTES REVIEW

**DR. BHATI MOVED TO APPROVE THE MINUTES OF SEPTEMBER 8-9, 2004. DR. GARG SECONDED THE MOTION.** A vote was taken

VOTE:	Dr. Egner	- aye	
	Dr. Talmage	- aye	
	Dr. Bhati	- aye	
	Dr. Buchan	- aye	
	Dr. Kumar	- aye	
	Mr. Browning	- aye	
	Dr. Robbins	- aye	
	Dr. Garg	- aye	

The motion carried.

#### REPORTS AND RECOMMENDATIONS

Ms. Sloan announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Ghassan Haj-Hamed, M.D.; Sam Hill, D.O.; Barry Alan Fultz, M.T.; Sandra Kay Harewood, M.D.; Jeanne M. Kirkland, M.D.; Michael Paul Parker, M.D.; Jinka R. Sathya, M.D.; Animesh Chandulal Shah, M.D.; Hisham H. Soliman, M.D.; and Mary Mei-Ling Yun, M.D. A roll call was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

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

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

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

Dr. Davidson returned to the meeting at this time and advised that she received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the Reports and Recommendations appearing on today's agenda. She further advised that she 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.

Subsequent to the meeting, Mr. Browning, who arrived later in the proceedings, confirmed that he also received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the Reports and Recommendations appearing on today's agenda, and that he understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation.

#### GHASSAN HAJ-HAMED, M.D.

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

Ms. Sloan continued that materials included with the objections filed are being construed as a motion to admit additional evidence. The Assistant Attorney General has indicated that he does not object to the

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admission of these documents.

**DR. ROBBINS MOVED TO ADMIT THE ADDITIONAL MATERIALS INTO THE HEARING RECORD. 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
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain

The motion carried.

**DR. BUCHAN MOVED TO TABLE THIS MATTER UNTIL SUCH TIME AS HE CAN GET AN ANSWER TO A LEGAL QUESTION. 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
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Ms. Sloan	- aye

The motion carried.

SAM HILL, D.O.

Ms. Sloan directed the Board's attention to the matter of Sam Hill, D.O. She advised that no objections were filed to Hearing Examiner Clovis' Report and Recommendation.

**DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF SAM HILL, D.O. DR. BHATI SECONDED THE MOTION.**

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

Dr. Bhati noted that this is the Board's fifth disciplinary action taken on Dr. Hill, and the third based on his impairment. The Board has given Dr. Hill every chance. Dr. Bhati stated that permanent revocation is

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appropriate in this case.

Dr. Buchan agreed, stating that the Board was clear in its last action against Dr. Hill that that was his last chance. Unfortunately, Dr. Hill has been unable to succeed. Dr. Buchan agreed with the Proposed Order, as written.

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

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

The motion carried.

BARRY ALAN FULTZ, M.T.

Ms. Sloan directed the Board's attention to the matter of Barry Alan Fultz, M.T. She advised that no objections were filed to Hearing Examiner Murphy's Report and Recommendation.

**DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF BARRY ALAN FULTZ, M.T. DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Kumar stated that it is quite clear that Mr. Fultz is impaired by alcoholism. He was arrested for a DUI, underwent treatment, and arrested again afterward. Dr. Kumar stated that the Board must require further treatment in order to protect the public, and the Report and Recommendation addresses that issue.

Dr. Kumar spoke in support of the Proposed Order.

Dr. Buchan agreed, noting that Mr. Fultz has had two DUIs and still denies that he has a drinking problem. Dr. Buchan added that he does agree with requiring further treatment, and he believes the Proposed Order is appropriate.

Dr. Robbins also agreed with the Proposed Order, as written. He noted that Mr. Fultz denies a drinking problem and continues to work as a bartender. Dr. Robbins commented that that is silly. He added that, although Mr. Fultz has indicated that he cannot afford a 28-day inpatient program, he has to decide whether or not he wants to be a massage therapist. If he does, he has to find a way to do the program. Dr. Robbins noted that Mr. Fultz has indicated that he would even consider nursing in the future. Dr. Robbins stated

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that Mr. Fultz has to realize he has a problem and take steps necessary to deal with that problem.

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

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

The motion carried.

Dr. Talmage left the meeting at this time

#### PROPOSED FINDINGS AND PROPOSED ORDERS

##### RICHARD ALAN WEISS, M.D.

Ms. Sloan referred the Board to the matter of Richard Alan Weiss, M.D. By letter of April 14, 2004, the Board notified Dr. Weiss that it proposed to take disciplinary action against his license to practice medicine and surgery in the State of Ohio based on allegations contained in the letter. The notice was mailed to Dr. Weiss' address of record and proper service was documented. No hearing request has been received from Dr. Weiss and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Clovis, who prepared a Proposed Findings and Proposed Order, which is now before the Board for final disposition. Mr. Albert was Supervising Member. Both Dr. Garg and Dr. Talmage served as Secretary.

**DR. KUMAR MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE APRIL 14, 2004 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DR. WEISS, AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Egner stated that it is clear that Dr. Weiss was under notice from the California Board in April 2002 that he had a disciplinary matter pending with them. On May 19, 2003, he filled out his application for renewal of his license and answered, "no," to the question of whether he had any charges, allegations or complaints against him. Dr. Egner stated that, knowing that, the recommended one-year suspension and subsequent probation is appropriate.

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Dr. Bhati agreed with Dr. Egner.

A vote was taken:

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

The motion carried.

#### FINDINGS, ORDERS AND JOURNAL ENTRIES

##### RICHARD A. ARKO, M.T.

Ms. Sloan directed the Board's attention to the matter of Richard A. Arko, M.T. The Board issued its Notice of Opportunity for Hearing to Mr. Arko on August 11, 2004, and acknowledgment of receipt was received from Mr. Arko on August 13, 2004. Mr. Arko did not request a hearing, and more than 30 days have elapsed since the mailing of the notice. The matter was therefore before the Board for final disposition. Ms. Sloan noted that Dr. Garg may participate in the discussion and vote in this case.

**DR. GARG MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE AUGUST 12, 2004 NOTICE AND TO ENTER AN ORDER OF PERMANENT REVOCATION, EFFECTIVE IMMEDIATELY. DR. BHATI SECONDED THE MOTION.**

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

Dr. Bhati stated that Mr. Arko was found guilty of one felony count of illegal cultivation of marijuana and one felony count of possession of criminal tools. Mr. Arko did not request a hearing. Dr. Bhati stated that permanent revocation is appropriate in this case.

Dr. Egner stated that the Proposed Order is in keeping with the Board's Disciplinary Guidelines.

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

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye

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

The motion carried.

DERALD LEE MADSON, JR., M.D.

Ms. Sloan directed the Board's attention to the matter of Derald Lee Madson, Jr., M.D. The Board issued its Notice of Opportunity for Hearing to Dr. Madson on August 24, 2004, and acknowledgment of receipt was received from Dr. Madson. Dr. Madson did not request a hearing, and more than 30 days have elapsed since the mailing of the notice. The matter was therefore before the Board for final disposition. Ms. Sloan advised that this matter is a licensure matter and all members may participate in the discussion and vote.

**DR. GARG MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE AUGUST 24, 2004 NOTICE AND TO ENTER AN ORDER DENYING DR. MADSON'S SUPPLEMENTAL P.A. UTILIZATION PLAN, EFFECTIVE IMMEDIATELY. DR. KUMAR SECONDED THE MOTION.**

Dr. Kumar spoke in support of Dr. Garg's motion, stating that denial is appropriate in this case.

A vote was taken:

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

The motion carried.

JERROLD RAPHAEL ALBOM, M.D.

Ms. Sloan directed the Board's attention to the matter of Jerrold Raphael Albom, M.D. By letter of July 8, 2004, the Board advised Dr. Albom that it had reason to believe that he was in violation of Section 4731.22(B)(19), Ohio Revised Code, and ordered him to undergo a psychiatric evaluation. Dr. Albom failed to appear for this scheduled examination, and at no time did Dr. Albom inform the Board that his failure to appear was due to circumstances beyond his control. Section 4731.22(B)(19), Ohio Revised Code, provides that "(f)ailure to submit to a mental or physical examination. . . ordered by the board

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constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence." The matter is therefore before the Board for final disposition. Ms. Sloan advised that Dr. Garg may participate in the discussion and vote on this case.

**DR. BHATI MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JULY 8, 2004 NOTICE AND TO ENTER AN ORDER DENYING DR. ALBOM'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY, EFFECTIVE IMMEDIATELY. DR. KUMAR SECONDED THE MOTION.**

Dr. Bhati stated that the Board believed that there was a violation and ordered Dr. Albom to undergo a psychiatric evaluation. Dr. Albom didn't show up for the evaluation. Therefore, the Proposed Order is appropriate.

Dr. Kumar stated that equally important is the fact that the alleged acts were pertaining to his activities involving pedophilia, and the importation and exportation of under-aged girls for those purposes. This was picked up by NBC's "Dateline." When Dr. Albom was asked to provide answers to interrogatories, he indicated that he was unable to respond to the interrogatories and to submit to a psychiatric evaluation at the present time due to certain circumstances. Dr. Kumar stated that the Board must protect the public. It cannot allow Dr. Albom to practice in Ohio.

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

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

The motion carried.

#### CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

##### MAHESH CHAND GOEL, 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. BUCHAN MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. GOEL. DR. BHATI SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

RUTH ANN HOLZHAUSER, M.D. – CITATION LETTER

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

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

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

The motion carried.

STEPHEN RANDALL PORTER, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

**DR. BUCHAN MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. PORTER. DR. BHATI SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye

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

The motion carried.

RUSSELL JAMES RAUS, D.P.M. - ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

**DR. BUCHAN MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. RAUS. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

LARRY RAYMONT TATE, M.D. - ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

**DR. KUMAR MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. TATE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye

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

The motion carried.

ANIL KUMAR TRIPATHY, 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. ROBBINS MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. TRIPATHY. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

STEPHEN DAVID WAITE, 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. WAITE. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

STEPHEN ROBERT GIORDANO, D.O. - ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

**DR. BHATI MOVED TO APPROVE THE ORDER OF SUMMARY SUSPENSION AND TO SEND THE NOTICE OF OPPORTUNITY FOR HEARING TO DR. GIORDANO. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

REPORTS AND RECOMMENDATIONS

GHASSAN HAJ-HAMED, M.D.

**DR. BUCHAN MOVED TO REMOVE THE MATTER OF GHASSAN HAJ-HAMED, M.D., FROM THE TABLE. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Buchan stated that Ms. Murphy made a determination that it was not within her purview as a Hearing

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Examiner to review the propriety of the Medical Board's Summary Suspension Order.

**DR. BUCHAN MOVED THAT THE REPORT AND RECOMMENDATION IN THE MATTER OF DR. HAJ-HAMED BE MODIFIED TO SUBSTITUTE FOR THAT DETERMINATION A DETERMINATION THAT THE BOARD, THROUGH ITS HEARING EXAMINER, MAY REVIEW THE PROPRIETY OF A SUMMARY SUSPENSION ISSUED BY THE BOARD. DR. BHATI SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

**DR. BUCHAN MOVED THAT THE BOARD REOPEN THE HEARING AND REMAND THIS MATTER TO MS. CLOVIS FOR THE NARROW PURPOSE OF TAKING ADDITIONAL EVIDENCE ON THE QUESTION OF WHETHER OR NOT THE BOARD COMPLIED WITH THE REQUIREMENTS OF DIVISION (G) OF SECTION 4731.22 OF THE REVISED CODE IN ISSUING THE SUMMARY SUSPENSION IN THIS MATTER, TO WIT:**

- **WHETHER THE SECRETARY AND SUPERVISING MEMBER DETERMINED THAT THERE IS CLEAR AND CONVINCING EVIDENCE THAT DR. HAJ-HAMED VIOLATED DIVISION (B) OF SECTION 4731.22 OF THE REVISED CODE;**
- **WHETHER THE SECRETARY AND SUPERVISING MEMBER DETERMINED THAT DR. HAJ-HAMED'S CONTINUED PRACTICE PRESENTS A DANGER OF IMMEDIATE AND SERIOUS HARM TO THE PUBLIC;**
- **WHETHER THE SECRETARY AND SUPERVISING MEMBER RECOMMENDED THAT THE BOARD SUSPEND DR. HAJ-HAMED'S CERTIFICATE WITHOUT A PRIOR HEARING; AND**
- **WHETHER THE BOARD COMPLIED WITH THE OTHER PROCEDURAL REQUIREMENTS OF THE REVISED CODE IN ISSUING THE SUMMARY SUSPENSION.**

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

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Dr. Davidson	- aye

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

The motion carried.

Mr. Dilling stated that, in order to accomplish Dr. Buchan's motion, the matter will be remanded and the review will be done as expeditiously as possible.

Mr. Graff at this time addressed the Board and was called out of order.

Mr. Dilling stated that the Board is done with this matter today.

Mr. Graff stated that, seeing as the Board is, under the authority granted by 4731-13-03, looking at procedural matters, they are all available to be reviewed at this time. The authority is clearly within the hearing rules. If the Board is going to look at the substantive, evidentiary and procedural rulings of the Hearing Examiner, as it has done, then those matters are all available for review at this time.

Mr. Dilling asked whether the Board wished to make any further motions on this case at this time.

Mr. Graff stated that he is making a motion on behalf of his client under the authority of 4731-13-03.

**DR. EGNER MOVED TO RECESS. DR. GARG SECONDED THE MOTION.** All members voted aye. The motion carried.

The Board recessed at 11:50 a.m. It reconvened at 1:05 p.m. with all members present but Mr. Albert and Dr. Steinbergh.

At this time Ms. Sloan announced that this is a meeting with an agenda. There is a lot of information that the Board must cover today. The Board is going to follow the agenda. She stated that it will not waiver from that agenda. When someone asks to address the Board, he or she is told either "yes" or "no." If it is "no," then he or she cannot address the Board at that time. Ms. Sloan stated that these are things that people should know before they come into this meeting. If there are any questions about that, break times are the opportunity to ask those questions.

Mr. Dilling stated that before the Board recessed for lunch, there was a matter being discussed regarding Dr. Haj-Hamed. This matter has been remanded to a Hearing Examiner and is no longer on the table for discussion. Any motions counsel wishes to make should be directed to the Hearing Examiner.

Mr. Graff again tried to address the Board.

Ms. Sloan again told him that he cannot address the Board at this time.

Mr. Graff attempted to continue his statement, at which time Ms. Sloan again recessed the meeting.

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Mr. Dilling advised Mr. Graff that Rule 4731-13-07(A) stated that motions are to be made in writing to the Board. Mr. Graff does not have a written motion before the Board today. The matter of Dr. Haj-Hamed is no longer on the table. It has been remanded to a Hearing Examiner. Mr. Dilling suggested that if Mr. Graff has motions that he wants to make to the Hearing Examiner, he do so in writing. If Mr. Graff has a problem with the way this meeting is being run or its ruling on this, there is a court system to which he can appeal.

Mr. Graff stated that he doesn't have a court system to which he can address this issue.

Ms. Sloan again stated that the Board will take a five-minute break.

#### REPORTS AND RECOMMENDATIONS

##### SANDRA KAY HAREWOOD, M.D.

Ms. Sloan directed the Board's attention to the matter of Sandra Kay Harewood, M.D. She advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation. She noted that both Dr. Garg and Dr. Talmage served as Secretary in this matter.

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

Dr. Harewood was accompanied by her counsel, Elizabeth Y. Collis.

Ms. Collis advised that Dr. Harewood is before the Board at this time on an impairment issue and a violation of her consent agreement with the Board. She stated that it has clearly been a long few years for Dr. Harewood. Dr. Harewood has been sober since March 2004, is active in aftercare, involved with OPEP and has an aftercare contract. She is also receiving counseling and uses Antabuse.

Ms. Collis noted that the Hearing Examiner recommends a revocation in this case. Ms. Collis requested that the Board, after reviewing all the evidence, issue an Order that would indefinitely suspend her license and allow her an opportunity to show a protracted period of time, like two years, of proven sobriety. Ms. Collis stated that so many things have changed in Dr. Harewood's life over the last few years, and the person that the Board sees today has made many changes to get her life back on the right track. Ms. Collis noted that Dr. Harewood can tell the Board about the changes that she's made. Ms. Collis stated that today Dr. Harewood is in a position to work on her sobriety and hopefully be able to come back and contribute to the medical community.

Dr. Harewood thanked the Board for allowing her to address it today. She stated that she has had a lot of personal challenges in her life. At this point she has a daughter who is a senior in high school, a daughter who is a senior in college, and a son who dropped out of high school, but has now finished his first year of college. A lot of things have moved on with the passage of time. Dr. Harewood stated that her mother is now in a nursing home and she's resolved most of her mother's affairs. Dr. Harewood stated that she believes that she is finally at a point where she can care a little more for herself rather than feeling that

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she's caring for other generations around her.

Dr. Harewood stated that she did have a relapse in March, but she did not just let herself get carried away with that. She was glad to go to the Cleveland Clinic. The Clinic's subsequent recommendations have been much more guided than any she had before. She's now on Antabuse. Dr. Harewood stated that her aftercare situation is much more constructive. She is getting other counseling and she's working with her disability insurance to possibly do some other vocational rehabilitation things. She's maintained her C.M.E. Dr. Harewood added that getting her driver's license back has been a huge boon. Dr. Harewood concluded by stating that she thinks that a lot of the difficulties with which she has been overwhelmed are gradually becoming more manageable.

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

Ms. Albers stated that Dr. Harewood's case, like almost all of the impairment cases that come before the Board, is a very sad, sad case; but Dr. Harewood has been under many consent agreements with this Board. She has violated each one of them. While Dr. Harewood was waiting to go to hearing on the charges of the notice letter concerning her being found guilty of a DUI, she relapsed again. Even though she maintained that she had not been drinking at the time that she was arrested for the DUI, she refused to take a breath test that would have exonerated her, and she pled guilty to the DUI. Dr. Harewood drank again.

Ms. Albers stated that, while the Board can be sympathetic with someone who has had as many personal problems as Dr. Harewood testified at the hearing she did have, there comes a time when the Board has to decide that enough is enough. Ms. Albers stated that the Proposed Order revoking Dr. Harewood's license still leaves open the chance for her to get her life together and get her license back. Ms. Albers spoke in support of the Proposed Order.

**DR. EGNER MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF SANDRA KAY HAREWOOD, M.D. DR. BHATI SECONDED THE MOTION.**

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

Dr. Egner stated that when she read this case, she considered offering a substitute order. She noted that over a three-year period, Dr. Harewood has had six relapses, four treatment centers and three consent agreements. What this says to her is that this is not the usual case. She doesn't look at Dr. Harewood actually as a constantly relapsing physician. She looks at Dr. Harewood as never really having been treated, or maybe never having successful treatment. Dr. Egner stated that the Board has heard time and time again from so many probationers that, for whatever reason, at some point in time something hits home, something strikes them, that they are able to find the strength and the devotion to stick with a program and make a go of it. Dr. Egner stated that she hopes that Dr. Harewood is at that point.

Dr. Egner stated that the reason why she is not going to propose a different agreement is because she thinks that that could easily be a setup for failure. Dr. Harewood has not been able to stick to it. The revocation

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does give Dr. Harewood the ability to stick with this. She can come back in three years. She can come back and say, "this is what I've done. I've been sober, I've done this treatment, I stuck with OPEP, and I can demonstrate the ability to practice medicine." Dr. Egner stated that for this reason she will not offer an amendment. She does support the Proposed Order. Dr. Egner commented that, generally, she's not in favor of non-permanent revocations, but she thinks that in this case, this probably is the best thing for Dr. Harewood. She added that she hopes that this is Dr. Harewood's epiphany moment, and that she will be able to stick with her program and recovery.

Dr. Kumar stated that this is a very tragic and sad case. Dr. Harewood has been a very respected physician in Dr. Kumar's community. She has been a very respected educator. Dr. Harewood was the director of the family practice residency program. She has been a teacher at the Wright State University School of Medicine, etc. Dr. Kumar stated that Dr. Harewood had a very tragic event, which was the death of her husband in an airplane crash. This started all kinds of events.

Dr. Kumar stated that one of his problems with Dr. Harewood continues to be that she has had at least three or four attempted treatments, or unsuccessful treatments. One of his problems continues to be that whenever Dr. Harewood had a negative effect on her life in one way or another, she has resorted to alcohol. One of his biggest fears is that, whatsoever action the Board takes today, he hopes that she does not go and resort to alcohol again. Dr. Kumar stated that he looks back at the fact that when the Vice President of Medical Affairs at Kettering Hospital took Dr. Harewood to task, she relapsed. When she lost her job, she relapsed.

Dr. Kumar stated that he hopes that Dr. Harewood understands that this is it. She has to get her life back together, and she has to understand that alcohol is not going to be a way to continue. If she does not accept this at this time, he's not sure what else the Board could do. From a standpoint of protecting patients, revocation in this case is appropriate. This does give Dr. Harewood a chance to come back when she really gets her life together. If she stays sober, she can reapply. This revocation does not bar Dr. Harewood from reapplying for a license when she gets her act together.

Dr. Kumar stated that he will support the revocation, and he strongly urged Dr. Harewood not to resort to alcohol after this action.

Dr. Buchan stated that to this point the Board has partnered with Dr. Harewood to see her succeed. In some small way the Board is still partnering with her. The Board has kind of washed its hands at this point and revoked the license, and he thinks it's the right thing to do after this many attempts. He advised Dr. Harewood that he hopes when she leaves the meeting, if that is the order, that she realizes that at least three Board members have indicated that they want her back in practice. They want her to get back on her feet and win this battle. That's why the revocation isn't permanent.

Dr. Buchan stated that now the ball is in Dr. Harewood's court. For the first time, the Board isn't managing, it is shifting responsibility. Dr. Buchan stated that he thinks that that is the right thing to do and the right order. He added that he would vote for this revocation with the tag that he wants her back in practice.

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Dr. Bhati advised Dr. Harewood that she is a lucky lady. First of all, she's still alive and kicking. Secondly, she still has an option to reapply for her license. He stated that Dr. Harewood is very lucky to be getting away with revocation rather than permanent revocation.

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

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

The motion carried.

Mr. Dilling asked to make a point of clarification. He indicated that there was very good discussion on the part of the Board and the Board told Dr. Harewood what they expect. He stated that in the Report and Recommendation it talks about maintaining continuous sobriety for at least three years. He asked Dr. Harewood if she understands that that is not a condition of the Order that was just adopted. However, all the advice Board members have given her today is consistent with that. He advised that the statement in the Hearing Examiner's report was intended to spur discussion of the Order.

Dr. Harewood indicated that she understood.

JEANNE M. KIRKLAND, M.D.

Ms. Sloan directed the Board's attention to the matter of Jeanne M. Kirkland, M.D. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members. She noted that both Dr. Garg and Dr. Talmage served as Secretary in this matter.

**DR. EGNER MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JEANNE M. KIRKLAND, M.D. DR. BHATI SECONDED THE MOTION.**

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

Dr. Bhati stated that he has a long statement to make.

Dr. Kumar asked whether there was a request to address the Board.

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Mr. Dilling stated that there wasn't one timely filed. He asked whether there was one presented today.

Dr. Kirkland's attorney, Karen T. Dunlevey, advised that a request was submitted through a letter to Jackie Moore on August 19. They asked for additional time beyond the five minutes, and that time was denied.

Mr. Dilling apologized, stating that he was not made aware of that request.

**DR. BHATI MOVED TO ALLOW DR. KIRKLAND THE OPPORTUNITY TO ADDRESS THE BOARD. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Ms. Sloan advised that Dr. Kirkland would be allowed five minutes to address the Board.

Ms. Dunlevey stated that she would like to make a couple of points. This is a doctor who has no impairment. She has never prescribed medications above and beyond what the PDR recommends; she's never taken medications that she's prescribed herself; she's not giving medication to family members. At the hearing there was an expert who was presented by the State who criticized some of Dr. Kirkland's recordkeeping and some of her prescriptions. Ms. Dunlevey stated that she would like to point out to the Board, although it is set forth in more detail in their objections, that this expert is retired from the practice of medicine, she called herself a physical therapist with an M.D., and she has a total patient load of four patients. There are numerous inconsistencies in her testimony. Ms. Dunlevey stated that it is important for the Board to listen to a doctor who has been practicing in this area for more than twenty years and seeing most of the patients that were at issue in this case for that period of time as well.

Dr. Kirkland thanked the Board for the opportunity to speak and for postponing the hearing for one month so that she could see her daughter play the finals of the Junior U.S. Open.

Dr. Kirkland stated that she doesn't know the legal parts of this, so she'll leave them to her attorney. Dr. Kirkland stated that she took the Hippocratic oath as a doctor to help patients, and she has abided by this for 23 years and provided very good care to her patients. Dr. Kirkland advised that she had five of these patients testify on her behalf, and a few of them are here today.

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Dr. Kirkland stated that at this time she admits that her medical recordkeeping had not been up to par; however, Mr. Porter claimed that she made no attempt to improve her recordkeeping. It took the Board from 1997 to 2003 to even tell her what was wrong, despite her inquiries to the State Medical Board. She assumed, and she checked with the President of the local medical society and president of the hospital, who is here today, and they felt that if the State Board had not gotten back to her in a short period of time, there was nothing to worry about.

Dr. Kirkland stated that, despite the way her records were, her expert witness and she were both able to construct the information necessary for prudent patient care since 1981. The Hearing Examiner's comment in the Findings of Fact that Dr. Kirkland did not do histories and physicals, consults, diagnostic tests, was just not true. Even the State's expert witness agrees that she did appropriate testing in her care. For example, the expert claims that, in the care of Patient 2, she wasn't attuned to the patient having drug seeking behavior. Patient 2, who was on methadone, and the only patient that she had on methadone in her career, couldn't afford to see the pain doctor due to Workers Compensation issues, and she was forced to provide care. At one time the patient claimed he lost his pills. The record is clear that she gave him less pills. The State's witness said that the patient was in jail and that should have alerted her to drug seeking behavior; however, that does not indicate that the patient was not in pain.

Dr. Kirkland continued that the Hearing Examiner also claimed that she went against the advice of one of the 23 specialists to whom she referred this patient. Dr. Kirkland read what that doctor said: "We recommend that he enter a chronic pain program with behavior modification and maybe taken off his narcotic medication." The patient had been periodically seeing a psychiatrist. He had seen two pain specialists and also two pain clinics. The pain clinics both turned him down.

Referring to Patient 3, a patient who advised Dr. Kirkland that her prescription was stolen, Dr. Kirkland stated that it is clearly in the record that Dr. Kirkland demanded to see a police report before she accepted the patient's word that the prescription was stolen.

Referring to Patient 8, Dr. Kirkland stated that the expert witness' main thrust was that she did not follow through on the recommendations of Dr. Rahavi. Three other specialists besides Dr. Rahavi saw this patient. Their recommendations were contrary to his. Dr. Kirkland asked what she, a family doctor, is supposed to do when she has three specialists saying one thing and one specialist saying another. Dr. Rahavi had only seen the patient twice. Dr. Kirkland asked the Board members to search in their hearts as to what they would do in this scenario. As any prudent person would do, she chose to follow the recommendations of three specialists. Dr. Kirkland noted that Patient 8 is present at this time and the Board can ask her.

Referring to Patient 4, Dr. Kirkland stated that the Hearing Examiner claimed that she did not do an adequate workup or try other modalities. Dr. Kirkland stated that this patient had two back surgeries, a fractured pelvis and hip, along with multiple other fractures, from falling off a roof on one occasion and from scaffolding on another. Numerous consultants in the hospital, prior to her seeing him, adequately worked him up. When she sent him to physical therapy, they broke bones in his arm. They were too brittle. Dr. Kirkland asked what she was supposed to do.

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Dr. Kirkland stated that it appears that Patient 1 was prescribed a lot of Valium; however, if you calculate it out, the patient received an average of 6.4 mg over a period of five years, used for anxiety. For clarification, the patient was on this chronic medication since her kidney transplant, eight years before Dr. Kirkland ever started seeing the patient.

Ms. Sloan advised Dr. Kirkland that she had one more minute to complete her address.

Dr. Kirkland stated that Dr. Winter claimed that she prescribed 1,460 pills for Patient 5 with documented disease, not only by exam but by MRI; however, she prescribed 1,050 pills, and that equates to less than two tablets over an 18-month period.

Referring to Patient 6, Dr. Kirkland stated that the Hearing Officer takes an issue with her inappropriately restarting this patient on Xanax to wean him from withdrawal. The patient restarted some of his own Xanax, which he had had at home, and she was only weaning him off for a few days. Dr. Kirkland stated that she's sorry that she didn't document all the signs and symptoms of withdrawal; she only wrote the word, "withdrawal."

Dr. Kirkland stated that Patient 7 is here today. She stated that she doesn't have time, but that she would make one comment about the fact that the Hearing Officer claims that she didn't try any modalities prior to 1993 to relieve her headaches. The record is clear. She tried Midrin, Tylenol, Cafergot, Advil, Elavil, Depakote, Seldane and steroids – all documented in the chart prior to 1993. The patient is also here to testify to that.

Dr. Kirkland stated that Patient 10 is also here. Patient 10 was on Stadol for years prior to seeing Dr. Kirkland and had tried numerous medications. This was the only thing that worked and Dr. Kirkland continued it. Since she stopped prescribing this medication, this patient has had to go to the emergency room to get these shots.

Dr. Kirkland stated that if the Board needs any further clarification, she and her patients will be here to answer any further questions.

Dr. Kirkland stated that she would like the Board to know that she has taken two courses for medical recordkeeping and narcotics prescribing.

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

Ms. Albers stated that the Board has the hearing record in this case, and she believes that the Board's review of the patient records in this matter will show that the Hearing Examiner's Proposed Order is justified. Dr. Kirkland's medical records, standing alone, are all the evidence the Board needs to find a violation of Ohio Administrative Code (OAC) 4731-11-02(D), the rule that requires a physician who prescribes controlled substances to complete and maintain accurate medical records reflecting the examination, evaluation and treatment of the physician's patients. They should reflect why the controlled substances are utilized in the treatment, and include the diagnosis and the purposes for which those

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controlled substances were utilized. As the Board reviews the records in this case, she is certain that the Board will see that that was not done. Ms. Albers stated that, in many of the patient records in this case, there were merely entries with a date and a medication. Sometime there was a date and a notation, "HA" for headache, and things like that.

Ms. Albers stated that she would also like to address the comment made about the State's expert witness, Dr. Winter. The Board has Dr. Winter's CV before it, and Ms. Albers indicated that the CV is very impressive. She added that, while Dr. Winter's practice at the time of the hearing was unique in that she had changed her practice to be limited to four patients who were diabetic, at the time Dr. Winter reviewed these records, she had been in the full-time practice of family medicine. She was Board certified in family medicine and was more than qualified to opine on the issues in this case.

Ms. Albers stated that Dr. Kirkland's expert witness, who had opined in more than 50 cases, had a unique view of medical recordkeeping. Instead of following the adage that she believes this Board has followed in almost all of the standard of care cases – that is, if it's not documented, it wasn't done – he believed that his interpretation of the standard of care was that what occurred between the patient and the physician was what was important, not the medical record, and you had to listen to what the physician and patient said. Ms. Albers stated that that could be a problem because if there is a conflict of interest between the two, who do you believe? Another issue set forth in the Report and Recommendation is how a subsequent treating physician will know what those drugs were given for or what this patient's care was.

Ms. Albers stated that there were many issues of early refills in this case. Dr. Kirkland's own expert testified that, in order to opine that Dr. Kirkland met the standard of care, he had to assume that discussions had taken place between Dr. Kirkland and these patients. When questioned on cross-examination whether his opinion would change if Dr. Kirkland had not had those discussions, he responded that it would. Ms. Albers stated that this is either terrible documentation or the discussions weren't done.

Ms. Albers stated that, as far as signs of drug seeking in some of these patients, the Board has the record before it of stolen medications, fire drills, when people lost their medication. On Patient 2, the patient was facing criminal charges because he stole tires from a car dealership. He was crying on one visit that he might have to go to jail, that he had been attending drug classes. He was then later in jail for a DUI. Dr. Kirkland finally did discharge this patient from her practice. There are many instances very similar to this in the patient records.

Ms. Albers stated that she does believe that the Proposed Order in this case, requiring Dr. Kirkland to get some training and being suspended until she takes these additional courses, and then returning her to practice with a monitoring physician and the other things included in the Proposed Order, is acceptable.

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

Dr. Bhati stated that Dr. Kirkland has been in practice for 23 years. She sees about 35 patients per day, a few times a week, not four patients total like the State's expert witness. Dr. Kirkland is board certified, she's a member of the clinical faculty at Wright State University, and she's been part of the clinical trials for migraine, hypertension, cholesterol and depression. Dr. Bhati stated that Dr. Winter, the State's expert,

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has a small practice from home in which she sees a total number of four patients, not 35 patients per day, three times a week for the last 23 years, so the Board is talking about two different things.

Dr. Bhati noted that Dr. Kirkland's expert was Dr. Sickles, who has been a residency director since 1990, and is Medical Director for Family Health. Seventy five percent of his time is in family practice, taking care of patients.

Dr. Bhati stated that the whole issue here is essentially based on documentation. Dr. Bhati at this time reviewed the cases.

Dr. Bhati advised that Patient 1 is a 58-year-old female with a number of problems. She had a kidney transplant in 1981, she has hypertension, Raynaud's disease, hypercholesterolemia, fibromyalgia, a bulging cervical disc and anxiety. She was on Valium even before she got the kidney transplant. It is reasonable for this patient with all these problems to get the medications she was given. He referred to the tests she underwent: cervical spine MRI, which showed C5 and C6 disc protrusions. She had a dorsal spine problem. An EMG also showed median neuropathy and cervical radiculopathy. Dr. Kirkland tried ultrasound to alleviate the pain. She also tried Dilacor for headaches. Nothing worked. Dr. Kirkland's use of these medications was considered by her peers, and her expert witness found their use to be within reasonable limits. The State's expert did not.

Regarding Patient 2, Dr. Bhati stated that this is a 50-year-old male seen since 1986. Dr. Bhati asked that the Board keep in mind that recordkeeping done in the 1980s is much different from that done in the 1990s and currently. Dr. Bhati referred to Dr. Kirkland's two-page letter to a law firm, which contains a very extensive description of the problems of this patient. He underwent six back surgeries, multiple consultations, and multiple workups. The consulting physician recommended putting this patient on methadone. As soon as Dr. Kirkland found out that the patient was getting methadone from another physician, she terminated him from her practice. When she referred this patient to a pain clinic, she was informed that the pain clinic couldn't help this patient anymore.

Regarding Patient 3, a 46-year-old female, seen since 1981, Dr. Bhati advised that she had depression and anxiety, and did well on Xanax. Dr. Bhati stated that there was a letter from a psychiatrist who admitted this patient as an inpatient three times. This wasn't a mild anxiety situation, it was serious depression and anxiety, requiring admission three times. She had headaches and she also had a history of GERD, therefore she could not use Motrin or that kind of medication.

Dr. Bhati stated that Patient 4 was a male adult, seen since 1994. The patient had a spinal fusion done in 1993 and, in 1995, this patient fractured his pelvis – which was plated – and his wrist. This patient required some treatment for this. He had a GGT, which was nonspecific, and it was unlikely that this patient was an alcoholic.

Dr. Bhati stated that Patient 5, a 49-year-old female, had pelvic pain radiating down to the right knee. She had physiotherapy and medications. Her lumbosacral region was tender. She had a positive straight leg test. She was absent right ankle jerk, and she had an ankle jerk on the left side that was three plus. Patient 5 had fractured ribs and two bulging discs.

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Dr. Bhati stated that Patient 6, a 51-year-old male, had been seen since 1984 for hypertension and stress, due to his divorce. This patient was anxious and depressed and had been a cocaine user in the past.

Dr. Bhati stated that a consultant advised Dr. Kirkland to give the patient Valium to slowly withdraw the problems. The consultant suggested detoxification with Valium and Prozac.

Dr. Bhati stated that Patient 7, a 55-year-old female, seen since 1983, had abdominal pain. In 1984 this patient was in a motor vehicle accident with a head injury. She had multiple seizures, was referred to a specialist, and put on Darvocet, again, going through the Demerol and pain causing vomiting and having to use the steroids for allergic symptoms, and so forth.

Dr. Bhati stated that Patient 8, a 62-year-old female, had been seen since 1985 for a head contusion. She'd been on Darvocet for the diagnosis of arthritis, which was documented in November and December, 1985. She had a loss of memory for ten days and was disoriented. Her fundi were examined and were normal. This patient was referred to Harvey M. Ellman, M.D., Pietro Seni, M.D., B. Burt Rahavi, M.D., and to Fred A. Wagshul, M.D. So you have the rheumatologists, orthopedic surgeons and asthma doctors looking after this patient. You're talking about pretty serious conditions with multiple system failure.

Dr. Bhati stated that Patient 9, a 70-year-old male, seen since 1983, was on Ativan for stress and anxiety. He also had hypertension and a pretty serious cardiac condition with an ejection fraction of only 15 percent. He had a pacemaker and defibrillators. He also had a renal stone, arthritis and a peptic ulcer. Dr. Bhati stated that this man had multiple system problems.

Dr. Bhati stated that Patient 10, a 55-year-old female, suffered from migraine headaches. She was tried on Imitrex, Cataflam, Midrin, BuSpar, and the only thing that worked was Stadol nasal spray and Tylenol #3.

Dr. Bhati stated that there is a definite issue here in all the cases of documentation, but he asked the Board members to keep in mind that this is a physician who has been practicing for 23 years, seeing 35 patients a day, and the case involves ten patients with multiple system failure with multiple different treatments tried on these patients. Dr. Bhati stated that he doesn't think that Dr. Kirkland could have done any better, except by documentation, documentation, documentation. She did not do that. If there's anything of which she is definitely guilty, it is of lack of documentation. She's not guilty of mis-treating these patients and she's not guilty of over prescribing. Her doses were within normal limits.

**DR. BHATI MOVED THAT THE CONCLUSIONS OF LAW IN THE MATTER OF JEANNE M. KIRKLAND, M.D., BE AMENDED BY DELETING THE LAST PARAGRAPH (ON PAGE. 114), THAT BEGINS, "Accordingly, the Proposed Order...."**

**DR. BHATI FURTHER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF JEANNE M. KIRKLAND, M.D., BE AMENDED TO READ AS FOLLOWS:**

It is hereby ORDERED that:

A. **PROBATION:** The certificate of Jeanne M. Kirkland, M.D., to practice medicine

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and surgery in the State of Ohio shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law**: Dr. Kirkland shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Declarations of Compliance**: Dr. Kirkland shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. **Personal Appearances**: Dr. Kirkland shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Controlled Substances Prescribing Course**: Within six months of the effective date of this Order, or as otherwise determined by the Board, Dr. Kirkland shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
5. **Medical Records Course**: Within six months of the effective date of this Order, or as otherwise determined by the Board, Dr. Kirkland shall provide acceptable documentation of satisfactory completion of a course on maintaining adequate and appropriate medical records, such course to be approved in advance by the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education acquisition period(s) in which they are completed.
6. **Controlled Substances Log**: Dr. Kirkland shall keep a log of all controlled substances she prescribes, orders, administers, or personally furnishes. Such log shall be submitted in a format approved by the Board thirty days prior to

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Dr. Kirkland's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Kirkland shall make her patient records with regard to such controlled substances available for review by an agent of the Board upon request.

7. **Monitoring Physician:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Kirkland shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Kirkland and who is engaged in the same or similar practice specialty. The Board shall not consider any individual who is related to or formerly related to Dr. Kirkland, either by blood or marriage, to serve in this capacity.

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

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

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

8. **Tolling of Probationary Period While Out of State:** In the event that Dr. Kirkland should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Kirkland must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

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9. **Noncompliance Will Not Reduce Probationary Period:** In the event Dr. Kirkland is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
  10. **Violation of Terms of Probation:** If Dr. Kirkland violates probation in any respect, the Board, after giving him/her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
- B. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Kirkland's certificate will be fully restored.
- C. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Kirkland shall provide a copy of this Order to all employers or entities with which he/she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Kirkland shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.
- D. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Kirkland shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Kirkland shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Kirkland shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

**EFFECTIVE DATE OF ORDER:** This Order shall become effective immediately upon the mailing of notification of approval by the Board.

Dr. Egner thanked Dr. Bhati for giving such a detailed synopsis of Dr. Kirkland's case. She added that, although she will speak against Dr. Bhati's motion to amend, she feels that Dr. Bhati's synopsis will support what she has to say.

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Dr. Egner stated that minimal standard cases are a continuum. The first question the Board members must ask themselves and answer by the evidence from the hearing is whether or not this is a minimal standards case, and did Dr. Kirkland perform below the minimal standard. Dr. Egner stated that she believes that the answer to that is “yes.” She added that the second question is, “how severe was it?” Dr. Egner stated that the Board has seen more minimal standard cases in the past year than it has seen in the past. In many occasions those have resulted in permanent revocation when the degree of minimal standards is ten out of ten. Dr. Egner stated Dr. Kirkland is not a ten out of ten, but she believes that Dr. Kirkland did practice below the minimal standards.

Dr. Egner stated that she would like to comment about the State’s expert. Dr. Egner indicated that she had the same reservations when Dr. Winter described her current practice. It is very unconventional and she may not have been Dr. Egner’s pick for expert witness. However, Dr. Winter’s CV shows that, at the time she did her review of the cases, she was in a traditional practice. It is not as though Dr. Winter did not have an understanding or her own experience in traditional primary care practice.

Dr. Egner stated that her concerns with this case are many: 1. The recordkeeping is very poor. The standard of care of recordkeeping in the 1980s was the SOAP note. That is not a very recent thing in recordkeeping in medicine. There is no way that another physician could look at these records and get a good idea of what the rationale and judgment was behind Dr. Kirkland’s prescribing. Dr. Egner stated that she also felt that the prescribing was many times inappropriate. These are very complicated patients, and sometimes it takes a physician to say, “perhaps you’re too complicated for me. Perhaps in the extent of my practice I must refer you on to someone else.” Dr. Kirkland did not practice in a rural, underserved area. She practiced and had liaisons at the medical school. She could have turned those patients over when they were beyond her expertise.

Dr. Egner continued that she is also bothered by the fact that Dr. Kirkland comes today and says that she’s taken a recordkeeping course and she’s taken a narcotics prescribing course, and yet she still defends what she did in her practice. Dr. Egner stated that the testimony she wants to hear is “these were very complicated patients; perhaps I got myself in over my head at times. Perhaps I didn’t practice the best medicine, but it wasn’t the worst. And now that I’ve taken these courses and now that I’ve gone through the Board process, I’ve learned so much and will change my ways.” Dr. Egner stated that the Board doesn’t hear that in the hearing record or in today’s testimony. All the Board hears is a defense of what she’s done. Dr. Egner stated that that makes her question whether or not Dr. Kirkland is amenable to education or to change.

Dr. Egner stated that she is in agreement with the Proposed Order, which gives Dr. Kirkland time out of practice in order to make sure that she can improve her practice methods.

Dr. Bhati disagreed with Dr. Egner. He stated that he doesn’t believe that this is an issue of minimal standards of care. The expert who is a teacher and a Medical Director is a better judge of whether these multiple system failures are cases of minimal standards of care than he himself is. This is definitely a medical recordkeeping problem. There is no question about that. Dr. Bhati stated that if a physician has a medical recordkeeping problem, what is the next best shot to do? The next thing is to check on whether or not there was any discussion that took place between the patient and the doctor, or the referring physician

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and this doctor. Dr. Bhati stated that he sees that documentation from the patient, from referring physicians, from the letters written in this case. Dr. Bhati stated that he disagrees that there is any significant amount of minimal standards in this case. Dr. Bhati stated that Dr. Kirkland referred one after another. He stated that at times it is very difficult to have these difficult patients being taken care of by other people. As soon as they see it, they turn back and say, "go back to Bhati and he'll take care of it." Dr. Bhati stated that he's not quite sure that Dr. Kirkland has not tried to refer the patients to do the testing. He agreed that she didn't document properly, but he doesn't believe this is a minimal standard of care case.

Ms. Sloan noted that there is not a second for Dr. Bhati's motion.

**MR. BROWNING SECONDED DR. BHATI'S MOTION TO AMEND.**

Dr. Buchan stated that he appreciates the comments made to this point. He suggested that if, indeed, this is not a minimal standards of care issue, the Conclusions of Law must be changed.

Dr. Buchan continued that he thought that Mr. Porter's Report and Recommendation was quite an excellent review of the facts of the case. It was complicated, but an excellent review. Dr. Buchan stated that he thought it was a very fair and reasonable review of these records. Dr. Buchan stated that this is a talented physician who, for reasons unexplained, let the recordkeeping issues get abysmal, and let some of the prescribing issues get beyond what the Board sees as usual and customary. Dr. Buchan stated that he is in favor of the Hearing Examiner's Proposed Order.

Dr. Robbins agreed with Dr. Buchan. He stated that one of his difficulties here is that he agrees that these ten patients were very high risk, very difficult patients. When he sees patient like this, commonly, his recordkeeping is markedly increased compared to usual, not to this extent where there is nothing. Because they are so difficult, so involved, you tend to write everything down because you don't know who's going to see that patient down the road and who's going to be asked to step in and help here and help there. From the recordkeeping point of view, you can only say that it really is abysmal, and it's more abysmal because of the incredible difficulty these patients presented.

Dr. Robbins stated that one benefit of having the kind of recordkeeping that you need to have is that when you see things like this, and you see a chart on patients, and you look at prescription after prescription, refill after refill, you tend to look at it and introspectively start to say, "what is going on here? Do I need more help with a patient? Have we gone too far?" And then just re-evaluate the whole thing.

Dr. Robbins stated that he believes that this is a good physician who, for reasons he doesn't understand, not only deviated in documentation in the recordkeeping, but did it to such a degree that first-year medical students know better. Dr. Robbins stated that he at this point leans toward the initial order.

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

Vote:	Dr. Egner	- nay
	Dr. Talmage	- abstain

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Dr. Bhati	- aye
Dr. Buchan	- nay
Dr. Kumar	- abstain
Mr. Browning	- aye
Dr. Davidson	- nay
Dr. Robbins	- nay
Dr. Garg	- abstain
Ms. Sloan	- nay

The motion failed

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

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

The motion carried.

Dr. Kumar left the meeting at this time.

MICHAEL PAUL PARKER, M.D.

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

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

Dr. Parker was accompanied by his attorney, Douglas E. Graff.

Mr. Graff stated that he would speak very briefly and he apologized to the Board for any earlier inconvenience of the Board.

Mr. Graff stated that Dr. Parker is here because he wrote one prescription for phentermine to a significant other. It had previously been prescribed by others, but Dr. Parker wrote that it was for narcolepsy and for

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weight loss. Dr. Parker did not follow the Board's rules and, actually, was totally unaware of the Board's rules for prescribing of phentermine. Moreover, no records were kept. Two years later, Dr. Parker wrote three prescriptions for Ritalin to the same individual, also for narcolepsy. Two of those prescriptions were, in fact, negotiated; one caused a pharmacist to call and that brought Dr. Parker before the Board today. Mr. Graff continued that, to compound the problem, in an inconceivable lack of insight, Dr. Parker didn't take the Board's interrogatories seriously. That's why he's here before the Board today.

Mr. Graff continued that they don't ask that the Board excuse his conduct, nor do they ask the Board to look past that conduct. This individual didn't know and needed to find out. They do ask that the Board allow Dr. Parker to continue to practice medicine. Mr. Graff noted that Dr. Parker just graduated from his residency program in anesthesia. He just became board certified in that area. Dr. Parker has learned dramatically from this event. Mr. Graff asked that the Board listen to Dr. Parker and find that permanent revocation is inappropriate.

Dr. Parker thanked the Board for the opportunity that medicine has offered to him in allowing him to make a difference to the many patients that he has encountered in this rewarding, but difficult, journey. He reflects back on the many cases that he's encountered, and the small amount of good that he's been able to accomplish, and he's truly grateful that he's been allowed this opportunity. Dr. Parker stated that, although there may not be a "Mr. Holland's Opus" today, he feels thankful for the many lives and families upon which he might have made some small impact in a positive way.

Dr. Parker continued that he wants to truly apologize for his actions and the lack of common sense that precipitated the events surrounding his appearance here before the Board. Having never been involved in a malpractice situation in years of practice, it is astonishing to him that he now finds himself in danger of losing his license. Dr. Parker stated that, nevertheless, he takes full responsibility for his actions and the egregious errors he's made in violation of the law. Dr. Parker stated that he is thankful that the Board has set him straight and forever impressed upon him the consequences of what could happen to those who violate the laws.

Dr. Parker stated that, although this was the one and only time he prescribed these medications, he has forever learned that it only takes one time to end up before the Board. In this case, Fastin had been prescribed by another practitioner, and Ritalin had been recommended by a Board certified neurologist, but he makes no excuses. In essence, he has no defense since he violated both the Board rules and his own rules in not keeping a chart, not to mention prescribing for someone who, in essence, was a family member. Dr. Parker stated that he is truly sorry for his actions, and added that there is really no defense or excuse for his egregious errors in judgment. He knows from the bottom of his heart that this will never happen again. Dr. Parker stated that he is at the mercy and judgment of this Board.

Dr. Parker referred to a previous settlement offer, which he now regrets turning down. In his past he has excelled in emergency medicine, despite not having the residency opportunities due to a National Health Service Corps commitment. He is now Board certified and an oral examiner. Dr. Parker added that, having just completed an anesthesia residency, he can state that he scored close to the 90 percentile in his peer group. He just found out that he passed the written boards two weeks ago.

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Dr. Parker stated that he has a wealth of knowledge to offer his patients, and added that medicine, to him, has always been about making a difference. Each day he can impact someone's life in a positive way is a successful day, in his mind. Dr. Parker stated that he's truly grateful for what he's received thus far.

Dr. Parker advised that, if the Board allows him to continue, he would be grateful for any opportunity to practice. He would be more than willing to do any community service or pro bono work. He also loves to teach. Dr. Parker stated that he has not worked or attempted to find employment since completing his residency, which was about two and a half months ago. He's done a lot of soul searching, and he finds that he truly enjoys impacting the lives of those around him and making a positive impact. To him, medicine and everyone with whom he's interacted are truly "Mr. Holland's Opus."

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

Mr. Wilcox asked that the Board disregard any statement that Dr. Parker made in regards to settlement negotiations. He stated that the Report and Recommendation does an excellent job in summarizing the facts in this case. There are serious issues before the Board. At the very best, Dr. Parker was very sloppy and indifferent in his responsibilities as a physician. At the worst, he was incompetent to the point of being dangerous.

Mr. Wilcox stated that this case boils down to whether the Board can trust Dr. Parker to properly and safely prescribe scheduled medications for future patients. Dr. Parker's actions in this matter indicate that he may not be able to do so. Mr. Wilcox commented that he doesn't think that Dr. Parker realized the seriousness of this matter at the time of the hearing. He seems to have grasped the seriousness at this point, but it may be too late.

Mr. Wilcox stated that he does agree with the Hearing Examiner's conclusion that, given what is known in this matter, it is very difficult to believe that Dr. Parker conducted examinations before these prescriptions were written. If he wasn't going to bother keeping records, or he couldn't be bothered with knowing the proper date of the prescription, it is very hard to believe that he was going to conduct neurological exams of this patient.

Mr. Wilcox continued that, whether Dr. Parker is salvageable through some suspension period coupled with ethics and recordkeeping courses is debatable, and, obviously, what the Board has to consider that today during its deliberations.

**DR. ROBBINS MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MICHAEL PAUL PARKER, M.D. DR. BHATI SECONDED THE MOTION.**

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

Dr. Buchan stated that he came here today, anticipating that this is a physician that he wasn't sure he could trust. He believes that Dr. Parker lied in his interrogatories and in his testimony. Dr. Buchan stated that, as he reviewed Dr. Parker's comments, he felt that Dr. Parker didn't need to be licensed in this state.

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Dr. Buchan stated that he thought his mind was made up. However, listening to Dr. Parker today, Dr. Buchan stated that he feels somewhat differently. He has been softened by Dr. Parker's presentation. Dr. Buchan added that he believes that Dr. Parker is a bright fellow, as is evident from his CV, and that he finally understands, or at least speaks as though he now understands. Dr. Buchan stated that he is now willing to give Dr. Parker another chance in this state. He stated that he would at least require a period of suspension, an ethics course, and a recordkeeping course. Dr. Buchan stated that he would be willing to, at least, entertain the thought of allowing Dr. Parker to return to the State of Ohio. Dr. Buchan stated that he would like to hear other Board members' thoughts before moving to table the matter to craft language for an alternative order.

Dr. Davidson stated that she agrees totally with Dr. Buchan. She agreed that Dr. Parker's personal appearance was very compelling. There was, at least, an egregious lack of judgment, but Dr. Parker has learned something from this experience. With course work and a period of probation, the Board can continue to observe his progress and, hopefully, Dr. Parker can become a useful member of the medical profession here in Ohio.

Dr. Robbins stated that he would echo Dr. Buchan's and Davidson's comments. Before this appearance, he thought this case was pretty clear-cut, but, on listening to Dr. Parker, he thinks a suspension of some length with courses in ethics, prescribing and recordkeeping would be reasonable. Dr. Robbins stated that he would agree to give Dr. Parker a second chance.

Dr. Bhati stated that this is a tragic case. This is a young man who made a serious mistake, and he ought to understand and realize what he did. Initially, Dr. Parker didn't understand that problem. By his statement today it seems that he now does. Dr. Bhati stated that a second chance is reasonable, and he would explore the possibility of a one-year suspension with all of the routine conditions for reinstatement, and three years probation with all of the routine requirements.

Dr. Egner stated that Dr. Parker didn't so much make mistakes as he's a liar. His personal character is terribly flawed, and that's the real problem. What do physicians have to offer? They have their knowledge, and they have their integrity to confer that knowledge in order to help someone. Dr. Egner stated that she thinks that the Board members all agree that Dr. Parker is good on the knowledge part, but she doesn't know that he has the integrity so that when he administers anesthesia he will do so with honesty and integrity. Dr. Parker didn't show it in his interrogatories, nor did he show it in the hearing. Dr. Parker sits before the Board for five minutes and members are completely changing their minds. Dr. Egner stated that if the Board is going to give Dr. Parker another chance, she would strongly urge that this not be a light amendment. Dr. Parker needs time out. He needs to understand the seriousness of his conduct, and that character is a crucial part of practicing medicine. Dr. Parker needs to be watched very closely. This will follow him for a very long time. Dr. Egner stated that she is very concerned, and was not at all in favor of a change in the Report and Recommendation. She stated that she isn't now, but she can tell that she may be in the minority, and so she feels compelled to stress that any Order has to be very strict because she doesn't believe that Dr. Parker is a trustworthy person.

Dr. Bhati agreed with Dr. Egner, but added that the issue is whether the Board should permanently revoke based on his lying about one situation. Or does the Board give him another chance with very strict

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conditions. Dr. Bhati stated that, if other Board members want a suspension longer than one year, he doesn't have any problem with that. He added that he feels that one year will give Dr. Parker the chance to sit out and think about the courses he's taking, and hopefully he won't make the same mistakes again. Dr. Bhati added that he would also agree to a five-year probationary period. Dr. Bhati stated that the conditions need to be as strict as the Board can make them. Dr. Bhati added that Dr. Parker is lucky to be getting another chance.

Mr. Browning asked whether the Board should table this to write an alternative order.

Dr. Bhati answered yes, unless they can take it as routine suspension conditions and probationary conditions.

Mr. Dilling stated that Dr. Bhati has to direct staff as to what he wants in the Order.

Dr. Buchan suggested the following: a one-year suspension, ethics, prescribing and recordkeeping courses, and probationary terms for five years.

Dr. Bhati stated that there should be all the routine bells and whistles.

Dr. Egner asked whether he would have a monitoring physician.

Dr. Bhati stated that he would.

Ms. Thompson asked whether Dr. Buchan is suggesting a one-year suspension or an indefinite suspension, with a minimum of one year.

Board members indicated that it should be an indefinite suspension, not less than one year.

Ms. Thompson asked whether the courses would be included as part of the reinstatement conditions.

Dr. Buchan and Dr. Bhati both stated that they would.

Dr. Egner stated that she would prefer a longer suspension period. She stated that what Dr. Parker did is so very serious. Dr. Parker made a mockery of writing these prescriptions. She asked whether the Board honestly thinks that it has an idea of what went on here? Did he write the prescriptions in Chicago, or did he write them in Columbus? Did he write the prescriptions, or did the girlfriend write the prescriptions? Did he answer any of the questions truthfully? Dr. Egner stated that she doesn't know. She added that there aren't many hearing records that she can read from front to back and she still doesn't know what happened. Dr. Egner stated that Dr. Parker should be out of practice for a minimum of two years. She added that Dr. Parker should have a one-on-one ethics courses, more tailored to honesty and integrity, with a report back from that person giving the course, saying whether Dr. Parker gets it or not. For Dr. Parker to go up to the Cleveland Clinic and take a course in ethics is just not enough.

Mr. Browning stated that Dr. Egner is raising very legitimate questions, but the Board has to go on the

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evidence, and there is no evidence that what Dr. Egner is feeling is accurate. He suggested splitting the difference at 18 months.

Dr. Bhati agreed to 18 months.

**DR. BUCHAN MOVED TO TABLE THE MATTER. DR. BHATI SECONDED THE MOTION. A** vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye

The motion carried.

Dr. Kumar returned to the meeting at this time.

JINKA R. SATHYA, M.D.

Ms. Sloan directed the Board's attention to the matter of Jinka R. Sathya, M.D. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Sathya was accompanied by his attorney, David Wolfe Leopold.

Mr. Leopold at this time thanked Mr. Porter for his work and his Report, and Ms. Albers for her work in this case and for her understanding.

Mr. Leopold stated that anyone who has read the record in this case can come to but one conclusion: Dr. Sathya is an excellent clinician, an excellent academic, and will bring to this state a marvelous talent. He's a radiation oncologist, of which there is a shortage in Cleveland. Mr. Leopold stated that Dr. Kinsella's letter in the record speaks for itself. The impediment is but one thing, and that's the Educational Commission of Foreign Medical Graduates, which is taken by individuals who just finished school or just finished training. Dr. Sathya took comparable exams. He's licensed and has been licensed for 20 years. He has an excellent record and an excellent reputation. He needs to move to the State of Ohio, and has been offered a job at University Hospitals in Cleveland. But because of this exam, which is really not designed for folks like Dr. Sathya, his license is being withheld.

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Mr. Leopold asked that, in this case, the Board grant Dr. Sathya a license. It is consistent with his reputation and with his work. Dr. Sathya is someone that is needed in the State of Ohio.

At this time Dr. Sathya addressed the Board. Dr. Sathya stated that it is a privilege to present himself to the Board, adding that he's driven all the way from Toronto to present his case for the next couple of minutes.

Dr. Sathya stated that he graduated from medical school in India 26 years ago. Since then he's grown, not physically, but professionally. He had been in practice in the United Kingdom for four years, and has been in Canada for the last 20 years. He's a radiation oncologist and an Associate Professor of Medicine at McMaster University, one of the premier medical schools in Canada.

Dr. Sathya stated that he is planning to move to Cleveland because his wife is a pediatric gastroenterologist, and she is working as an Assistant Professor at Rainbow Babies and Children's Hospital. They have three children. The youngest child is with his wife and the second one is with him. Their oldest child is in Montreal at McGill University. Obviously, for family reasons, it would be good for them to stay as a unit together.

Dr. Sathya stated that he comes with a lot of experience. He has been practicing radiation oncology for 20 years, and he's had no professional misconduct litigations at all. He has presented at international meetings, and he has published several papers. Dr. Sathya stated that he believes that he will serve the population of Cleveland and Ohio very well if he is given the opportunity to practice in Cleveland. Also, for family reasons it would be very good.

Dr. Sathya stated that he realizes that he has not taken the ECFMG examination or been certified by it, but he has done the equivalent of that in England and in Canada. To ask him to take the exam would be a waste of his time. He would have to study for six months to take that exam, just for a technical reason. In that six months he believes he could probably treat close to 300 patients with prostate cancer and maybe help them, rather than getting the ECFMG certification. Dr. Sathya stated that he doesn't see the need for the ECFMG certificate with his level of experience.

Dr. Sathya asked that the Board consider this and give him the opportunity to practice and serve the population of Ohio.

Dr. Bhati asked Dr. Sathya what he did in England.

Dr. Sathya stated that there's an examination called "PLAB," the Professional Linguistic and Assessment Board examination. This is very similar to the ECFMG examination. He did that so he could go on to do his residency in radiation oncology in the UK. That is where he did four years of residency.

Dr. Bhati asked whether Dr. Sathya is certified with the Royal College.

Dr. Sathya stated that he is Board certified by both the Royal College of UK and the Royal College of Canada.

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Dr. Garg stated that he had the same questions, but he would like to hear the Assistant Attorney General's response to Dr. Sathya's statement before further discussion.

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

Ms. Albers stated that, on one hand, this is a very difficult case for the Board, but on the other hand, it's not. The requirement for ECFMG certification is statutory. There is no way the Board can grant Dr. Sathya a license without it. She acknowledged that Dr. Sathya has an impressive CV and impressive credentials, but until he has that exam or the statute changes, he cannot be licensed in Ohio. Ms. Albers stated that it's a very sad situation in this case because she believes that Dr. Sathya's not being able to practice here would be a loss to the citizens of Ohio, but the Board has no discretion in this case under the statute.

Dr. Garg asked whether the Board could find equivalency.

Ms. Albers stated that the statutes do not allow for that.

Mr. Dilling stated that the Report and Recommendation alludes to the rule, but actually Section 4731.29 is the statute that refers you back to 4731.09. It's a statutory requirement. The Board wouldn't even be able to change a rule to allow this. It would require a change in the statutes.

**DR. BHATI MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JINKA R. SATHYA, M.D. DR. GARG SECONDED THE MOTION.**

Dr. Garg stated that he had wanted to ask Dr. Sathya the same questions Dr. Bhati asked about the equivalency of the examinations he's taken, but these are moot points. If the Board doesn't have statutory authority to grant a license, forget about it.

Dr. Garg stated that the Report and Recommendation indicates, and Dr. Sathya has mentioned today, that obtaining ECFMG certification would be a waste of time for Dr. Sathya. The ECFMG is taken right after medical school, and it really has no value in cases such as this. The Boards in the States today do not do any accreditation of medical schools. The ECFMG was put in there for that purpose, so that at least all the medical schools are checked. There are people who have been full professors for 20 or 30 years, but if they come into the country, the ECFMG is still required. It's not required just for new medical school graduates. Dr. Garg added that there is a purpose for any examination being given. This is not a frivolous exam. He added that if it was a requirement by rule and the Board granted Dr. Sathya a license, then the rule doesn't have any value. The Board would be making exceptions as and when it pleases.

Dr. Garg stated that he's sorry if Dr. Sathya doesn't get a license, adding that he believes Dr. Sathya is a very well trained physician and Cleveland would do very well with his expertise. Dr. Garg added that he also feels bad that Dr. Sathya's wife has a job in Cleveland and might have to cancel it.

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Dr. Garg commented that Dr. Sathya has indicated that someone had told him that he would qualify for licensure. Dr. Garg stated that he can't think who on the Board or staff would have given him that information, but if it was given, it was wrong information. Dr. Garg stated that this is a case where the Board must go along with the Report and Recommendation for the simple reason that it doesn't have the authority to grant a license.

Dr. Buchan stated that he doesn't think that the bar is that high. The Board doesn't have much discretion here, but he would encourage Dr. Sathya to take the ECFMG examination and come to Cleveland.

Dr. Garg added that the Hearing Examiner left the window open. The license would be granted upon Dr. Sathya's becoming certified by the ECFMG. That's what is required by law.

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

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

The motion carried.

ANIMESH CHANDULAL SHAH, M.D.

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

**DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ANIMESH CHANDULAL SHAH, M.D. DR. BHATI SECONDED THE MOTION.**

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

Dr. Bhati stated that this is a simple case of requiring Dr. Shah to take the SPEX or a specialty recertification exam to restore his license. There is no alternative. Dr. Bhati spoke in support of the Report and Recommendation.

Dr. Garg noted that Dr. Shah has been out of practice since 1989. He stated that the Board doesn't know what he's been doing. He advised that he also supports the Report and Recommendation.

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

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

The motion carried.

HISHAM H. SOLIMAN, M.D.

Ms. Sloan directed the Board's attention to the matter of Hisham H. Soliman, M.D. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Soliman was accompanied by his attorney, John R. Irwin, M.D.

Dr. Irwin stated that Dr. Soliman is a native of Egypt. He obtained his medical school education in Egypt and came to the United States, specifically to California, several years ago. He participated in, and successfully completed, his residency in psychiatry at the University of California. After that, Dr. Soliman came to Cleveland, Ohio, to participate in a child and adolescent psychiatry program at University Hospitals. Dr. Soliman is married, has a family, and he filed an application for a permanent Ohio license so that he could supplement his resident stipend with some outside moonlighting activities.

Dr. Irwin advised that, in conjunction with his application for licensure, Dr. Soliman made several erroneous statements concerning his history of his accomplishments in his residency program and elsewhere. Dr. Irwin stated that he believes that Dr. Soliman was thinking very narrowly about the context of the questions being asked of him. As a result of the license in Ohio not being granted, Dr. Soliman had to return to California to seek employment to support his family, and he is still employed in California by the California State Prison system full-time as a psychiatrist.

Dr. Irwin stated that, notably, Dr. Soliman made a number of mistakes and errors in his application and in answering questions, but he believes that if the Board members read the report, the recommendation and the transcript of the hearing in full, the Board will see that this is a young man who was easily confused, and imprecisely understood the questions. Dr. Irwin stated that he feels that the most important point is that this is a good young man who, by his subsequent experiences as a psychiatrist in California, has been

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doing a very good service to his patients and to his employer. He noted that a number of very strong support letters were submitted on his behalf. Dr. Irwin stated that he believes that Dr. Soliman is quite salvageable and can be rehabilitated and redirected.

Dr. Irwin stated that he filed objections to the Report and Recommendation simply for the reason he thinks that the recommended action is excessive under the circumstances. Dr. Irwin stated that he thinks that this is a man who can be helped, and who can move forward in his career. He has shown remorse and regret for mistakes he has made. Dr. Irwin stated that he doesn't believe the evidence before the Board conclusively establishes an intent to mislead, or a desire to defraud the Board. He added that, considering actions the Board has taken under previous cases, the permanent denial of Dr. Soliman's application, which would result in the loss of his California license, is excessive under these circumstances.

Dr. Soliman addressed the Board at this time, thanking the Board for the opportunity to address it. He stated that he is very sorry for the trouble that he has caused, and he would like to ask the Board to give him a second chance in pursuing his professional career. Dr. Soliman stated that he has been a dedicated, hard working, and motivated doctor. He stated that he goes the extra mile to care for his patients. Dr. Soliman stated that the mistakes that he has made were actually during his training and residency period, which he successfully finished. He added that he has been described in the past as a conscientious person, and he has a strong sense of values.

Dr. Soliman stated that "we are all humans, we make mistakes throughout our lives, but we also have forgiveness as a noble virtue of human beings." Dr. Soliman stated that all he wanted was to serve as a doctor, helping patients here in the United States, his home country now, and implement his knowledge and experience in helping them.

Dr. Soliman stated that he has a family that is dependent on him, and he really doesn't know what to do after all these years as a doctor. Dr. Soliman asked the Board to bless him with its trust, under any circumstances, to prove to the Board that he is trustworthy. He asked for the Board's forgiveness, and a chance to learn by his mistakes, grow and mature professionally, and live life as the doctor that he's trained to be.

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

Mr. Wilcox stated that it's obvious in this case that this is a physician who has not been honest with this Board. He has also shown some disturbing character traits in his psychiatry residency, including dishonest and unprofessional conduct. Mr. Wilcox stated that any physician who has been disciplined, as Dr. Soliman had been by his psychiatry residency program, would certainly realize that he had been sanctioned and had been through a disciplinary process. He was specifically reprimanded and his moonlighting privileges were suspended. This was given to Dr. Soliman in writing. He was also given a written reprimand after an investigation into a sexual harassment charge by his employer at Fresno County Human Services. Mr. Wilcox stated that it is simply not credible for Dr. Soliman to act as if he did not know that these separate actions were disciplinary in nature. Dr. Soliman lied to this Board on his application, during his deposition, and on his FCVS application.

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Mr. Wilcox added that Dr. Soliman conveniently failed to mention in his employment history that he had been hired and worked for Fresno County because he had been investigated and disciplined for sexual harassment there.

Mr. Wilcox stated that, when you look at this case and the testimony of Dr. Soliman, it is apparent that he continues with his dishonest behavior. His excuses of not carefully reading the questions or not understanding the questions on the applications are not credible. Even at hearing, his answers often changed, and he would never answer direct questions, including whether or not he was paid for one of his medical jobs. He appeared to be trying to answer in a way that would get him out of trouble instead of necessarily stating the truth.

Mr. Wilcox stated that he believes that Dr. Soliman has demonstrated that he's not trustworthy and cannot handle the responsibility of licensure in Ohio. Mr. Wilcox stated that he believes that the Board should adopt the Hearing Examiner's recommendation to permanently deny Dr. Soliman a license.

**DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF HISHAM H. SOLIMAN, M.D. DR. ROBBINS SECONDED THE MOTION.**

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

Dr. Garg stated that he found this case to be very disturbing. He stated that he is in full agreement with the Report and Recommendation, and will support it completely. Dr. Garg stated that there were a few comments made today about Dr. Soliman being easily confused, but he does not know what there is to be confused about. Dr. Garg stated that, if a person at this stage of training and education gets confused by the questions on the application, he has a problem. Dr. Garg noted that Dr. Soliman intends to be a child psychiatrist, and confusion is not going to help very much there.

Dr. Garg stated that Dr. Soliman has indicated that there was no misleading or defrauding of the Board, but there has been. He added that there have been misleading statements and defrauding about patient care, also, as seen from the charts. That can be very dangerous. Again, in the case of a psychiatrist, it's even worse. Dr. Garg stated that Dr. Soliman has asked for a second chance, but he has been given chances. Dr. Garg stated that all people make mistakes, that's part of being human. But this was part of Dr. Soliman's residency, and he was warned again and again about it. He did not correct the problems that he had.

Dr. Garg indicated that the Board has been told that Dr. Soliman has matured and the Board should trust him, but he has made really fraudulent statements in the charts by writing that he discussed the cases with his chief or supervisors, when he never did. Dr. Garg stated that that's a very dangerous practice.

Dr. Garg stated that from what he's read, and from what he's heard today, he finds that there is a lot there that is dishonest, unprofessional, and very unreliable, including fraudulent charting and sexual boundary issues. He added that the best way to put it is that there were outright lies. He called in sick to do moonlighting when he was supposed to be on duty. Dr. Garg noted that Dr. Soliman claimed that

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everybody else does that. He stated that he doesn't know who "everybody else" is, but if they do, that's wrong, too. Two wrongs don't make a right. Dr. Garg stated that there's nothing in the record that tells him that this physician should be licensed in Ohio.

Dr. Egner stated that this is even more egregious than a previous case the Board discussed. Physicians have knowledge, integrity and their character to offer. She stated that these were not mistakes and errors. Dr. Egner stated that she doesn't believe that Dr. Soliman was easily confused, but that she believes that he lied. Dr. Egner stated that there are many here at the Board who are involved with residents and residency programs, and they know that a written reprimand is not made lightly. They are few and far between, actually. 1. They are not given to a resident unless what the resident has done is serious; and 2. When a resident receives a written reprimand, it is a memorable event, one that he would not forget. She added that the question on the application is very clear; it is not ambiguous, yet Dr. Soliman answered, "no."

Dr. Egner stated that it is especially frightening for a psychiatrist to lack good character and honesty. Dr. Egner stated that she is in great support of the Report and Recommendation, but added that she would like to add something to the record. In order to make the Report and Recommendation more complete and substantiate more clearly why the Board members are in support of the Report and Recommendation, she would like to add language to the testimony on page 15 of the Report. She stated that it was very frustrating to read this testimony when Dr. Soliman was being asked very straightforward questions. She noted that the language she wishes to add is part of the hearing record.

**DR. EGNER MOVED TO AMEND THE SUMMARY OF THE EVIDENCE ON PAGE 15 OF THE REPORT AND RECOMMENDATION TO DELETE THE ELIPSES AND TO INCLUDE THE OMITTED PORTION OF THE TRANSCRIPT, AS FOLLOWS:**

THE WITNESS: [by Dr. Soliman] No, I haven't.

THE EXAMINER: Maybe you got a little? That's what you said; "Maybe I got a little, so it's no."

THE WITNESS: No, I haven't. I haven't got paid. They offered me the pay, but I didn't take it.

THE EXAMINER: Then what was all that talk about, "Maybe I got a little, maybe it was so very little that I should say no?"

THE WITNESS: Because obviously I wrote it down on my application, on my CV, or something like that. My understanding of the CV and everything that's there, that maybe I should be paid or something like that, so I was trying to say --

THE EXAMINER: You're saying that, because you wrote it on your curriculum vitae, you're going to tell us that you got paid?

THE WITNESS: No, I didn't say that.

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THE EXAMINER: Okay.

THE WITNESS: Like I said, I was offered the pay, but I never actually took it.

THE EXAMINER: Why were you telling us maybe you got paid a little?

THE WITNESS: Because it was very, very little, but I never took it.

THE EXAMINER: All right.

MR. WILCOX: I don't have anything.

THE EXAMINER: Do you have any further?

MR. IRWIN: No. Thank you. I have nothing further.

THE EXAMINER: Do you wish to make closing statements?

MR. IRWIN: I wish to move admission of my exhibits. B, not A, but B through -- you just discombobulated me, I'm sorry. B through Q.

THE EXAMINER: B through Q and all subparts?

MR. IRWIN: And all of the subparts.

THE EXAMINER: Any objection?

MR. WILCOX: I don't have any objection. And I didn't see it in there, any of the letters go to the ultimate issue, which is that Board rule --

MR. IRWIN: I don't think any of them do. Most of these are just reference letters that he got for his residency application.

MR. WILCOX: I don't object to those.

THE EXAMINER: If there's any statement in here telling the Board what to do, I will strike it.

MR. IRWIN: Agreed.

THE EXAMINER: Other than that, they are admitted.

MR. IRWIN: You want to say something Kyle, in summary?

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THE EXAMINER: No. First, please decide whether you're going to rest. I don't want to discombobulate you.

MR. IRWIN: I shall now rest.

THE WITNESS: Is there any way I can explain to you one way or another that would sway you one way or the other?

MR. IRWIN: I think we have rested.

THE EXAMINER: Yeah. We're done for now. The lawyers get to close. But thank you for the offer.

Hearing Transcript at pages 269 to 271.

Dr. Egner asked that the Board take special note of Dr. Soliman's question, "(i)s there any way I can explain to you one way or another that would sway you one way or the other?" Dr. Egner stated that she believes that says it all.

**DR. GARG SECONDED THE MOTION.**

Dr. Buchan stated that he agrees. He added that one of the things he has learned is that the number one quality to assess who is going to be a good physician and who's not is not the IQ or knowledge base; it's the character. That is number 1. How do you measure that? Dr. Buchan stated that this additional language is a snapshot of what Dr. Soliman's character is all about. The Board knows he has an IQ and understands that he can take a test, but there are other issues that make him in full support of this Report and Recommendation.

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

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

The motion carried.

**DR. BHATI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS**

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**OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF HISHAM H. SOLIMAN, M.D. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MARY MEI-LING YUN, M.D.

Ms. Sloan directed the Board's attention to the matter of Mary Mei-Ling Yun, M.D. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Yun was accompanied by her attorney, Eric J. Plinke.

Mr. Plinke stated that he has been Dr. Yun's attorney for a number of years, and his name appears on a number of consent agreements that Dr. Yun has entered into. He stated that he believes that Dr. Yun has been treated appropriately by the Board throughout her dealings with it.

Mr. Plinke stated that Dr. Yun is ill. Her illness is what brings her before the Board today. This isn't an issue of character or honesty as the Board has heard in other cases. Rather, this is a case that asks the Board how it will address Dr. Yun's illness.

Mr. Plinke stated that he has filed objections that address two points: One is a factual objection. Dr. Yun's illness, as it manifested itself in this case, was precipitated by the fact that she was following Dr. Cooper's treatment plan, and Dr. Cooper had asked her, due to a dystonic reaction, to stop taking medication temporarily, and to come into the office and see him. In the interim period, before she could see Dr. Cooper, her illness caused her to decompensate and she was hospitalized.

Mr. Plinke stated that they're not disputing that Dr. Yun is ill and needs monitoring terms, as Ms. Murphy has recommended. He stated that his first objection is really to whether her compliance with Dr. Cooper's recommendations constituted a violation of the previous consent agreement. Mr. Plinke stated that he doesn't believe it did. Dr. Cooper reported to the Board in a letter that is part of the hearing record that

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Dr. Yun had decompensated and that there was a forced medication hearing and that Dr. Yun had been hospitalized. That forced medication hearing, though, was something separate and apart from Dr. Cooper's treatment plan. Dr. Cooper's treatment plan is the only thing set forth through the Consent Agreement that Dr. Yun was obligated to do. As a technical measure, the evidence does not support the finding that Dr. Yun violated the prior consent agreement.

Mr. Plinke stated that the second objection they raise relates to the monitoring provisions from her psychiatrist and her caseworker. Dr. Yun is receiving these services through the local Mental Health Board through the Greater Cincinnati Behavioral Health Services. Since those are publicly funded and provided services, he's not sure that Dr. Yun would be able to actually fulfill those terms. Mr. Plinke stated that he doesn't think that Dr. Yun can go to Dr. Crawford and say, "have the mental health agency spend more money on my case because of these circumstances." Mr. Plinke stated that he raises that as a practical issue, and that he would like this Board to modify that provision to allow Dr. Crawford to exercise her independent medical judgment as to what is appropriate. The record contains what Dr. Crawford thinks is appropriate. Mr. Plinke added that, if the Board needs something more from Dr. Crawford, he is sure that she will provide it.

Mr. Plinke stated that he believes that the Proposed Order of Ms. Murphy is appropriate otherwise. It does a good job of summarizing the evidence, and he would encourage the Board to approve it.

Dr. Yun thanked the Board for allowing her the opportunity to be heard. She stated that what happened is that Dr. Cooper specifically told her to stop taking Geodon due to three episodes of dystonic reaction. She was actually seen at UC Psychiatric emergency room in the summer of last year. The last time she had to get IV Benadryl to stop the reaction. She had involuntary movement of her jaw. After that, Dr. Cooper stopped Geodon and switched to something else, which did not work and caused a drug reaction. So Dr. Cooper told her to stop taking that medicine and she relapsed. In the hospital she was forced to take Geodon again by Dr. Newman, who dragged her to the forced medication hearing. Dr. Yun stated that she knew that she couldn't take that medicine, and she even tried to call Dr. Cooper from the hospital, and she tried to call the Medical Board. Dr. Yun stated that she couldn't get Dr. Newman to listen to her. After about three months he finally put her on Haldol, which brought her around and then he released her.

Dr. Yun stated that she thinks that that is what Dr. Cooper was referring to about that issue. She stated that she did not disobey Dr. Cooper's orders, but followed them to the "T" when he told her to stop and take something.

Dr. Yun stated that she doesn't know how else she could have complied. She added that she doesn't think that she violated the consent agreement because she did everything Dr. Cooper told her to do. If doctors can't agree on something, there's really not a whole lot that she can do. Dr. Yun stated that she doesn't want to go through that frightening dystonic reaction one more time. Dr. Yun said that so much has been happening with her, but this time she did try very hard to stick with it. Dr. Yun added that Ms. Bickers has advised her that, the next time this happens, she should phone Ms. Bickers right away so that there isn't this kind of misunderstanding. Dr. Yun stated that she doesn't know why Dr. Cooper wrote a note to the Board saying that she was not complying. Dr. Cooper specifically told her not to take Geodon. Dr. Newman would not switch anything until the very end and then he finally put her on Haldol.

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Dr. Yun continued that currently she is under the care of Dr. Crawford because she got married and moved to a different county, so she's switched to a different agency. She's on the high dose antidepressant and low dose antipsychotic. That combination seems to work the best for her. Dr. Yun stated that she feels that she is on the way to recovery. She understands that she has an illness, and she believes that it's time for her to take some time out of practice to take care of herself and get well. Dr. Yun stated that for this reason she doesn't mind being suspended. She commented that, hopefully, upon her return she will be more competent and stronger. She stated that she hasn't done anything contrary to what the Board has asked her to do.

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

Mr. Perry stated that the Report and Recommendation in this case is definitely the way to go. The Hearing Examiner did a very good job of laying out the history and addressing all of the issues. Mr. Perry stated that, when he first got involved in this case, he wasn't like Mr. Plinke, having had no prior involvement with Dr. Yun, but he looked at a six-year Board history, two different consent agreements that didn't appear to work. This case started as a summary suspension, and, by law, the Board has to have a hearing within 7 to 15 days. That hearing had to be continued a couple of times because Dr. Yun was still in the hospital. Mr. Perry stated that he wasn't expecting the best when he first met Dr. Yun. He was a little bit surprised at hearing. Dr. Yun had pulled herself together. She'd gotten married, gotten a job, had a treatment plan that seemed to be working, and said that she had some insight now into what happens when she starts to decompensate. It appeared to be encouraging at that point. Mr. Perry stated that in this case it's good that there was a hearing because the Board knows a lot more about Dr. Yun now than it did before.

Mr. Perry stated that he thinks that the Report and Recommendation is very reasonable in terms of what it asks Dr. Yun to do. It's going to be an uphill battle on her part, but he thinks that this is the way to go.

Mr. Perry stated that, with regard to Mr. Plinke's objection, the Board can certainly interpret the meaning of complying with her psychiatric treatment plan as the Board sees fit, but he would submit that it's only reasonable to interpret that to include following a doctor's orders while she's in the hospital, especially if she's been decompensating. The Board doesn't know a whole lot about what happened, other than as she's testified. Dr. Cooper had taken her off the Geodon, she had to be hospitalized, and Dr. Newman wanted her to have the Geodon for whatever reason. He took her to Probate Court in Warren County, and she was ultimately ordered to take it. Mr. Perry stated that the bottom line is that the Board doesn't give probationers the discretion to decide what medication they'll take. If the doctor says she should take something, she should take it. He stated that the Board can certainly take this into consideration when adopting an appropriate sanction.

Mr. Perry urged the Board to adopt the Report and Recommendation in its entirety.

**DR. EGNER MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MARY MEI-LING YUN, M.D. DR. DAVIDSON SECONDED THE MOTION.**

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Dr. Egner stated that she's glad to end the Board's cases today with Dr. Yun, because Dr. Yun suffers from a very serious mental illness. Dr. Egner added, however, that Dr. Yun has shown great character and strength. Dr. Egner commented that few could deal with all the things with which Dr. Yun has had to deal over the years. Dr. Egner stated that she wishes Dr. Yun nothing but success, and added that she would like Dr. Yun to have a good rapport with a psychiatrist. Dr. Egner stated that she'd like to see the medications work for Dr. Yun, and she'd like to see Dr. Yun back in practice.

Dr. Egner continued that, as far as the objections stating that Dr. Yun did not violate her consent agreement, she doesn't know what to say. She stated that she doesn't know how important that is. She indicated that she would kick and scream not to have a dystonic reaction, so she can really see this Dr. Yun's way. Dr. Egner stated that she'd like advice on that.

Dr. Egner stated that, as far as her psychiatric treatments go, she would be satisfied with the proposal in the objections; i.e., that Dr. Yun see her psychiatrist every three to four weeks and her case manager every other week. Dr. Egner stated that the Board knows what health care services are like for the mentally ill, and she thinks that if the Board is going to be helpful to her rehabilitation, the Board has to work within the constraints of the system. Dr. Egner stated that she believes the Board should make those changes in the Order so that Dr. Yun can be compliant.

**DR. EGNER MOVED TO AMEND PARAGRAPH B.4. OF THE PROPOSED ORDER TO REQUIRE DR. YUN TO SEE HER PSYCHIATRIST EVERY THREE TO FOUR WEEKS, AND HER CASE MANAGER EVERY OTHER WEEK. DR. BUCHAN SECONDED THE MOTION. A** vote was taken:

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

The motion carried.

**DR. GARG MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF MARY MEL-LING YUN, M.D. DR. ROBBINS SECONDED THE MOTION. A** vote was taken:

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

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

The motion carried.

#### ADMINISTRATIVE REPORT

Mr. Dilling at this time presented service pins to Pat Knapp, Public Inquiries Assistant, Cathy Hacker, P.A. Program Administrator, and Sharon Murphy, Hearing Examiner, recognizing their years of state service.

#### PERSONAL APPEARANCES

##### WILLIAM K. BASEDOW, D.O.

Dr. Basedow appeared before the Board pursuant to his request for release from the terms of his October 14, 1999 Consent Agreement. If approved, release from probation would become effective October 14, 2004.

In response to Dr. Bhati's questions, Dr. Basedow stated that he is doing excellently and is ready to be taken off probation. Dr. Basedow stated that he is active in the recovery community. He chairs meetings and sponsors people. He's active in community events in his hometown. He's active in church organizations. Dr. Basedow stated that his schedule is pretty full, but he will keep doing what he needs to be doing. He added that when he's helping others, he's also helping himself.

Dr. Bhati asked Dr. Basedow to talk about his support structure.

Dr. Basedow stated that he attends a Caduceus meeting weekly. He added that things are working out with what he is doing. His practice is doing fine; he works with his wife who is also a physician.

**DR. BHATI MOVED TO RELEASE DR. BASEDOW FROM THE TERMS OF HIS OCTOBER 14, 1999 CONSENT AGREEMENT. DR. GARG SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

MARGUERITE D. DOCTOR, M.D.

Dr. Doctor appeared before the Board pursuant to her request for release from the terms of the Board's Order of September 12, 2001. If approved, release from probation would become effective immediately.

Dr. Kumar stated that the record indicates that Dr. Doctor had issues while caring for a patient who was a Jehovah's Witness. He asked whether she had treated any other Jehovah Witness patients since the initial episode years ago.

Dr. Doctor stated that she has had some Jehovah's Witnesses in her practice; however, she has not operated and has chosen not to operate on Jehovah's Witnesses. Dr. Doctor stated that she personally can't let a patient bleed to death at the patient's request not to get a blood transfusion. She will see them on an outpatient basis, but if surgery is required, she refers them. Dr. Doctor stated that she discusses this issue with new Witness patients when she first meets them. She explains that, as their religious faith says that they can't get blood transfusions, her own religious faith won't allow her to let someone die. She can't do that.

Dr. Kumar stated that he also noted that she has had several ureter injuries while doing OB/GYN surgery. He asked what her complication rate has been during the last two or three years.

Dr. Doctor stated that she hasn't had any ureter injuries. She's had some difficult cases, but she hasn't had any injuries during the past three years she's been in probation. Also, she hadn't had any problem for the couple of years prior to probation. The problems were from her Navy days.

Dr. Kumar noted that Dr. Doctor went through CPEP. He asked her to tell the Board what her experience was with CPEP.

Dr. Doctor stated that for CPEP she has a program where she pays them every month to monitor what she's doing. Basically, what she was doing was studying from textbooks and reading recent articles on new procedures and anything else related to her areas of deficiency that was noted by the Board and the evaluation. She also had a preceptor who reported to CPEP, in addition to the preceptor that the Board has. She had another preceptor reviewing charts and discussing cases. Dr. Doctor explained that CPEP would not use the Board's preceptor. She had two preceptors until she finished her CPEP study. Then she reappeared before them to review and go through some cases.

Dr. Garg asked Dr. Doctor how long she had to attend CPEP.

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Dr. Doctor stated that CPEP was a total of six months' review. There's some time frame in terms of getting your re-evaluation set back up. There could be a three-month lag. For her, it was almost four months before she actually got retested.

Dr. Garg asked whether there were a lot of differences between her own preceptor and the CPEP preceptor.

Dr. Doctor stated that she was a little nervous and anxious when tested by CPEP, and the CPEP evaluators couldn't decide whether there was a deficiency or she was just anxious. She had trouble going before people in Denver who didn't practice and have the same kinds of patients to try to explain to them why she might induce someone a little sooner than they would. It was a little difficult. Additionally, there were stresses in her personal life that she was going through, and there was a time lag between getting scheduled and actually being tested. She also stated that there was a problem with money. She had to raise the money because you have to pay up front before they bring you in for your evaluations. She had to wait until she gathered up the money to pay and do all that. Some of the things she didn't get a chance to go back and review were, what she called, the artistic differences.

Dr. Garg asked how much the total package for CPEP was.

Dr. Doctor stated that she had to pay \$10,000 to get started. Then she paid \$350 for each month and \$2,100 to go back and be re-evaluated. She also had to pay for her hotel and her stay in Denver, and her flight there and back. The first time she paid about \$1,500 because she didn't get great deals. She paid about \$900 for the second trip. Dr. Doctor stated that it hurt very badly, financially, because she works for a community center and isn't in the big bucks.

Dr. Talmage asked whether Dr. Doctor is familiar with the American Board Annual Board Certification (ABC) program. He stated that it's \$275 a year, which is cheap. It's a reading program that will keep her current. Dr. Talmage stated that it is a very worthwhile program.

Dr. Doctor stated that she's still at the point where she needs to get her board certification, and because of everything that's happened with all of this, she can't sit down and take her written test. She needs to take the written test and then do her oral boards. She hasn't had a chance to do that.

Dr. Talmage asked how long Dr. Doctor has been out of residency.

Dr. Doctor stated that she was out in 1995. She stated that she still has time. She took her written examination and didn't pass. She was told that she has seven years from the last time she took her written examination.

Dr. Bhati recommended that she check on that.

Dr. Doctor stated that it would be great if she could achieve it in her lifetime, but right now, that's not her ultimate goal. She just wants to stay current in her practice. She does the ABCs and stays current in things, and she's now gotten involved with the Cleveland Clinic to attend their grand rounds in the OB and pediatric departments. She also attends grand rounds at her own hospital in internal medicine.

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Dr. Bhati asked Dr. Doctor how many major cases she does in a week or a month.

Dr. Doctor stated that, on average, she's probably done about two hysterectomies a month. She does about six laparoscopic tubal ligations a month and a couple of D & C hysteroscopies.

**DR. GARG MOVED TO RELEASE DR. DOCTOR FROM THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 12, 2001. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

GARY F. GLADIEUX, M.D.

Dr. Gladieux appeared before the Board pursuant to his request for release from the terms of the Board's Order of December 21, 1997. If approved, release from probation would become effective October 31, 2004.

In response to Dr. Davidson's questions, Dr. Gladieux stated that there is nothing he will change in his practice at this point. Things are going very well for him. He acknowledged that it is now his policy to keep the door to the examining room open or to have a nurse in the room when he is seeing patients 16 years old or older.

Dr. Bhati cautioned Dr. Gladieux to be careful and not take chances with his practice.

**DR. BHATI MOVED TO RELEASE DR. GLADIEUX FROM THE TERMS OF THE BOARD'S ORDER OF DECEMBER 21, 1997, EFFECTIVE OCTOBER 31, 2004. DR. BUCHAN SECONDED THE MOTION.**

Dr. Buchan commented that Dr. Gladieux went through an extraordinary circumstance and all involved were also indelibly marked by his situation. Dr. Buchan stated that he personally will certainly never forget this case. Dr. Buchan stated that he wishes Dr. Gladieux well, and hopes that he has grown.

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

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

The motion carried.

RAYMOND E. HENSHAW, II, M.D.

Dr. Henshaw appeared before the Board pursuant to his request for release from the terms of his October 13, 1999 Consent Agreement. If approved, release from probation would become effective immediately.

In response to Dr. Bhati's questions, Dr. Henshaw stated that he is doing well. He is staying away from Lorcet and has been sober for five years, eight months.

Dr. Bhati asked whether there is any way the Board can assist Dr. Henshaw.

Dr. Henshaw thanked the Board for being cordial to him when he comes up. He also expressed his gratitude to Dr. Karaffa, stating that he has helped him a lot.

Dr. Buchan asked whether Dr. Henshaw feels that this is behind him.

Dr. Henshaw replied that he'd like to keep it that way. He tries to remember the dark times to keep them out.

In response to further questions by Dr. Buchan, Dr. Henshaw stated that, if released today, he will do nothing different from what he's been doing to maintain his sobriety. He added that he's pretty well locked into some A.A. meetings he attends.

Dr. Davidson asked whether Dr. Henshaw has had some experience with surgery or some painful injury where narcotics might have been prescribed, and if so, how he handled that.

Dr. Henshaw stated that he has not.

Dr. Davidson cautioned Dr. Henshaw to be very careful when that inevitability occurs.

Dr. Bhati stated that the Board has seen success story after success story today. He congratulated Dr. Henshaw on his success.

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**DR. BHATI MOVED TO RELEASE DR. HENSHAW FROM THE TERMS OF HIS OCTOBER 13, 1999 CONSENT AGREEMENT. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### REPORTS AND RECOMMENDATIONS

MICHAEL PAUL PARKER, M.D.

**DR. BHATI MOVED TO REMOVE THE MATTER OF MICHAEL PAUL PARKER, M.D., FROM THE TABLE. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

**DR. BHATI MOVED THAT THE PROPOSED ORDER IN THE MATTER OF MICHAEL PAUL PARKER, M.D., BE AMENDED TO READ AS FOLLOWS:**

It is hereby ORDERED that:

1. **SUSPENSION OF CERTIFICATE:** The certificate of Michael Paul Parker, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than 18 months.

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2. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Parker's certificate to practice medicine and surgery until all of the following conditions have been met:
  - A. **Application for Reinstatement or Restoration:** Dr. Parker shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
  - B. **Controlled Substances Prescribing Course:** At the time he submits his application for reinstatement or restoration, Dr. Parker shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.
  - C. **Personal Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Parker shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.
  - D. **Medical Records Course:** At the time he submits his application for reinstatement or restoration, Dr. Parker shall provide acceptable documentation of satisfactory completion of a course on maintaining adequate and appropriate medical records, such course to be approved in advance by the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.
  - E. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Parker has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
3. **PROBATION:** Upon reinstatement or restoration, Dr. Parker's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

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- A. **Obey the Law**: Dr. Parker shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
- B. **Declarations of Compliance**: Dr. Parker shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Parker's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
- C. **Personal Appearances**: Dr. Parker shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which his certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
- D. **Monitoring Physician**: Within thirty days of the date of Dr. Parker's reinstatement or restoration, or as otherwise determined by the Board, Dr. Parker shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Parker and who is engaged in the same or similar practice specialty.

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

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

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Parker must immediately so notify the Board in writing. In addition, Dr. Parker shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the

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previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Parker shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

E. **Noncompliance Will Not Reduce Probationary Period:** In the event Dr. Parker is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

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

**EFFECTIVE DATE OF ORDER:** This Order shall become effective immediately upon the mailing of notification of approval by the Board.

**DR. ROBBINS SECONDED THE MOTION.**

Dr. Buchan stated that he thinks that this amendment looks good. He stated that the amendment enables Dr. Parker to get back into practice. He stated that he would only speak to the length of the suspension. Dr. Buchan stated that the message is clear; the opportunities are ahead of him. He questioned an 18-month suspension versus a one-year suspension, or a six-month suspension. Dr. Buchan stated that he would vote for a one-year suspension. He again stated that the message is clear, and he doesn't think the Board needs to pile on.

Dr. Bhati asked for other Board members' viewpoints.

Dr. Davidson stated that the Board has had extensive discussions about the purpose, benefits and detractions from long suspension or any suspension. On the downside, here's a fellow that has just completed an anesthesiology residency. It's fairly technical and those skills will start to decay. That's kind of the downside. Hopefully, the Board is sending a message. The Board wants an order that has some relationship to the severity of the issues here and the importance. Dr. Davidson stated that the Board would love to be able to bestow integrity and character on every physician that the Board sees that has had a brush with that issue and problem. She added that she's not sure that the Board can, and she's not sure that six more months accomplishes that. Dr. Davidson stated that she would be in favor of a one-year suspension.

Dr. Robbins also spoke in favor of a one-year suspension. He stated that he doesn't personally think that the additional time out, as long as everything is done as stipulated, makes a lot of difference.

Dr. Bhati asked whether Dr. Egner would agree to that.

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Dr. Egner stated that it really wasn't additional time. It was less than two years. That's how the Board got to 18 months. It didn't tack on six months, it took away six months. She added that she doesn't want to haggle over six months, she just wants to make it clear that the motion is for six less months rather than six more.

**DR. BHATI CHANGED THE SUSPENSION PERIOD OF HIS MOTION TO ONE YEAR.  
DR. ROBBINS, AS SECOND, AGREED TO THE CHANGE.**

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

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

The motion carried.

**DR. BHATI MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF MICHAEL PAUL PARKER, M.D. 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
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Ms. Sloan	- aye

The motion carried.

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PERSONAL APPEARANCESMARY H. RABB, D.O.

Dr. Rabb appeared before the Board pursuant to her request for release from the terms of her October 13, 1999 Consent Agreement. If approved, release from probation would become effective immediately.

In response to Dr. Buchan's questions, Dr. Rabb stated that she's doing well. The secret to her success is that she does what she's supposed to do. If released today, she will continue to attend Caduceus meetings as well as doing other things she has been doing to stay well.

At this time there was a brief conversation concerning problems Dr. Rabb's group is having with insurance coverage, due to her probation with the Board. She advised that they will be reapplying to the problem companies once she is released from probation.

**DR. BHATI MOVED TO RELEASE DR. RABB FROM THE TERMS OF HER OCTOBER 13, 1999 CONSENT AGREEMENT. DR. BUCHAN SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

MARK L. ALLEN, M.D.

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

In response to Dr. Kumar's questions, Dr. Allen stated that he did undergo inpatient treatment at the Cleveland Clinic. He advised that he did very well there, and added that Dr. Collins wrote a letter of support for him. Dr. Allen stated that his recovery is going very well. His practice is also going well again. It's taken a little time to get it back, but it's very busy again. Dr. Allen stated that he spends three days a week in clinic. He spends most of his time doing pain management at this time. He generally starts between 7:00 a.m. and 8:00 a.m., and works through to 4:30 p.m. or so. He doesn't work quite as late as he used to because he has meetings to attend. The other days he's usually doing surgical procedures. Those start early, at about 7:00 a.m. to 7:30 a.m. Dr. Allen stated that one of those days he splits between surgical procedures in the morning and patients in the afternoon.

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Dr. Kumar asked whether the surgeries are done in an outpatient clinic or in a hospital setting.

Dr. Allen stated that it's an outpatient clinic in a hospital setting.

Dr. Kumar commented that it's controlled by the hospital bylaws and all that.

Dr. Allen stated that the clinic is.

Dr. Robbins asked Dr. Allen what he does for fun.

Dr. Allen stated that he rides motorcycles, skis, and he works out.

In response to Dr. Bhati's questions, Dr. Allen stated that his drug of choice was alcohol. He's been sober since May 9, 2001.

Dr. Buchan asked whether Dr. Allen's license has been reinstated.

Other Board members indicated that he has a stay of the Board's Order by the courts.

Dr. Buchan asked Dr. Allen how he came to the Board's attention.

Dr. Allen stated that he responded that he had a misdemeanor conviction on his renewal application.

**DR. KUMAR MOVED TO CONTINUE DR. ALLEN UNDER THE TERMS OF THE BOARD'S ORDER OF JANUARY 14, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

ROBERT R. BRIGHTWELL, D.O.

Dr. Brightwell made his initial appearance before the Board, pursuant to the terms of June 10, 2004 Consent Agreement. Dr. Brightwell has also requested that the Board determine the frequency and number

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of charts for his monitoring physician to review.

Dr. Buchan asked Dr Brightwell how he is doing. Dr. Brightwell responded that he is doing well.

Dr. Buchan stated that he knows Dr. Brightwell, and added that Dr. Brightwell is a fine physician in this community. He asked whether Dr. Brightwell has any questions about his consent agreement.

Dr. Brightwell stated that he does have a few questions, although Ms. Bickers has been very helpful and patient with him. Dr. Brightwell stated that he does have a question about chart reviews because he practices at three different hospitals. He stated that he wants to make sure he understands his requirement so he doesn't make any errors. Dr. Brightwell stated that he needs to know how many charts are going to be required from each hospital, or what they can expect.

Dr. Buchan stated that the standard is that ten charts per month are to be reviewed. That would be the number and the frequency.

Dr. Garg suggested that the Secretary and Supervising Member could make the determination of charts per hospital.

Dr. Bhati stated that that's a good idea.

Dr. Talmage stated that he and Mr. Albert discussed this briefly. He stated that he would like guidance from the Board, but it is his feeling that monitoring charts is a signal of either good or bad practice. If you monitor them from one hospital, it allows one monitor to take care of it. It is illogical to assume that someone would do well and keep good charts at one hospital and not do well and keep good charts at two others. Dr. Talmage suggested monitoring charts at the primary hospital he uses for practice would be sufficient to determine whether he is a good practitioner.

Dr. Garg agreed with Dr. Talmage.

Dr. Davidson noted that an OB/GYN and an emergency room physician are Dr. Brightwell's monitoring physicians.

Dr. Brightwell explained that the OB/GYN physician also did a general surgery residency before he did an OB/GYN residency, so he has experience in both fields. The emergency medicine physician who agreed to do it is the head of St. Ann Hospital's CQI. His feeling is that he has the resources available to him in order to make certain that quality is being met.

Dr. Bhati asked whether it wouldn't have been easier for him to find a vascular or general surgeon to do that.

Dr. Brightwell stated that he actually has monitors all over the place. He has monitors for both general and vascular surgery at the main hospital.

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Dr. Bhati commented that that takes care of that problem, because that's where the Board wants his charts to be reviewed.

**DR. GARG MOVED TO REQUIRE DR. BRIGHTWELL'S MONITORING PHYSICIAN TO REVIEW 10 CHARTS PER MONTH AT DR. BRIGHTWELL'S PRIMARY HOSPITAL. DR. BHATI SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

Ms. Bickers asked whether, if charts are reviewed just at the primary hospital, the Board wants reports from the other monitoring physicians on how Dr. Brightwell is doing.

Mr. Schmidt commented that the Board might want to require just one monitoring physician.

In response to Dr. Bhati's questions, Dr. Brightwell stated that, as it stands right now, he's probably doing about 50% at Doctors West, 40% at Grant Hospital and about 10% at St. Ann's. He also works at an outpatient surgery center, Columbus Surgical Center, in Dublin, Ohio. He has a monitor there, too.

Dr. Bhati stated that he would be satisfied with a report from Doctors West and Grant Hospital. He stated that he's not too worried about a hospital where Dr. Brightwell spends only 10% of the time.

**DR. BUCHAN MOVED TO CONTINUE DR. BRIGHTWELL UNDER THE TERMS OF HIS JUNE 10, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BHATI SECONDED THE MOTION. A vote was taken:**

Vote:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Garg	- aye

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Ms. Sloan - aye

The motion carried.

Dr. Brightwell stated that he does have a couple of other questions. He stated that he is currently doing saliva testing, but he understands that the Board usually requires urine testing. He added that his agreement specifically requires that he do a saliva test at the beginning of each "work shift." If he is on call, his monitor may not be available to witness a saliva test. He stated that this happened about a week ago. He called his monitor at 1:30 a.m., on his way into the hospital, and asked what he should do.

Mr. Schmidt referred the Board to the language in the consent agreement that states, "Dr. Brightwell shall submit to a saliva screening, in accordance with the approved plan, prior to commencement of each work period or as otherwise directed by the Board." Mr. Schmidt stated that the question is what is considered to be a "work period." If Dr. Brightwell goes to three hospitals, is that three work periods or one work period?

Dr. Talmage stated that it would be before the first scheduled patient per day.

Several Board members agreed that once a day is appropriate.

Dr. Talmage stated that if it is required before the first scheduled patient, an emergency case will be all right.

MARY JO FOOTE, P.A.

Ms. Foote made her initial appearance before the Board, pursuant to the terms of her August 11, 2004 Consent Agreement.

In response to Dr. Bhati's questions, Ms. Foote stated that she is doing well. She has been sober since January 1, 2004, for a total of ten months and 13 days. She added that she doesn't have any questions of the Board.

Dr. Bhati stated that the Board wants her to be one of the Board's success stories. He stated that the Board is counting on her.

**DR. BHATI MOVED TO CONTINUE MS. FOOTE UNDER THE TERMS OF HER AUGUST 11, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.**

Dr. Buchan asked whether Ms. Foote has plans to re-enter practice.

Ms. Foote stated that her license has been suspended for a minimum of three years.

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

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

The motion carried.

PAUL F. HEYSE, M.D.

Dr. Heyse made his initial appearance before the Board, pursuant to the terms of his July 14, 2004 Consent Agreement. Dr. Heyse has also requested approval of a monitoring physician, and a determination of the frequency and number of charts his monitoring physician must review.

In response to Dr. Kumar's questions, Dr. Heyse stated that he has no questions about his Consent Agreement. He has provided the hospitals where he works and his monitoring physician with a copy of his Consent Agreement.

Dr. Kumar commended Dr. Heyse's partners for picking up on his problem. He added that he hopes that Dr. Heyse realizes that the Board is supportive of his getting over his problem.

Dr. Heyse stated that he appreciates that.

**DR. KUMAR TO APPROVE GEORGE R. BROWN, M.D., TO SERVE AS DR. HEYSE'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH. DR. KUMAR FURTHER MOVED TO CONTINUE DR. HEYSE UNDER THE TERMS OF HIS JULY 14, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

JEFFREY T. JONES, P.A.

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

Dr. Buchan asked Mr. Jones how he secured the steroids.

Mr. Jones stated that, actually, the steroids were never his. They were for somebody else. He just provided this other person with a place to ship them. He did that to try to help out a good friend of his.

Dr. Garg asked Mr. Jones whether he has any questions about the Board's Order.

Mr. Jones stated that he did not.

**DR. BHATI MOVED TO CONTINUE MR. JONES UNDER THE TERMS OF THE BOARD'S ORDER OF JULY 14, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. ROBBINS SECONDED THE MOTION.**

Dr. Egner asked whether, if the Legislature passes the bill for P.A. prescribing, Mr. Jones would be allowed to prescribe.

Mr. Jones stated that he doesn't know. He stated that he's not currently working as a P.A. He does have a good friend, Josanne Pagel, whom he could ask. Mr. Jones asked whether the Board understands what actually happened in this case.

Dr. Egner stated that she remembers his case. He was into bodybuilding and he helped someone who was using steroids.

Mr. Jones stated that he has not used anabolic steroids for 14 years. He helped a good friend, a professional athlete, who called him and asked him if he could have something sent to Mr. Jones' place. Mr. Jones stated that he said "yes." The package was intercepted. The friend never got into trouble because he never said anything. Mr. Jones stated that he tried to work this out with people, and they actually got the people on the other end who sent the package to him. Mr. Jones stated that he never saw the package, never touched the package, it was never in his possession.

Dr. Davidson commented that he knew what was in the package, though.

Mr. Jones stated that he knew something was coming, but he didn't know exactly what was coming. He had no idea what actually was in the package. Mr. Jones stated that he turned himself in because someone who actually did receive the package was a friend of his. That person knew nothing about what had happened. She called him and said that she was in trouble. Mr. Jones stated that she wasn't even supposed to be at the house. The other guy's cousin was supposed to come pick the package up.

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Dr. Buchan asked Mr. Jones under what grounds he turned himself in.

Mr. Jones stated that he turned himself in because she was going to get in trouble.

Dr. Buchan asked with what, if Mr. Jones didn't even know what it was.

Mr. Jones stated that that was the whole thing. The federal agents were all over her. Mr. Jones again stated that he never saw the package.

Mr. Schmidt stated that Mr. Jones knew that the package contained anabolic steroids.

Mr. Jones stated that he didn't know at that point.

Mr. Schmidt asked whether he knew that it was an illegal substance.

Mr. Jones stated that he knew that something, possibly, was illegal.

Mr. Schmidt stated that Mr. Jones was a mule. He allowed himself to be used.

Mr. Jones stated that Mr. Schmidt is right. He knew that something was coming that he didn't want to touch, and he wanted it somewhere where he wasn't going to touch it. His cousin was supposed to have picked that package up.

Dr. Bhati stated that the Board isn't going to go through that again.

Mr. Jones stated that he's in rehab for nothing. He hasn't done an anabolic steroid for 14 years. He's going for drug tests and all of this stuff.

Mr. Schmidt stated that Mr. Jones got caught in a trap because he got "intervention in lieu of conviction," and the Board has a rule that says that that is per se proof of impairment. He dealt with one issue and created another in the process.

Mr. Jones agreed.

Dr. Bhati stated that the Board already dealt with that.

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

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

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

The motion carried.

LARRY J. LITTLE, M.D.

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

In response to Dr. Davidson's questions, Dr. Little stated that he is feeling well, physically better, mentally better. He does have some family issues. Dr. Little stated that he and his wife are doing some really good things. They're working with a counselor, and he's working on his emotional empathy a little bit, rather than action empathy. One of the big issues they've faced is that their adopted son has reactive attachment disorder. His son spent four months in a residential facility in New Mexico this past Spring, but he's doing a lot better. Dr. Little added that they have hired someone to give them more help at home. He stated that it takes a lot of manpower to get this child raised, but they're getting through it, and things are working out.

Dr. Bhati asked how Dr. Little is doing.

Dr. Little stated that he's doing a lot better physically than he was six months ago. He's feeling better about things. Dr. Little stated that he had a pretty good six months off. It felt pretty good. He had had his nose to the grindstone for 25 years, so the suspension was actually okay. He went to the gym, painted the walls, and did other things. This spring he moved his practice from Newark to somewhere closer to his home.

Dr. Bhati asked whether Dr. Little has any questions.

Dr. Little stated that he doesn't. He stated that he's pretty clear on things, and he got the modified agreement from Ms. Bickers, and he's clear on what he needs to do.

**DR. BHATI MOVED TO CONTINUE DR. LITTLE UNDER THE TERMS OF THE BOARD'S ORDER OF JANUARY 14, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

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Dr. Garg                   - aye  
Ms. Sloan                 - aye

The motion carried.

JAMES M. MCGINNIS, D.O.

Dr. McGinnis made his initial appearance before the Board, pursuant to the terms of his July 14, 2004 Consent Agreement.

In response to Dr. Davidson's questions, Dr. McGinnis stated that he's doing fine.

Dr. Bhati noted that Dr. McGinnis has been sober since November 30, 2003.

Dr. McGinnis stated that June 6, 2003 is his quit date.

Dr. Bhati stated that the information provided the Board shows a sobriety date of November 30, 2003.

Dr. McGinnis stated that is incorrect, the date should be June 6, 2003.

In response to further questions by Dr. Bhati, Dr. McGinnis stated that his recovery is going very nicely. He stated that he does have two questions for the Board. He stated that the psychiatrist at Parkside indicated that he is pretty much wasting the psychiatrist's time and Dr. McGinnis' money by seeing him. The second question concerns his having to inform the Board whenever he has to leave the State of Ohio. Dr. McGinnis stated that he lives on the border of Kentucky, West Virginia and Ohio. His son plays hockey in West Virginia, his daughter dances in Kentucky. If he's going to practice, seeing games and seeing recitals, does he need to call and get approval from the Board? He added that he's also not sure what he should tell the psychiatrist.

Mr. Schmidt stated Dr. McGinnis can only make requests for changes to the terms of his consent agreement in July 2004. The Agreement must be a year old before changes are requested. Mr. Schmidt added that the perception that Dr. McGinnis is wasting money seeing the psychiatrist is misplaced. That requirement is there for a reason. It is protecting the public and it is protecting Dr. McGinnis, should there be a downturn in his psychiatric status. The ongoing visits are one more tool to help detect such a downturn.

Mr. Schmidt asked how long Dr. McGinnis is out of the state when he leaves it for his children's events.

Dr. McGinnis stated that it is for less than 24 hours.

Mr. Schmidt directed Dr. McGinnis to submit a letter indicating how frequently he has to leave the State and also indicating what assurances the Board can have that his monitors are aware of this, so that should he be needed for a urine screen on such a date, that can be arranged.

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Dr. Talmage asked whether Dr. McGinnis carries a cell phone.

Dr. McGinnis responded that he does.

Dr. Talmage stated that Dr. McGinnis stated that he could submit a specimen as soon as he got back home.

Dr. Buchan asked how Dr. McGinnis' support at home is.

Dr. McGinnis stated that it's excellent right now. He has a more supportive home environment than he's had in 15-20 years.

Mr. Dilling stated that personal appearances before the Board are an opportunity for the Board to get a feel for where and who the physician is, as well as what the physician's support network is. He asked Dr. McGinnis for more information about his home life.

Dr. McGinnis indicated that he is going through a divorce right now, but he's not referring to his life with his ex-wife when he says that his home life is excellent.

Mr. Dilling stated that it would be beneficial to hear a little bit about that, as well, because it is something that certainly impacts him. The Board is looking for a bigger picture, and Mr. Dilling doesn't want the Secretary and Supervising Member to be on a different page. He asked whether Dr. McGinnis has any extra stressors in what he is going through in the divorce.

Dr. McGinnis stated that his relationship with his wife, whom he is divorcing, is very poor. That's troubling to him in his relationship with his children. There is stress there, and he expects it to continue for some time.

Dr. Bhati asked whether Dr. McGinnis is getting counseling for this.

Dr. McGinnis stated that he does see the psychiatrist, but the psychiatrist thinks that it's a waste of time. He now has a girlfriend and friends at home who are very supportive, he has his Caduceus meetings, his aftercare and his A.A. meetings. When it's all said and done, this will be done and over with his wife, and life will go on.

Dr. Bhati stated that if the psychiatrist isn't helping Dr. McGinnis, he may need to find another psychiatrist.

Other Board members agreed.

Mr. Dilling stated that that is always a possibility. But the requirement can't be removed until next year.

Dr. McGinnis stated that he's not asking to change the Consent Agreement, it was just a question he had.

Mr. Dilling asked for further clarifications on Dr. McGinnis' date of sobriety. He referred to the

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November 30, 2003 date that the Board has listed as his date of sobriety. He asked whether there is any significance to that date.

Dr. McGinnis stated that it doesn't quite, but it's an approximate date. June 6 is the date that he uses as his quit date. He did drink alcohol, three beers, on October 31, 2003.

Mr. Schmidt asked why that isn't his quit date.

Dr. McGinnis stated that he feels that that's not his quit date because he used that in a positive way. It was hard work those first three months, and he's not willing to abandon that hard work.

Mr. Schmidt asked whether Dr. McGinnis considers the October 31 drinking a relapse. Mr. Schmidt added that, if Dr. McGinnis had been sober, it was a relapse.

Dr. McGinnis stated that he considers it a positive event at this point.

Mr. Schmidt stated that he understands that, but asked whether it was a relapse.

Dr. McGinnis stated that he's not sure about that.

Mr. Schmidt stated that Dr. McGinnis uses June 6 as his "quit date," which is not really a term of art. He asked what Dr. McGinnis considers to be his sobriety date.

Dr. McGinnis stated that it's June 6, 2003.

Mr. Schmidt remarked that he's got a lot to work on.

Ms. Sloan stated that her understanding is that, in either October or November 2003, Dr. McGinnis took a drink.

Dr. McGinnis stated that he did on October 31, 2003.

Dr. Bhati stated that you can't do that. That is a relapse. Dr. McGinnis needs to understand that.

Dr. Buchan asked Dr. McGinnis what he thought constituted a relapse.

Ms. Sloan stated that she's trying to understand. Dr. McGinnis stated that he's been sober since June 6, 2003, but he had three drinks in October. That's a relapse.

Dr. McGinnis stated that, at the time of his quitting alcohol, he thinks he was in a period that is called a "dry drunk" state, where he wasn't really aware of the recovery process. He wasn't actively involved in a program of recovery.

Mr. Schmidt stated that he wasn't sober. He was dry.

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Dr. McGinnis stated that it was a dry drunk.

Mr. Schmidt asked how that qualifies as a sobriety date.

Dr. McGinnis stated that he stopped drinking.

Mr. Schmidt asked whether Dr. McGinnis is in aftercare.

Dr. McGinnis stated that he is.

Mr. Schmidt asked whether Dr. McGinnis has talked in his aftercare sessions about his perception that his sobriety date was and remains June 6, 2003, when he's had three beers on October 31.

Dr. McGinnis stated that he has not.

Mr. Schmidt stated that he would strongly recommend that Dr. McGinnis do that. He stated that Dr. McGinnis' perception is not at all consistent with the principles of recovery.

Dr. McGinnis stated that he'll discuss it tonight.

Dr. Bhati stated that Dr. McGinnis is making the entire Board very uncomfortable by his not realizing that he did have a relapse on October 31, 2003.

Dr. McGinnis stated that he understands that, and it obviously needs further discussion.

Dr. Bhati disagreed, stating that Dr. McGinnis had three beers. That's a relapse. He added that he doesn't know what Dr. McGinnis would consider to be a relapse if he doesn't consider that as one. Dr. Bhati added that he doesn't care what language is used, that is a relapse. If he doesn't get that, Dr. Bhati has a problem with the way Dr. McGinnis perceives his recovery. It worries him.

Dr. Garg recommended that Dr. McGinnis be required to appear before the full Board in three months.

**DR. BHATI MOVED TO REQUIRE DR. MCGINNIS TO MAKE HIS NEXT APPEARANCE BEFORE THE FULL BOARD. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Garg	- aye

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Ms. Sloan - aye

The motion carried.

Dr. Buchan encouraged Dr. McGinnis to have more intelligent and meaningful conversation on this issue in three months. That means that he has to be introspective on this issue, understand the terms, and speak in language that recovery people speak. Dr. Buchan stated that this was a bad visit today.

Dr. McGinnis again stated that he would address it at his meeting that evening.

STEVEN J. SHOR, M.D.

Dr. Shor appeared before the Board at the request of the Secretary and Supervising Member.

Dr. Davidson commented that the Board has been told that Dr. Shor has some frustration with some of the terms in his Agreement. She asked Dr. Shor to explain.

Dr. Shor stated that he's not exactly sure what that means, but he had some frustrations early on about the feeling that this was just purely a punitive type situation, and that there really wasn't any attempt to give him some assistance. Dr. Shor stated that his problem isn't substance abuse or patient boundaries. It was behavior problems for which he found himself persistently fired. He was subsequently diagnosed as being bipolar. Dr. Shor stated that the Board can't imagine the storm that was in his head the last 35 years until he started getting treated. In that way, the Board has forced him into treatment, and it worked.

Dr. Shor stated that he has some other frustrations with the fact that, after that, when he was thinking about going back to work, there didn't seem like there was anything that was going to come out of here that was going to help him to do that. He has a really big stigma and block in front of him. He went to OPEP and was told that there's nothing they can do. He went to a lot of other people and they couldn't do anything. Dr. Shor stated that he came to the quarterly meetings and there was really nothing that could be suggested there. Pretty much his attempt beyond going to see the psychiatrist and the counselor, the recovery was all on his own. Dr. Shor stated that he recovered emotionally, but the stigma and the block towards ever going back to work is a mile high.

Dr. Davidson noted that Dr. Shor's specialty is emergency medicine. She asked whether he has experienced failure in finding work in that specialty.

Dr. Shor stated that he's not sure he's competent to do it; it's been almost two years. Dr. Shor stated that he doesn't know whether he would want to treat himself right now, emergency-wise. He added that the last time he even said he thought he wanted to go back to work, his disability insurance carrier decided to stop payments because that was proof that he could go back to work. Dr. Shor stated that he's never actually been able to prove anything. Dr. Shor stated that it's a very fine-edge type of situation. If he says he feels great, everyone says, well, then, why don't you get a job; and if he doesn't feel great, they say he can't have a job and he's not compliant.

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Dr. Davidson stated that, other than denying the past, she's not sure what the Board can do. The Board finds itself in this situation. It's very glad that Dr. Shor is in treatment and that he's better.

Dr. Shor stated that he doesn't know whether or not he's better enough to work in busy emergency department. He has a suspicion he's never going to find out, just because of the circumstances.

Dr. Bhati asked what Dr. Shor wants the Board to do to help him.

Dr. Shor stated that at this point he doesn't know. At this point, it seems to him, the only way he'll ever know whether or not he can function as a doctor again is if there were some "super doctor" somewhere, who could just pick up the phone and say, "I know he's got a crappy record, but hire him anyway."

Dr. Shor stated that he knows that the Board can't do that. He doesn't think there's anybody who exists like that. Dr. Shor stated that at this point a lot of the frustrations are from six months and nine months ago. He's sort of given up on them.

Dr. Bhati stated that the psychiatrist should be able to write about Dr. Shor to the employer, indicating that he is in reasonable shape to return to practice.

Dr. Shor stated that they've tried things like that. They've talked to CEOs at University Hospitals and all sorts of things. Having been in four different major EM groups in northeast Ohio, he has a lot of contacts, but none of them are of any use.

Dr. Bhati stated that the Board can't find a job for him. He stated that, hopefully, Dr. Shor is getting better with treatment.

Dr. Shor stated that he doesn't know what he was like two years ago.

Dr. Bhati asked whether he would agree that he's getting better with treatment.

Dr. Shor stated that he is. In the past, he'd fly into a rage over something as simple as dropping a pencil, and he never knew why.

Dr. Davidson suggested volunteering, preceptoring or any other way to get his foot into the door. She noted that, because of his behavior, his contacts are all burned bridges. Another area of medicine might open the doors, but it's going to take a lot of work and a lot of time.

Dr. Shor stated that, unfortunately, the malpractice situation is a problem.

Dr. Talmage stated that there's been a geographic issue, too. He wants to stay close to his children, so he can't search all over the state for a job.

Dr. Shor stated that his ex-wife is schizophrenic and his children are living with her. Although she's reasonably functional, he doesn't feel like leaving them and going down south or something like that.

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**DR. BHATI MOVED TO CONTINUE DR. SHOR UNDER THE TERMS OF APRIL 12, 2003 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE.** The motion died for lack of a second.

Ms. Bickers advised that, with regard to compliance with his Consent Agreement, she still needs to receive a psychiatric report from Dr. Almhana.

Dr. Shor stated that he sent Dr. Almhana a letter, reminding him, but he's just not very efficient.

Ms. Bickers asked him to call her by Friday to make sure that she's received a report.

Dr. Bhati stated that it is Dr. Shor's responsibility to make sure all reports are received on a timely basis.

Dr. Shor stated that it is his responsibility, but he doesn't have any power. He can go to Dr. Almhana's office and tell him that he has to file a report today, but if he doesn't, there's nothing Dr. Shor can do.

Mr. Schmidt stated that there are other psychiatrists.

Ms. Sloan agreed, and asked why Dr. Shor is staying with that psychiatrist if it's not working.

Dr. Shor stated that the psychiatrist is treating him well, he's just not very good with the paper work.

Dr. Egner stated that that means that Dr. Shor is non-compliant with the terms of his Consent Agreement.

Dr. Bhati suggested that Ms. Bickers write to the psychiatrist and advise him that the Board needs to receive timely quarterly reports.

Ms. Bickers stated that she has done that.

Dr. Shor stated that that was done at his request.

Dr. Bhati stated that if Dr. Almhana doesn't report after that, then Dr. Shor will have to find someone else.

Dr. Egner asked how often Dr. Shor sees Dr. Almhana.

Dr. Shor stated that he sees the psychiatrist about once every three months and the rest of the time he sees the psychologist. He sees the psychologist the other months. The psychologist doesn't send in reports.

Ms. Bickers stated that the Consent Agreement requires that Dr. Shor see the psychiatrist once every two weeks.

Dr. Shor stated that he understands that, but he reminded Ms. Bickers that they had discussed that long ago, and he was told that he needed to see the psychiatrist or the psychologist. It didn't have to be the psychiatrist every two weeks.

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Mr. Dilling asked whether Dr. Shor is seeing the psychiatrist or psychologist every two weeks.

Dr. Shor stated that he's seeing them once a month, for the same reasons as Dr. McGinnis. He's lucky to get an appointment once a month.

Mr. Schmidt stated that the Board is now at the end of what it can talk about in open session. He stated that he wants to stress that Dr. Shor's professional rehabilitation is his responsibility. The Board wants to help him, but he's hoping that Dr. Shor is seeing some patterns here. It's on him. The Board has tried to help him in his job hunt, and it's made suggestions on what he can do, but the Board has a lot of other people who have, quite frankly, a lot worse situations than those with which Dr. Shor is dealing that have been able to professionally rehabilitate themselves.

Dr. Shor asked whether they were in emergency medicine.

Mr. Schmidt stated that they were in lots of different specialties, including emergency medicine. He added that getting reports in from his psychiatrist and finding employment are Dr. Shor's responsibilities. It's not the Board's responsibility.

Dr. Bhati stated that he's not sure that the Consent Agreement requires monthly psychiatric sessions.

Ms. Bickers stated that it requires psychiatric treatment once every two weeks or as otherwise directed by the Board. The Board hasn't changed that requirement.

Dr. Bhati stated that that's not what's happening.

Mr. Schmidt stated that he doesn't believe the Board should be discussing this any further here.

Ms. Sloan stated that it sounds like the Board needs to see Dr. Shor sooner than in another three months.

Mr. Schmidt suggested scheduling Dr. Shor's next appearance in November before Dr. Talmage and Mr. Albert.

Ms. Sloan stated that it's looking that way from Dr. Shor's eyes. She stated that she's having a problem with the fact that people are trying to help him function through the Agreement that he entered, and everyone but him is doing the work. She expressed concern about Dr. Shor's attitude. She said that people are trying to help, but he has to be part of this also. From today's discussion, she's not seeing that. She commented that Dr. Shor has indicated that he's frustrated, but she's frustrated listening to this. She agreed that it's difficult, and it will be difficult. Nobody said it will be easy.

Dr. Shor stated that he's seen a physician and psychologist over the last two years. The first six months he saw them every two months at least. He saw them every week. Throughout the last two years he's gone through many visits. Ninety percent of his therapy was Lithium.

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Dr. Bhati stated that he doesn't think this problem will be resolved in the Board meeting.

Dr. Shor stated that, going to talk to the psychiatrist every two weeks, and his asking whether Dr. Shor is still taking the Lithium, and Dr. Shor's responding that he is, isn't going to change anything. Despite that, he does continue to see the psychiatrist or psychologist every month.

**DR. BUCHAN MOVED TO REQUIRE DR. SHOR TO APPEAR BEFORE THE BOARD'S SECRETARY AND SUPERVISING MEMBER IN NOVEMBER. DR. GARG SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### RATIFICATION OF CONSENT AGREEMENTS

LYNNE A. EATON, M.D.

**MR. BROWNING MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. EATON. 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
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

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CLAUDIA METZ, M.D.

**DR. GARG MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. METZ. 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
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

RICHARD S. SKOBLAR, M.D.

**MR. BROWNING MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. SKOBLAR. 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
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

MARK E. BLAIR, M.D.

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

Vote:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Bhati	- aye

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

The motion carried.

CHRISTOPHER S. SHAW, M.D.

**MR. BROWNING MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. SHAW. 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
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- aye
	Ms. Sloan	- aye

The motion carried.

ROBERT E. MARSICO, JR., M.D.

**MR. BROWNING MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. MARSICO. 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
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye
	Dr. Garg	- abstain
	Ms. Sloan	- aye

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The motion carried.

CHAPTER 6, OHIO ADMINISTRATIVE CODE; LICENSURE RULES

Mr. Dilling referred to Rule 4731-6-14, noting that it is not one the Board discussed last month or refiled with JCARR. He advised that the proposed re-draft of OAC Rule 4731-6-14 permits a further exception to the ten-year period to complete the USMLE or COMLEX-USA for certain MD/PhD or DO/PhD applicants who are completing their studies concurrently. He noted that the Board has been concerned in the past about denying certain of these applicants who have apparently missed the deadline in large part due to failure of their programs to inform them of this requirement. The Board's original seven-year limits on the examination period date to 1993. However, the ten-year exception dates to December 1, 1999, so that date was chosen as a limitation to the rule. Applicants who began the sequence after that date should be on adequate notice by now to complete the examination sequence by the end of 2009. If at some point in the future the Board believes that is not the case or is advised by national testing committees otherwise, it may amend the rule again prior to the 2009 date during the next five-year review. This exception will allow the Board more discretion in these matters and may allow Ohio to keep some of its best and brightest. In addition, paragraph (C)(5) has been amended to clarify that the Board may directly accept those qualified applicants who have passed Components 1 and 2 of the FLEX but do not have another state license. The proposed paragraph would not permit eligibility for licensure under this exception for applicants who passed FLEX parts 1, 2, and 3 prior to 1984 or 1985, prior to changes in the FLEX sequence, and who, after 20 years, had still not obtained any state license.

Dr. Garg asked how this would affect other candidates the Board has denied on this basis.

Mr. Dilling stated that nobody was permanently denied. Those individuals can reapply.

**DR. GARG MOVED TO REFILE THE REVISED RULE WITH JCARR. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Mr. Dilling at this time referred to revised Rule 4731-6-16, which contains a narrow exception to the grandfather clause in paragraph (C) that sets forth the examination sequences that the Board deems

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equivalent to the USMLE, COMLEX-USA, or the licensing examination sequences previously acceptable to the Board. The proposed paragraph (G) sets forth a number of requirements for an applicant for endorsement of another state's license who has not completed an exam sequence acceptable under paragraph (C). Mr. Dilling reminded the Board of its discussion at its last meeting on various reasons for the narrowness of the exception.

Mr. Dilling advised that he also made a change to paragraph (D)(1) of the rule, adding the descriptive word, "clinical," to describe the type of practice a physician must have within two years of licensure endorsement or restoration. He stated that, as he understands it, the Board wants to see people who are actively clinically practicing medicine.

**DR. GARG MOVED TO REFILE REVISED RULE 4731-6-16 WITH JCARR.**

Dr. Kumar stated that he has a problem with requiring academic staff appointment. He stated that it gives undue advantage to the academic institutions. There could be an applicant with the same kinds of qualifications who wants to work at a cancer center not associated with any academic institution. Now the Board will force that person to go to an academic institution rather than being able to go to a separate, stand-alone place. He stated that if the Board is going to make an exception, it should be universal. The Board is looking at their qualifications. They shouldn't be limited to having an academic appointment.

Mr. Dilling stated that the Board can change this as the Board members believe necessary. He acknowledged that that was a point made during discussion, but he drafted the language to be consistent with the whole discussion. Initially, the Board drafted a very narrow exception to the licensure requirements. He reminded the Board that it no longer approves medical schools. In conjunction with that, graduates must take one or two years of training, dependent on what school they attended, and then they have to pass an examination. This rule is saying that the physician doesn't have to pass the same examination as everyone else passed. He stated that it is a limiter. Is somebody going to try to get someone in in an underserved area that meets all these other criteria that isn't the doctor the Board met with last month. That physician was hired by an academic institution. They have a lot riding on this. They went out and sought the top of the line in terms of the doctors who would meet this requirement. There will be people who aren't as good as that physician, and the people who go after those individuals won't be the academic institutions. That was the premise on which the exception was drafted.

Mr. Dilling continued that there are a number of different hoops a physician must go through. How many of them are relevant is a question for the Board. He drafted the language this way because it is the narrow exception started from. There was support from other Board members at the time to start at this point.

Mr. Browning stated that he felt the proposed language is consistent with the Board's discussion in September. It responds to a specific problem without undermining what the Board feels is fundamentally a sound system, but, nevertheless, wasn't responsive to a legitimate problem that was identified.

Mr. Browning stated that he thinks the language is good language. He stated that the Board should see how it works. If there's a reason to open up the language again, the Board can do it.

Dr. Kumar suggested amending Paragraph G to eliminate the sentence that says, "has been appointed to

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serve in this state in a full-time position on the academic staff of an LCME or AOA accredited school.”

Dr. Robbins stated that the difficulty is that Board members might say that it knows a cancer clinic that is renowned that is not associated with a medical school, but he could make an argument that he has the largest ophthalmology group in the country, and they want to get around this by bringing someone in to this prestigious ophthalmology group. Dr. Robbins stated that he doesn't think the Board should be doing that. He stated that deleting the language Dr. Kumar is suggesting would potentially open the rule to a situation like that.

Mr. Dilling stated that the language is a gatekeeper of sorts.

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

**MR. BROWNING SECONDED DR. GARG'S MOTION.**

Dr. Garg stated that he isn't taking his motion back, but he does agree with what Dr. Kumar is trying to say. There are a lot of faculty appointments that don't mean a thing except you have a letter that you're part of the faculty, and after three years you get it again. Does this make you any better or different than other physicians in respect to qualifications? Dr. Garg stated that he doesn't know how to word that.

Dr. Kumar stated that in his area anyone who is a practicing physician can get a faculty appointment to Wright State University School of Medicine.

Dr. Garg stated that it is the same for NEOUCOM.

Mr. Browning agreed, but stated that most of the people Dr. Garg and Dr. Kumar are describing are not full time. They're not walking away from their practices and going to work full-time. The rule only excepts those who are going to a full-time academic appointment.

Dr. Garg stated that that takes care of his concern.

Mr. Browning stated that he believes early on the Board's concern was that it not create a big loophole in a sound system. At the same time, the Board wants to be responsive to what has been determined to be a legitimate problem. If you take it to the next level, you really open it up.

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

Vote:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- nay
	Mr. Browning	- aye
	Dr. Davidson	- aye

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

The motion carried.

Mr. Dilling stated that also before the Board is the adoption of the remaining Chapter 6 rules. They have been refiled with JCARR. No testimony was offered at the JCARR hearing of September 20, and the rules are now before the Board for final adoption.

**DR. DAVIDSON MOVED THAT THE FINDINGS AND ORDER IN THE MATTER OF THE ADOPTION OF PROPOSED RULES PERTAINING TO: AMENDED RULES 4731-6-01, 4731-6-03, 4731-6-05, 4731-6-07, 4731-6-10, 4731-6-15, 4731-6-21, 4731-6-30, 4731-6-31, 4731-6-32, 4731-6-33, 4731-6-34; NO CHANGE RULES 4731-6-02 AND 4731-6-22; AND RESCINDED RULE 4731-6-20 OF THE OHIO ADMINISTRATIVE CODE, AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 13TH DAY OF OCTOBER, 2004, BE ADOPTED AS THE FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE PROPOSED RULES CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULES IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### ADMINISTRATIVE REPORT

At this time Mr. Dilling presented Ms. Wehrle with a service pin, recognizing her for her 15 years of service to the state.

Mr. Dilling at this time introduced R. David Henderson, J.D., Executive Director of the North Carolina Medical Board. He advised that Mr. Henderson is in Ohio to participate in the Board's retreat, scheduled for the following day.

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PROBATIONARY REPORTS

Ms. Sloan referred the Board to the Compliance Staff's reports of conferences with probationers on August 9-10, 2004. She noted that all probationers are in compliance.

**DR. BHATI MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH DAVID E. ALLEN, M.D.; ROBERT M. BENSON, M.D.; DAVID T. BROCK, D.O.; MARK A. CAMPANO, M.D.; SCOTT M. CAMPBELL, M.D.; STEVEN W. CRAWFORD, M.D.; ANTHONY E. DANACHEW, M.D.; RICHARD R. DE LA FLOR, M.D.; LESLIE R. (WOLF) DYE, M.D.; JOSEPH W. FISCHKELTA, P.A.; GEORGE V. HASSINK, M.D.; MARK S. HOPKIN, M.D.; DOUGLAS B. KAREL, M.D.; DAVID J. LEVY, M.D.; STEPHEN R. PORTER, M.D.; THOMAS A. RANIERI, M.D.; JAMES M. ROSSELIT, D.O.; JOSEPH S. SCHEIDLER, D.O.; GREGORY T. SCHULTE, M.D.; MARC H. SCHWACHTER, M.D.; JAMES H. SCOTT, D.O.; AND SUZANNE M. SMITH, M.T. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

PROBATIONARY REPORTS AND PROBATIONARY REQUESTS

ADAM S. MARTIN, M.D.

The staff's report of office conference and Dr. Martin's request to discontinue his Antabuse treatments were presented to the Board for consideration at this time.

**DR. BHATI MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE WITH DR. MARTIN ON AUGUST 9, 2004. DR. BHATI FURTHER MOVED TO GRANT DR. MARTIN'S REQUEST FOR PERMISSION TO DISCONTINUE HIS ANTABUSE TREATMENTS. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye

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

The motion carried.

#### PROBATIONARY REQUESTS

##### VICTOR BYKOV, M.D.

Dr. Bykov's request for approval to change monitoring physicians was presented to the Board for consideration at this time.

**DR. ROBBINS MOVED TO APPROVE DAWN E. DONICH, M.D., TO SERVE AS DR. BYKOV'S MONITORING PHYSICIAN. DR. GARG SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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

Dr. Daniachew's request for approval of a treating psychologist, pursuant to Paragraph 6 of his February 11, 2004 Consent Agreement, was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE C. RIVER SMITH, Ph.D., TO SERVE AS DR. DANIACHEW'S TREATING PSYCHOLOGIST. DR. EGNER SECONDED THE MOTION.**

A vote was taken:

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

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

The motion carried.

LYNN E. EATON, M.D.

Dr. Eaton's request for approval of a monitoring physician, required by the consent agreement ratified by the Board earlier in this meeting, was presented to the Board for consideration at this time.

**DR. ROBBINS MOVED TO APPROVE LARRY J. COPELAND, M.D., TO SERVE AS DR. EATON'S MONITORING PHYSICIAN, WITH TEN CHARTS TO BE REVIEWED EACH MONTH. DR. GARG SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

LYON L. GLEICH, M.D.

Dr. Gleich's request for approval of an assessing psychiatrist, as required by Paragraph 6 of the Board's Order of November 11, 2003, was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE KEVIN W. EGGERMAN, M.D., TO SERVE AS DR. GLEICH'S ASSESSING PSYCHIATRIST. MR. BROWNING SECONDED THE MOTION.**

A vote was taken:

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

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Dr. Garg - aye  
Ms. Sloan - aye

The motion carried.

MARK E. GOLDSMITH, M.D.

Dr. Goldsmith's request for approval of personal and professional ethics courses as partial fulfillment of the requirements of Paragraph 15 of his September 10, 2003 Consent Agreement.

**DR. BHATI MOVED TO APPROVE THE PERSONAL AND PROFESSIONAL ETHICS COURSES TAILORED FOR DR. GOLDSMITH BY DONNA F. HOMENKO, Ph.D. DR. BHATI FURTHER MOVED TO GRANT DR. GOLDSMITH'S REQUEST FOR A 30-DAY EXTENSION TO COMPLETE THE 30-HOUR ETHICS COURSE REQUIRED FOR THIS YEAR. DR. GARG SECONDED THE MOTION.** A vote was taken:

Vote:

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Garg	- aye
Ms. Sloan	- aye

The motion carried.

SIDDARTH M. KHOSLA, M.D.

Dr. Khosla's request for approval of a new monitoring physician, as required by his December 14, 2001 Consent Agreement, was presented to the Board for consideration at this time.

**MR. BROWNING MOVED TO APPROVE JACK L. GLUCKMAN, M.D., TO SERVE AS DR. KHOSLA'S NEW MONITORING PHYSICIAN. DR. GARG SECONDED THE MOTION.** A vote was taken:

Vote:

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye

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Dr. Garg - aye  
Ms. Sloan - aye

The motion carried.

ERIC W. LOTHES, M.D.

Dr. Lothes' request for approval of a new monitoring physician, as required by his October 11, 2000 Consent Agreement, was presented to the Board for consideration at this time.

**DR. ROBBINS MOVED TO APPROVE ROBIN F. BERAN, M.D., TO SERVE AS DR. LOTHES' NEW MONITORING PHYSICIAN, WITH TEN CHARTS TO BE REVIEWED PER MONTH. DR. GARG SECONDED THE MOTION.** A vote was taken:

Vote:

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Garg	- aye
Ms. Sloan	- aye

The motion carried.

MARK S. MCALLISTER, M.D.

Dr. McAllister's request for approval of a new supervising physician to serve as required by his May 12, 2004 Consent Agreement was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE GREGORY B. COLLINS, M.D., TO SERVE AS DR. MCALLISTER'S SUPERVISING PHYSICIAN. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Bhati	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Garg	- aye
Ms. Sloan	- aye

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The motion carried.

KRISTOPHER N. WANKEWYCZ, M.T.

Mr. Wankewycz' request for approval of a supervising physician was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE GLENBEIGH HEALTH SOURCES TO SERVE AS MR. WANKEWYCZ' SUPERVISING "PHYSICIAN." MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

TOBY J. TIPPIE, P.A.

Mr. Tippie's request for approval of a supervising physician was presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE THE ALLEN COUNTY TREATMENT COURT TO SERVE AS MR. TIPPIE'S SUPERVISING "PHYSICIAN." DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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MICHAEL CRAIG WARREN, D.O.

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

**DR. GARG MOVED TO APPROVE LURLEY J. ARCHAMBEAU, M.D., TO SERVE AS DR. WARREN'S TREATING PSYCHIATRIST. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

REINSTATEMENT REQUESTSAHMAD SHAHAMAT, M.D.

Dr. Shahamat's requests for approval of professional and personal ethics courses and reinstatement of his license were presented to the Board for consideration at this time.

**DR. GARG MOVED TO APPROVE THE PROFESSIONAL ETHICS COURSE GIVEN BY DONNA HOMENKO, Ph.D., OF THE CUYAHOGA COMMUNITY COLLEGE, AS FUFILLMENT OF PARAGRAPH B(2) OF THE BOARD'S ORDER OF APRIL 14, 2004. DR. GARG FURTHER MOVED TO APPROVE THE PERSONAL ETHICS COURSE GIVEN BY THE CENTER FOR MARITAL AND SEXUAL HEALTH, INC., TO FULFILL THE REQUIREMENTS OF PARAGRAPH B(3) OF THE BOARD'S ORDER. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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Dr. Garg - aye  
Ms. Sloan - aye

The motion carried.

**DR. BHATI MOVED TO REINSTATE DR. SHAHAMAT, PURSUANT TO THE TERMS AND CONDITIONS OF THE BOARD'S ORDER OF APRIL 14, 2004. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

CHART REVIEW

**DR. GARG MOVED TO ALLOW THE BOARD'S SECRETARY AND SUPERVISING MEMBER TO MAKE THE DETERMINATION OF THE NUMBER OF CHARTS TO BE REVIEWED. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

JOHN F. ZAK, M.D., AND NICHOLAS C. DIAMANTIS, M.D.

Dr. Zak's and Dr. Diamantis' requests for approval of a practice plan and monitoring physicians was presented to the Board for consideration at this time.

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**DR. BHATI MOVED THAT THE PLAN OF PRACTICE SUBMITTED BY DR. ZAK AND DR. DIAMANTIS BE APPROVED. DR. BHATI FURTHER MOVED TO APPROVE TROY FRAZEE, M.D., TO SERVE AS DR. ZAK'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH, AND MATTHEW GOLDSCHMIDT, M.D., TO SERVE AS DR. DIAMANTIS' MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

Dr. Zak's request for approval of an ethics course was also considered by the Board.

**DR. ROBBINS MOVED TO GRANT DR. ZAK'S REQUEST FOR APPROVAL OF A COURSE IN ETHICS ENTITLED, "POWER, ETHICS & SOCIETY" OFFERED BY BALDWIN-WALLACE COLLEGE, IN SATISFACTION OF PARAGRAPH 2.g OF THE DR. ZAK'S SEPTEMBER 30, 2004 CONSENT AGREEMENT. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

## LICENSURE

### PHYSICIAN LICENSURE APPLICANTS

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

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osteopathic medicine and surgery and doctors of podiatric medicine and surgery.

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

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

The motion carried.

GREGG P. ALLEN, M.D.

Dr. Allen's request for endorsement of his National Boards was presented to the Board for consideration at this time due to Dr. Allen's not having been engaged in the active practice of medicine since August 1989. Dr. Allen did take and pass the SPEX in January 2004, and has been recertified by the American Board of Family Practice through 2009.

Dr. Garg stated that, since the Licensure Committee did not meet this month, this and other licensure matters are being brought to the full Board so as not to delay processing. He stated that Mr. Dilling has asked him to review the licensure matters and to make recommendations to the full Board.

Mr. Dilling stated that he has reviewed Dr. Allen's application, and he believes that Dr. Allen has met all of the requirements, including passing the SPEX. Dr. Garg recommended approval.

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

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

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

The motion carried.

LALI SEKHON, M.D.

Dr. Sekhon's request for endorsement of Steps 1, 2 and 3 of the U.S.M.L.E. was presented to the Board for consideration at this time. Dr. Sekhon is a graduate of a non-LCME accredited school, and has completed 14 months of fellowship training. He has requested that the Board consider his previous training and experience as being equivalent to 24 months of graduate education through the second year level.

Dr. Garg stated that Dr. Sekhon is from Australia, where he did neurosurgery for ten years. Dr. Garg stated that he believes that Dr. Sekhon's training and experience are equivalent to the required 24 months of training.

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

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

The motion carried.

JODI EVERS, M.T. APPLICANT

Dr. Garg advised that he has reviewed Ms. Evers' request for special accommodations under the Americans with Disabilities Act (ADA) for the December 2004 massage examination. Ms. Evers indicates that she has been identified as having Specific Learning Disability.

**DR. GARG MOVED TO APPROVE MS. EVERS' REQUESTS FOR A TAPED EXAMINATION,**

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**EXTENDED TESTING TIME OF TIME AND A HALF, AND A DISTRACTION-FREE ENVIRONMENT. DR. BHATI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

CATHY H. GALLOGLY, M.T. APPLICANT

Dr. Garg advised that Ms. Gallogly has also requested accommodations under the ADA for the December 2004 Massage examination. Ms. Gallogly has been assessed to have symptoms of ADHD, which, under conditions of increased stress, increases her distraction and attentiveness. Dr. Garg noted that the letter from the psychologist who did Ms. Gallogly's assessment has indicated that a diagnosis of ADHD is equivocal.

**DR. BHATI MOVED TO GRANT MS. GALLOGLY THE FOLLOWING ACCOMMODATIONS FOR THE DECEMBER 2004 EXAMINATION: A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. DR. GARG SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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HEATHER HANAWALT, M.T. APPLICANT

Dr. Garg stated that he reviewed Ms. Hanawalt's request for special accommodations under the ADA for the December 2004 massage therapy examination. He noted that Ms. Hanawalt has been identified as having a deficit in basic reading and phonics skills.

**DR. BHATI MOVED TO GRANT MS. HANAWALT THE FOLLOWING ACCOMMODATIONS: A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

PHYSICIAN ASSISTANT APPLICANTS

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

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

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

The motion carried.

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P.A. UTILIZATION PLANS

At this time the Board reviewed standard P.A. Utilization Plans submitted by a number of physicians and groups.

**MR. BROWNING MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY CONCENTRA MEDICAL CENTERS; DILLON DERMATOLOGY; THE HEART CENTER @ AKRON CHILDREN'S HOSPITAL; MEDICAL COLLEGE OF OHIO FAMILY MEDICINE; PRO SCAN READING SERVICES; SPINE SPORTS & INDUSTRIAL REHABILITATION; STARK CARDIOTHORACIC SURGERY; SUMMIT ADULT MEDICINE CENTER, INC.; UNIVERSITY HOSPITAL HEALTH SYSTEM-BEDFORD MEDICAL CENTER; DERMATOLOGY PARTNERS, INC.; EAR MEDICAL CENTER; STOYAN KOKOCHAROV, M.D.; MIPA PRIMARY CARE; MIAMI VALLEY CARDIOLOGISTS, INC.; AND FABIO OCHOA, M.D., CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. GARG SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

ACUPUNCTURIST APPLICANTS

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

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

Vote:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Bhati	- aye
	Dr. Buchan	- aye

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

The motion carried.

#### S.B. 147, P.A. LEGISLATION

Mr. Browning asked for the current status of the above-captioned legislation. He asked whether the Legislation is moving in the lame duck session.

Mr. Dilling stated that the P.A.s and their law firm are playing it like it is. He noted that they've invested a lot of money in this. The law firm also represents the Hospital Association, as well. He said that there was never a version of the bill introduced in the House, and there's a very narrow timeline to do so. He also expressed some discouragement that the P.A.s won't allow the Medical Board staff to meet with LSC in order to iron out some problem language in the proposed bill. He stated that it's a poor draft of a bill.

Mr. Browning asked Mr. Dilling to tell the Board about the level of communication there has been in this last round of discussions. He stated that the Board has positions and concerns that have been expressed, and they're ignored.

Mr. Dilling stated that they've been ignored on the technical aspects. He stated that the Board hasn't gone in and said that the Board is against P.A. prescribing or other things, other than to say that the Board doesn't like it.

Mr. Browning stated that the Board is a limited player in this legislation. He stated that whatever the Board agrees to on the merits, the Board should put in a letter and let it stand on that.

Mr. Dilling stated that the Board should just put it in writing and be done with it.

Mr. Browning agreed. He stated that if the bill is really bad, the Board should leave room to go to the Governor and request a veto. He stated that he doesn't think the Board can matter beyond how it's affected the legislation already. The Senate knows that the Board is opposed to P.A.s prescribing, and they've taken it under advisement and decided that they are for it and they're going to pass a bill that allows that to happen. Mr. Browning suggested being proactive and using such a letter as a foundation to communicate with a few people who, in the end, will make the judgment call on this.

Dr. Kumar stated that he's had some discussions with Representatives John White, Jon Husted and Kevin DeWine and he brought to their attention that most P.A.s are trained for primary care functions. The bill allows them to see new patients. Will they be allowed to see new patients in the cardiologist's office, a neurosurgeon's office or an orthopedists' office? That is something that the Representatives hadn't

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thought about. Dr. Kumar stated that that is something that must be considered in giving this authority. It will be used by specialists. Dr. Kumar stated that, as far as prescribing is concerned, the Representatives basically wanted to give P.A.s the same authority as A.P.N.s. Dr. Kumar stated that at least they're willing to consider limiting what P.A.s can do as far as primary care functions versus specialty care functions. Specialty P.A.s should be required to do additional formal training in the specialty.

Mr. Browning suggested that the Board draft a letter mapping out its philosophy on this issue: The Board would rather not see this happen; however, if it does happen, at the very least A, B & C ought to be a part of it.

Mr. Dilling stated that he could use the word, "oppose," within the body of a letter, but he asked whether he could also say that the Board is an interested party to this legislation.

Dr. Davidson stated that it's not like they're going to work with the Board any more or any less based on its calling itself an interested party.

Several Board members indicated that they would agree to being considered an interested party.

Dr. Buchan inquired concerning the OSMA stance on this legislation.

Dr. Talmage stated that the OSMA has taken a neutral stand on this language.

Mr. Browning stated that the Board can't complain about the bill and be an interested party. He stated that the Board needs to be clear about that; it's more than a nuance. To be an interested party means that you're not opposed to the legislation. You have interests and concerns, but are not opposed to it. He stated that the Board can say that it's opposed to the bill.

Dr. Robbins stated that he's opposed to it. He stated that it seems that the Board is the only voice in medicine that's willing to speak up, and he thinks that somebody should speak up. He stated that he's willing to say that he thinks the bill stinks.

Mr. Browning added that a copy of the letter should be sent to the Governor.

Mr. Dilling stated that he will draft a letter for the Board members' review prior to sending it.

#### EXECUTIVE SESSION

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

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

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

The motion carried.

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

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

Thereupon at 6:04 p.m. the October 13, 2004 meeting of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on October 13, 2004, as approved on November 10, 2004.

Anquetette P. Sloan, President

Lance A. Talmage, M.D., Secretary

(SEAL)

