

December 8, 2004

MINUTES**THE STATE MEDICAL BOARD OF OHIO****December 8, 2004**

Anquetette Sloan, President, called the meeting to order at 1:00 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Patricia J. Davidson, M.D. Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; David S. Buchan, D.P.M.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Andrew F. Robbins, Jr., M.D.; and Anita M. Steinbergh, D.O. The following did not attend the meeting: Anant R. Bhati, M.D.; Anand G. Garg, M.D.

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; Mark R. Blackmer, Marcie A. Pastrick, Sallie J. Debolt, David P. Katko, Rebecca J. Marshall, Karen H. Mortland, Kathleen S. Peterson and Charles A. Woodbeck, Enforcement Attorneys; Sheryl C. Maxfield, Lawrence D. Pratt, Rebecca J. Albers, Kyle C. Wilcox, and Tara L. Berrien, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; and Jacqueline A. Moore, Disciplinary Information Assistant.

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. STEINBERGH MOVED TO APPROVE THE MINUTES OF NOVEMBER 10, 2004.

MR. BROWNING SECONDED THE MOTION. A vote was taken

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

The motion carried.

December 8, 2004

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. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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

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: Manju Bajpai, M.D.; Gregory Lee Ebner, D.O.; Jeffrey David Neidhart, M.D.; and Kwabena Oteng, M.D. A roll call was taken:

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

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

December 8, 2004

ROLL CALL:

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

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

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

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

MANJU BAJPAI, M.D.

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

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

Dr. Bajpai was accompanied by her attorney, Elizabeth Y. Collis.

Ms. Collis stated that in the Report and Recommendation Ms. Clovis found that the Board does not have the authority to grant Dr. Bajpai a license as she did not complete all three parts of the USMLE examination within seven years. Ms. Collis stated that she argued at the hearing that the Board does have a provision that allows for an exception and an extension of time for up to three years, if the applicant has a significant medical condition that prevents her from taking the examination. She noted that in this case testimony was presented at the hearing that, although Dr. Bajpai does not have a significant medical condition, her minor daughter did have a medical condition at the time Dr. Bajpai was in her residencies and going through all of this test taking. That prevented Dr. Bajpai from focusing on studying for this examination and passing these three parts within the seven years.

Ms. Collis stated that, during that time period, Dr. Bajpai made significant changes to her residency so that

December 8, 2004

she could both attend to the needs of her child, complete her residency and continue to study for her exam. At this point Dr. Bajpai has completed and successfully passed all three parts of the examination; but Step III was completed after the seven-year limitation.

Ms. Collis stated that in limited cases the Board has allowed an extension for persons who take the exam outside of the seven-year period. She noted the case of Effie Lee, M.D., whose case came before the Board in January 2003. In that case, an extension was allowed for Dr. Lee to complete the sequence after the seven-year limit but before the ten-year limit. Ms. Collis stated that, although Dr. Lee had suffered from cancer, it was clear that she had completed all of her training prior to contracting cancer, and therefore she should have been able to pass all parts of her examination before the first seven-year limitation. In Dr. Lee's case, even though the Board recognized that her illness came on after she could have successfully completed all of the exams, the Board did allow her to take advantage of the exception and the additional time and did allow her to sit for the examination. Ms. Collis stated that Dr. Bajpai is not requesting additional time, but she is requesting that the Board allow her to take advantage of that extension period.

Ms. Collis stated that the second issue that was raised at the hearing was whether Dr. Bajpai provided the Board with false information on her application. Ms. Collis stated that it is their position that Dr. Bajpai did incorrectly answer some of the questions on the application. They did not contest that at the hearing. She added that no evidence was presented at hearing that Dr. Bajpai intended to provide the Board with incorrect or false information. Dr. Bajpai has worked hard to complete her medical training, and she has worked hard to pass all parts of her examination, and she did not intend to provide this Board with false information. Ms. Collis asked that the Board grant Dr. Bajpai a license.

Dr. Bajpai thanked the Board for the opportunity to appear before it. She apologized to the Board for having to appear. She stated that the last thing that anyone would ever want would be to have their application for licensure denied. Dr. Bajpai also apologized for not passing all three steps of the USMLE within seven years, and for providing incorrect information on her application for licensure.

Dr. Bajpai stated that since moving to the United States with her children in 1993, it has been a long, hard road. Before moving to the United States, she was married and living in India. She had practiced medicine there for over ten years. Once her husband passed away, she moved to the United States to be near family members and to start a new life with her children. The move was not easy. Her children were young so she stayed at home with them and began to study for Steps I and II of the USMLE. In 1997, having passed those exams, she began her internship in anesthesiology.

Dr. Bajpai stated that, in retrospect, an anesthesiology residency and internship was not a good choice for her. She had young children, limited financial resources and limited assistance from family members to help her with the care and raising of the children. Although her father helped as often as he could, he was elderly and also had many health problems, including seven bypass heart surgeries. He could not be responsible for the full-time care of her children when they were not in school. Dr. Bajpai stated that she found that, as an anesthesiology resident, she was away from home for a long period of time. She often left home for work before her children woke up for school and returned home most evenings when they were in bed. Dr. Bajpai stated that her daughter, who was in the second grade at the time, did not adjust well with this arrangement. She stopped talking at school and would not interact with her teachers or other

December 8, 2004

students. Dr. Bajpai stated that she began receiving calls from the school saying that her daughter was not doing well in school.

Dr. Bajpai stated that her daughter needed additional attention and counseling, so she decided to change to a different residency program so that she would be home by 6:00 p.m. It was for this reason that she changed to the psychiatric program. Over the years, although her daughter improved somewhat with her assistance, she always had difficulties and has always needed more attention. Dr. Bajpai stated that, given her work schedule, the daily responsibilities of being a single parent, and the additional challenges of her daughter, she found that there were many times that she would sign up to take the next examination, and she would be so busy working as a resident and caring for her children that she would not be able to adequately study for the exam. There were many times that she took the exam when she knew that she was not prepared, but she didn't want to lose her registration money.

Dr. Bajpai advised that at one point her residency program did offer to allow her to take an unpaid leave of absence from work to study for the exam, but at that time she believed that she could not afford to take the leave. In hindsight, she realizes that this was a mistake. She finally passed all three parts of the examination, but only after the seven-year limitation had passed.

Dr. Bajpai acknowledged that at the time of completing her application for licensure, she answered some questions incorrectly. She apologized for this, stating that she never intended to provide false information or misleading information to the Board. She stated that she did not feel that she had anything to hide, and she didn't feel that she had done anything wrong in her residency program. She didn't realize that she had anything to disclose to the Board. Even though she incorrectly answered, "no," to question 4, which asks whether she had attended more than one residency, she did list all three residency programs she attended. She also understands that she failed to provide the Board with information about three negative evaluations she received in 1998, while in her anesthesiology residency. Dr. Bajpai stated that she had no memory of those evaluations, and she did not realize that the application asks for the internal evaluations that were done when she was a resident.

Dr. Bajpai asked that the Board consider her application for a license in Ohio. She stated that she has finally completed all of her training, passed all three parts of the USMLE, and she would like to begin her work in the Toledo area. Dr. Bajpai again thanked the Board for allowing her to appear before it.

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

Ms. Berrien stated that she agrees with the Report and Recommendation in this case, and that Dr. Bajpai should be permanently denied licensure in this state. Dr. Bajpai intentionally misrepresented information on the application to mislead the Board. She told the Board investigator that if she didn't understand something on the application, she wrote, "vacation." That statement alone shows intent, and it shows a dishonest motive.

Ms. Berrien continued that at the hearing and today, Dr. Bajpai stated that she omitted information because she had a recall problem or she didn't read the question carefully. She asked that the Board consider Dr. Bajpai's statement that she inadvertently forgot some of the instances on her application. Dr. Bajpai

December 8, 2004

said that she didn't recall the three negative evaluations from the medical college. Ms. Berrien noted that that was her first residency program in the United States and she received three negative evaluations, two of which were back to back. Her supervisor talked to her about these evaluations. Ms. Berrien questioned whether anyone could forget that. She reminded the Board that Dr. Bajpai testified that her program director never talked to her about it. The program director testified that he's sure he discussed her negative evaluations with her. He remembered that six years later. Those negative evaluations from the medical college are not the only negative reports Dr. Bajpai forgot to include in her application. At her second residency program, she was informed that her contract would not be renewed because she failed to pass the USMLE Step III. Dr. Bajpai is the sole source of income for her family and she's about to lose her job because she's studying for an exam she hasn't passed. Dr. Bajpai asked whether the Board members would forget that that happened. The application asked whether Dr. Bajpai has been refused renewal of a contract, and Dr. Bajpai responded, "no."

Ms. Berrien continued that Dr. Bajpai was disciplined again at her third residency program, but that information was omitted from her application. Ms. Berrien asked the Board to consider why Dr. Bajpai was being disciplined there. She was deficient in five different areas, and she received low scores in her residency and training exam. She was informed of her warning status in meetings, and it was memorialized in writing twice. She asked whether the Board would forget those instances. They are not on Dr. Bajpai's application.

Ms. Berrien stated that it is not credible to say that Dr. Bajpai did not intend to mislead or provide this Board with incorrect information, or that she had a recall problem. The Hearing Examiner picked up on this lack of credibility. It's also not credible to say that she thought she could hide this information – the negative evaluations and the disciplinary action – because they occurred in-house or were internal evaluations. Ms. Berrien noted that almost all of the questions concern what occurred "in house." They ask, "have you ever been warned," "have you ever been disciplined," "have you ever resigned?" These questions are on the application because, in order for this Board to make an intelligent, informed decision, the Board should be aware of what happened during residency programs and other employment.

Ms. Berrien added that there should also be no concern for a language barrier. Dr. Bajpai indicated that she is proficient in English, and it wasn't a lack of understanding the question on the application. She admitted that she didn't take time and care to fill out the application; however, Board members are being asked to take time and care to decide on her application.

Ms. Berrien stated that she believes that a recall problem can be safely ruled out in this case. What remains are dishonest motives, intent, and false and misleading statements. The Board may like Dr. Bajpai. She seems nice and pleasant, but that has nothing to do with good moral character, which is simple honesty. Dr. Bajpai's application and her testimony at the hearing show that her answers were not honest. Ms. Berrien stated that the Ohio Administrative Code is also clear and very specific on the time period to pass Steps I through III of the USMLE. Unfortunately, Dr. Bajpai did not complete Steps I through III within the seven-year period. She asks the Board to waive the time period for her. Ms. Berrien stated that that waiver is available to an applicant who is ill or has a medical condition that prevents them or interferes with his ability to adequately study and pass the exam. In the case of Dr. Lee, Dr. Lee had cancer. Dr. Bajpai is not saying that she was sick. Essentially, Dr. Bajpai is asking for a waiver because her family

December 8, 2004

and work obligations were competing against her ability to study and pass the exam. Ms. Berrien asked how many Board members had competing obligations while studying, but still passed. Family obligations and financial responsibilities do not qualify as reasons for a waiver under the Board's rule. Ms. Berrien stated that she supports the Report and Recommendation that this application should be denied because Dr. Bajpai did not comply with the seven-year rule.

Ms. Berrien urged the Board to adopt the Report and Recommendation, as written.

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

Dr. Steinbergh stated that she also supports the Report and Recommendation. This physician has repeatedly misrepresented herself on applications to the State of Ohio. She has clearly had multiple academic and clinical problems in her multiple training programs. This already raises several red flags. Dr. Bajpai did, in fact, fail to pass Step III of the USMLE within a seven-year period. Dr. Steinbergh stated that she doesn't believe that there are mitigating circumstances in this case. Dr. Bajpai, in fact, had multiple attempts at each step of the USMLE. She actually attempted to pass Step III nine times. She passed it in August 2003. The seven-year rule required that she pass Step III by September 2002.

Dr. Steinbergh stated that she does feel it is unfortunate that Dr. Bajpai had family stressors during her training, and that this may have been a major distraction. Dr. Steinbergh stated that she also feels that not everyone who desires to practice medicine in the State of Ohio is going to be successful. Dr. Steinbergh concluded that, in this case, she feels confident that Dr. Bajpai does not meet the criteria for licensure in the State of Ohio. Dr. Steinbergh spoke in support of the proposed permanent denial.

Dr. Kumar stated that he has a different take. He stated that he is an international medical graduate, and he can sympathize with many of the things that happened here. For a physician who is widowed and single, it is a major drawback or cultural shock, which comes through in Indian culture, which he doesn't think that anybody can understand. Dr. Bajpai came to the United States and was very qualified. She had a DGO, as well as a masters in surgery, OB/GYN, which is equivalent to Board certification in the United States. Dr. Kumar stated that he has a difficult time understanding why she started an anesthesia residency. He speculated that that was the only residency she could get. It is also understandable for him that in the first year or so of residency, she would have had difficulty in understanding the way the system works here, how they use the SOAP format. Dr. Kumar stated that when he came in as a resident, he didn't even know what the SOAP format was, let alone how to write it. It took him almost five months to figure it out. Dr. Kumar stated that he was not surprised that in the first year of Dr. Bajpai's residency she had difficulty writing things, particularly in an internal medicine rotation, where she was not even trained. Dr. Kumar added that the record indicates that Dr. Bajpai did improve as time went by.

Dr. Kumar stated that he did have concern that Dr. Bajpai continued to have deficiencies in her second and third residencies. That does bother him significantly. But he can see how deficiencies occurred in the first year. Dr. Kumar noted that the director of Dr. Bajpai's residency program did not actually put her on probation. There was an internal discussion. You could have an internal discussion to try to improve a resident who might get better. Dr. Kumar stated that he can easily understand how a resident, not understanding how the mechanism works, might have believed that those were internal ways to help her

improve.

Dr. Kumar continued that he understands that beyond that, Dr. Bajpai had several problems. She did not answer the questions correctly on many of the application forms. There was some hair splitting. She continued to finish her residencies and in many places she did very well. She trained with overall satisfactory evaluations in her second residency; and, although she got some negative comments in the third residency, she still passed.

Dr. Kumar stated that he understands that Dr. Bajpai did not do the USMLE in seven years. Whether the Board accepts her family situation or not, he is very uncomfortable with permanently denying Dr. Bajpai a license. If the Board does want to deny her a license, that's fine, but he would like to give her the option to overcome her deficiencies. As for the issue of her not being truthful and so on and so forth, the Board can look at that at the time she applies in the future. He again stated that he is against permanent denial. He could vote for denial, but he would like to remind Dr. Bajpai that a denial of her application will have a negative impact on her existing license in Michigan when she renews it. It might not be a bad idea, if the Board does go for denial, to allow her to think about withdrawing the application instead of having a denial on her record.

Dr. Steinbergh stated that, if the denial of application is because she didn't pass her USMLE Step III in seven years, that is not going to change. She will never be able to be licensed in the State of Ohio. There are other issues that have been discussed. Dr. Steinbergh stated that she feels from her reading of the record that Dr. Bajpai has had significant negative evaluations in both academic and clinical skills. That's a concern for her. The State of Michigan may have different licensure criteria. When they licensed Dr. Bajpai, she believes that she fulfilled Michigan's criteria. She does not meet Ohio's criteria and never will.

Dr. Kumar stated that he was told that the rules allow those who do not pass the USMLE within the seven-year or ten-year windows can go back and retake some exams that they didn't complete within that time.

Mr. Dilling stated that that is correct.

Dr. Kumar stated that she could take the whole series again. It doesn't mean that she can never take those exams again. She has a potential to complete the exams in the proper time. If the Board permanently denies Dr. Bajpai a license, it will completely bar her from that option. If the Board wants to deny her because she didn't meet the seven-year rule, he doesn't want to permanently deny her.

Dr. Steinbergh stated that, regarding Dr. Bajpai's misrepresentation on her application, she won't use the word, "fraud," but, essentially, it wasn't just one time. There were multiple instances on her application where she was clearly not responsibly replying to the questions on her application.

Dr. Kumar stated that he would agree with that.

Dr. Steinbergh stated that, when you think about the responsibility of a license to practice medicine, and the Board's mission being one of public protection, she doesn't feel that Dr. Bajpai meets the criteria.

December 8, 2004

Dr. Kumar stated that that may be the case. He added that, as he pointed out in his comments, he has serious issues with the negative comments she had. He can accept them in the first year.

Dr. Steinbergh stated that she would agree with Dr. Kumar, and added that she has no problem with cultural differences and the need for adaptation. She's talking about licensure and what the Board sees in terms of her academic and medical knowledge, and also misrepresentation or fraud on the application, and her not fulfilling the criteria.

Dr. Kumar stated that he cannot defend that in any fashion, and that he absolutely agrees with Dr. Steinbergh. Dr. Kumar stated that if Dr. Bajpai does go through the hoops and retakes the USMLE sequence, and at that time, if the Board wants to look at that application again in some fashion, the Board could require that she take some ethical courses. There's a potential. Dr. Kumar again stated that he is against permanent denial.

Dr. Buchan stated that the two issues discussed today, independently reviewed by him, and Dr. Bajpai's presence today might persuade him to exercise a bit more leniency. Together, there are two strikes and he is in favor of the Report and Recommendation, as written. He's in favor of the Findings of Fact and Conclusions of Law. Dr. Buchan added that he wouldn't be terribly disappointed if the word "permanently" was removed from the Order, but that's as far as he would be willing to go.

Dr. Davidson stated that Dr. Kumar spoke about the impact on Dr. Bajpai's Michigan license of denial versus permanent denial. She asked whether there is any further information on that. Does the Board affect that license by its action?

Dr. Kumar stated that when she renews her Michigan license, she will be asked whether she has had an application denied. She will have to say "yes," to that. He stated that he doesn't know what Michigan would do, but if they see some other jurisdiction denying Dr. Bajpai's license, they may take some action on that basis.

Dr. Steinbergh stated that if Dr. Bajpai held an Ohio license and was reapplying, and at some point in between licensure and reapplication something occurred and she had not properly reapplied, the Board might very well be looking at a Board Order that suspends Dr. Bajpai's license and includes terms for reinstatement and probation. Those things do happen, but when you deny a license, you deny a license. You can't then make recommendations of any sort in terms of work in ethics and so forth and so on. If the Board feels that removal of the word, "permanent," makes a difference in this case, she personally doesn't see it. If she were licensed in Ohio and the Board had to deal with this, it would probably go into some kind of a consent agreement or a Board order. She suggested that Michigan might have to do that also because they see that she's misrepresented her application in Ohio. There will be ramifications, but that may not necessarily mean that Michigan will permanently revoke her license. It would depend upon her representation in that State. Dr. Steinbergh stated that she's not so sure that she needs to make a decision on that.

Dr. Kumar stated that all he is suggesting that the Board remove the word, "permanent," and simply deny

December 8, 2004

the application at this point, and allow Dr. Bajpai to withdraw her application rather than having a denial on the record.

Dr. Steinbergh stated that she doesn't think that would be appropriate. She stated that there has already been a Board hearing. It's on the record.

Dr. Davidson added that even a withdrawal goes on the record.

Dr. Kumar stated that he is in favor of a simple denial rather than a permanent denial.

Ms. Sloan asked for a motion to approve and confirm the Proposed Order before further discussion.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. CLOVIS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MANJU BAJPAI, M.D. DR. DAVIDSON SECONDED THE MOTION.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MANJU BAJPAI, M.D., BY REMOVING THE WORD, "PERMANENTLY." DR. BUCHAN SECONDED THE MOTION.

Dr. Robbins stated that he has wrestled with this case, too, and he comes down more on the denial than the other. Dr. Robbins stated that he would like to give Dr. Bajpai the opportunity to repeat all three steps of the USMLE and pass it and take an ethics course and then reapply at some point. He commented that, with the amount of time and number of attempts it took Dr. Bajpai to pass Step III, he believes there is a question of competency. In his mind, if Dr. Bajpai retakes all three steps and passes all three steps within a required time sequence, and took an ethics course, he's not sure he wants to totally shut the door on her ability to do that.

Mr. Dilling stated that if the Board amends the Proposed Order and includes conditions for licensure, the Board is essentially saying that if she meets these conditions she can have a license. If you just deny the application, the Board is kicking it to whatever future Board to which she reapplies to make a new decision.

Dr. Davidson stated that although she feels some sympathy, she was annoyed at some of the residency programs that could probably have made it a little clearer. They could have had her sign off on disciplinary discussions. She added that she doesn't think that that changes the facts of the matter and the accumulation of evidence. She acknowledged Dr. Bajpai's perseverance in getting through her residencies and through the USMLE process, but she also agrees that to climb up from a 13th percentile in training to get to where she is now says something. Dr. Davidson stated that she's a little bit worried about false hope in keeping someone in the system and having them spend money, rather than getting on with their lives. She stated that she will speak in favor of the Report and Recommendation, as written.

Dr. Egner stated that she does believe that Dr. Bajpai committed fraud. She stated that she doesn't buy that Dr. Bajpai didn't understand the question. The Board has had this issue before it so many times, and she

December 8, 2004

believes that the Board has always come down pretty steadily on the side of not accepting a fraudulent application. Dr. Egner asked Board members to think back to their first year of residency and remember a presentation that they made for which an attending came down hard on them. She asked whether they can put themselves back in that hallway right now. You remember it. Now, put yourself in your chairman's office getting a written reprimand – you just don't forget it. So on the issue of fraud alone, she feels that the proposed permanent denial is appropriate.

Dr. Egner continued that she questioned Dr. Bajpai's ability to pass Steps I, II and III of the USMLE. She stated that it's not the Board's duty to know Dr. Bajpai's future, but if she were a betting person, she would say that Dr. Bajpai wouldn't be able to pass all three steps. She didn't meet the criteria of the seven-year exception, but the fraud issue is more of a convincer for her and she will go with the Hearing Examiner's Report and Recommendation.

Dr. Steinbergh stated that it is her understanding of the testing cycle and sequence of things that the tests are based on a body of knowledge that one has accrued within a period of time. From the time that she studied in medical school and subsequently came to the United States and took these steps, the body of knowledge has changed, teaching methods have changed, and it would be very unusual for Dr. Bajpai to be able to pass this series of examinations. Dr. Steinbergh added that she doesn't know about the process of the examination sequence itself, if she would even be eligible to retake three steps of this examination with the years that have gone from her basic education. Dr. Steinbergh stated that she doesn't even put that into her assessment of Dr. Bajpai. She just thinks that, for those reasons, Dr. Bajpai does not meet licensing criteria in Ohio.

Dr. Kumar stated that Dr. Egner stated that there was a written reprimand, but he didn't see any evidence of that in the record. There were letters written which the attending had signed, but he didn't see anything given to Dr. Bajpai.

Dr. Kumar stated that USMLE Steps I and II are part of ECFMG. If she did not do that, she couldn't even get into a residency.

Dr. Steinbergh stated that she understands that. She's talking about Dr. Bajpai's ability to be permitted to take those exams now. She doesn't know whether Dr. Bajpai would meet the criteria for the sequence of the examination cycle itself.

Dr. Kumar stated that he just wants to remove the permanency from the Proposed Order.

Dr. Buchan stated that he is in full agreement with denial of this application, and he believes that Dr. Bajpai will take home the notion that the Board doesn't feel that she meets the criteria for the exception to the rule. Dr. Buchan stated that he will speak in favor of the amendment to put the matter in Dr. Bajpai's court to determine what she wants to do. The cards may be stacked against her. Dr. Bajpai understands that and she understands the sentiment of this Board today, but he doesn't want to remove that little glimmer of hope that may still represent itself.

Dr. Talmage left the meeting during the previous discussion.

December 8, 2004

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

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

The motion carried.

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

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

The motion carried.

JEFFREY DAVID NEIDHART, M.D.

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

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

Dr. Neidhart thanked the Board for taking his case out of order, noting that he has a flight out of Columbus at 4:30 p.m. He flies back to New Mexico tonight.

Dr. Neidhart stated that he would like to address the Board regarding the Findings of Fact and Conclusions of Law of Hearing Examiner Murphy. He stated that he recently took a medical ethics course at the Robert Woods Johnson Foundation, a school-sponsored renewal in medicine through ethics course, a Prime A course. He was asked to write an essay outlining his specific progress in understanding the nature of his

December 8, 2004

offense and unethical behavior, utilizing critical reasoning and ethical introspection gained from the seminar.

Dr. Neidhart stated that his patient received the wrong dose of medication, as prescribed by his partner, and upon finding the error, he did not immediately notify the patient. In doing so, he deprived the patient of his right to make his own medical decisions, including, but not limited to examples such as keeping Dr. Neidhart as his physician, seeking medical care elsewhere, instituting corrective and/or continuing therapy in seeking a second opinion. Furthermore, he subsequently instituted therapy after the overdose without informed consent of the patient, whether he did or did not want the particular therapy.

Dr. Neidhart stated that, as a physician, he has accepted a great responsibility. This heritage has, unfortunately, been scarred, dating back centuries, as he learned in the ethics course. The "Archives of Internal Medicine" in August 2004 reported results that available research suggests that patients and the public support disclosure of medical errors. Physicians also indicate support for disclosure, but often do not disclose. They found insufficient empirical evidence to support conclusions about disclosure or its consequences. They stated that, with respect to process, researchers should seek to develop answers to the many practical questions faced by practitioners, such as who should disclose, what information should be provided, and when disclosure should occur.

Dr. Neidhart stated that on October 15, 2004, after the State Medical Board hearing, his fiancée, who was present for the discussion, helped him realize that he kind of acquired the Findings of Fact and Conclusions of Law outlined by the New Mexico Medical Board to define his whole character. So at the beginning he fought against it. That afternoon he had clarity that he could accept his inadequacy as defined by that point in time when he was grossly negligent, conduct unbecoming in a person licensed to practice medicine. Dr. Neidhart stated that he has learned invaluable skills and tools and has intimately been reminded of innumerable educational experiences, skills, tools and such, as acquired by his mentors. His first assignment was to define the characteristics of an excellent physician: honest, competent, integrity, sensitive, leader, compassionate, focused, charitable, a finisher, inquisitiveness, recognize limits, accept criticism, altruism, effective communicator, energetic, humble and patient. Dr. Neidhart stated that his mentors epitomized the characteristics of excellent physicians. As a leader, he knows that immediate disclosure of a medical error is the right answer when placed in the position he was. The process of disclosure utilizes all of the characteristics of an excellent physician. Furthermore, the course identified numerous other ethical issues that require the same individual characteristics which ideally rid the profession of future atrocities and embarrassment.

Dr. Neidhart continued that in 1987 (sic) the U.S. Congress adopted the Constitution Bill of Rights and adopted common law tradition from England, requiring informed consent. It was not until the 1920s that U.S. national standards on medicine became a prominent issue. Not until the 1970s that the American Hospital Association adopted the patient bill of rights, including the importance of informed consent. During this time, medicine was marred by atrocities, including involuntary sterilization by thirteen countries, including the United States of America and Germany. The U.S. Public Health Service conducted the Tuskegee experiments without informed consent, and prevented those participating from receiving penicillin, which became the accepted treatment. Clinical research in some of the leading U.S. institutions was marred by unfortunate separation between the interests of science and the interests of

December 8, 2004

patients, as reported in the New England Journal of Medicine article, Vol. 274, 1966, including injecting live cancer cells into healthy patients. It was not until 1974 that the National Research Act was enacted.

Dr. Neidhart stated that his point is that he's aware that the particular acts are clearly unethical and grossly negligent, and conduct unbecoming in a person licensed to practice medicine, but probably does not define the foundation of the U.S.A., the Public Health Service, or the physicians from the notable research institutions that conducted the study, as presented in the New England Journal of Medicine. This year's Vioxx recall, though seemingly denying the patients' bill of rights and informed consent of the significant side effects of that drug with pending legal and government investigation could dictate unethical behavior, gross negligence and conduct unbecoming a person licensed to practice medicine, but does not absolutely define the foundation of the U.S.F.D.A. and its Board.

Ms. Sloan advised Dr. Neidhart that he had five minutes to state for the Board what he wants the Board to know about him and his case.

Dr. Neidhart asked whether he had his five minutes.

Ms. Sloan asked him to summarize what it is that he wants the Board to know.

Dr. Neidhart stated that the point is that when he was here, when the prosecuting attorney was saying all of these things about him, he took it to basically define who he was as a person, completely, and in every aspect of his life. He fought against it and asked how that could be, and he guesses that his point was that he was, but that doesn't define who he is as a person forever. That's all he was trying to say.

Dr. Neidhart stated that he didn't realize that he was supposed to file objections in writing, but his sobriety date is May 12, 1998. He had a previous consent agreement that had to be in place for five years. That basically was up November 2, 2004. He's just trying to be in good standing so that he can relinquish his Ohio license.

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

Ms. Albers stated that this is a bootstrap action of a New Mexico Board Order, and like many bootstraps, the Board has a thorough record. A lot of that is because Dr. Neidhart came in and provided the transcript of what happened in this hearing. Ms. Albers stated that it is important to note that it was not until well into the hearing, when Dr. Neidhart was asked pointed questions by the Hearing Examiner, as to depriving this patient of his right to seek additional medical treatment and other choices of which he was deprived by the doctor not being honest with him, did he come to realize that he, indeed, had acted as the New Mexico Board had said.

Ms. Albers stated that she would support the Report and Recommendation, as written. She added that this is a young physician, and the Report and Recommendation, as written, addresses the issues.

DR. EGNER MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JEFFREY DAVID NEIDHART,

December 8, 2004

M.D. DR. STEINBERGH SECONDED THE MOTION.

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

Dr. Egner commented that this was a troubling case. She stated that she could not imagine having this happen nine months out of a fellowship, with his father being the physician who changed the order. She stated that she's glad that Dr. Neidhart realizes that he's not defined by this, but it will live with him for the rest of his life. Dr. Egner stated that she is in support of the Report and Recommendation, except for one thing. She stated that, for purposes of putting some sort of termination on these requirements, since there is no probationary period for him,

DR. EGNER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF JEFFREY DAVID NEIDHART, M.D., BE AMENDED BY ADDING THE FOLLOWING AT THE END OF THE PROPOSED ORDER:

This Order shall terminate upon Dr. Neidhart's reinstatement pursuant to the conditions established by Paragraph B of this Order.

MR. BROWNING SECONDED THE MOTION.

Dr. Steinbergh noted that his previous Consent Agreement will still be in place. He'll have to request release from that Agreement.

Dr. Steinbergh stated that she agrees with the proposed amendment. She stated that she thought this was a terrible occurrence for Dr. Neidhart. From listening to Dr. Neidhart today, and from the Report and Recommendation, it was clear that Dr. Neidhart understood what occurred. He simply did not know how to handle it at the time in terms of informing the patient. It was a tragic series of events that occurred. Dr. Steinbergh stated that she feels confident that, although Dr. Neidhart may make mistakes in the future, he now knows better how to handle those mistakes.

Mr. Dilling noted that Dr. Neidhart could have requested release from his consent agreement in November of this year. He's already met those requirements.

Dr. Steinbergh stated that he hasn't asked for release yet.

Dr. Neidhart stated that he wants to conclude what the Board is doing today before asking for release.

Dr. Kumar stated that he doesn't want to spend a lot of time on this, but he would like to add a comment. This was obviously an issue of Dr. Neidhart's not being upfront with a patient, but there was also a medical error made. Dr. Kumar stated that he would like to see a course in reducing medical errors included in the Proposed Order.

Dr. Steinbergh stated that she would not add anything more. She stated that she believes that the New Mexico Board has covered all those things. She stated that she doesn't think he needs to do anything

December 8, 2004

beyond what this Order asks him to do. She noted that Dr. Neidhart did not make the medical error, he simply didn't know how to handle it once he learned of the error. It was his partner, who was his father, who made the error.

Dr. Egner stated that the nurse made the error of walking up to a physician and just asking whether the order could be changed. She also made an error.

Dr. Kumar stated that he understands what Dr. Steinbergh and Dr. Egner are saying, but his thought process was that this is where the Board tries to reduce future errors also.

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

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

The motion carried.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF JEFFREY DAVID NEIDHART, M.D. DR. BUCHAN SECONDED THE MOTION.

Dr. Steinbergh stated that part of the New Mexico Order required Dr. Neidhart to present a plan describing corrective action to be taken in his practice to avoid medication errors and to address the physician's response when medication errors occur.

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

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

The motion carried.

December 8, 2004

GREGORY LEE EBNER, D.O.

Ms. Sloan directed the Board's attention to the matter of Gregory Lee Ebner, D.O. 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. Ebner. Five minutes would be allowed for that address.

Dr. Ebner was accompanied by his attorney, Eric Plinke.

Mr. Plinke stated that they are here today relative to the Proposed Order of permanent revocation. He stated that this case is "similar to Dr. Bajpai's in the respect that in this case you're Michigan." And in this case the Board does not have a record from the state upon which the Board is basing its decision, because Dr. Ebner failed to request a hearing when Arizona proposed to deny his license. That proposed denial was based on the manner in which he answered two particular questions in that application. In the record the Board has the application from Arizona and Arizona's allegations that Dr. Ebner answered questions falsely. Those allegations became fact because Dr. Ebner didn't request a hearing, and he testified to the reasons for that. This began a chain of dominoes that led to this hearing and brings Dr. Ebner before the Board today.

Mr. Plinke stated that his objections are before the Board. Principally, the objection is that the Proposed Order is excessive. The discipline is not proportionate to what Dr. Ebner did wrong. Dr. Ebner testified at the hearing as to how he interpreted those questions. They're not this Board's questions. Mr. Plinke commented that he thinks the questions are a little ambiguous, and he thinks that the way that Arizona had interpreted Dr. Ebner's answer was ambiguous. Unfortunately, Dr. Ebner didn't go to Arizona to contest that, and he should have. Had he, he might not be before this Board today. Mr. Plinke stated that the Permanent Revocation is disproportionate to similar cases the Board has seen where it's dealing with a default finding from another state. Dr. Ebner has practiced in Ohio for over 20 years. He was only briefly in the State of Arizona. He answered all his Ohio renewal questions correctly. He answered the questions on his initial application correctly. There's never been another incident brought by this Board or any other Board relative to Dr. Ebner's veracity.

Dr. Ebner stated that he appreciates the opportunity to address the Board today concerning this serious proposal. He stated that he understands that the Board members have reviewed the record and the objections that his attorney filed regarding this Proposed Order. He added that he appreciates the Board's review of those materials.

Dr. Ebner stated that he's a Board-certified fellow in family practice and has practiced good medicine in Ohio for over 20 years. Dr. Ebner stated that he has a number of regrets over the past year concerning his efforts to obtain an Arizona license. He did request licensure in the State of Arizona, and he completed their application. In doing so, there are two questions that Arizona believed he did not answer accurately. These questions related to a listing of hospitals where he has privileges and a listing of any lawsuits that were related to his practice of medicine.

December 8, 2004

Dr. Ebner stated that he answered the questions the way he did because he did not believe that he was on the medical staff at the Phoenix Indian Medical Center. He had been hired only as an independent contractor physician for the Yavapai Apache Health Center, which is 100 miles north of Phoenix, in Camp Verde, Arizona. When he completed his application, he was not on the medical staff of the Phoenix Indian Medical Center. He was not a member of the family practice department. He's never attended any medical staff meetings, and he did not serve on any committees. Because of this, he did not consider himself on the medical staff there and does not believe that he ever was. That is why he answered the questions the way he did.

Dr. Ebner continued that, regarding the lawsuits related to his practice of medicine, he did list the two previous malpractice suits that he had had, believing that those were related to the practice of medicine. He did not disclose the suit that has been brought against him relating to his payment of taxes because he did not think that that was related to his practice of medicine. He can see that, with a little more thought, someone might think that, but at the time he completed the application, it did not occur to him that the tax suit could, in some way, be related to his practice. His intentions certainly were not to mislead anybody, and he was shocked when the Arizona Board proposed to deny his license. Unfortunately, he did not request a hearing, and the Arizona Board denied his license, based upon their belief that he answered those questions falsely. He got advice from an attorney as to whether he should request a hearing, and because he did not really need the Arizona license anymore, he followed that advice and decided not to request a hearing. He regrets that because it led to the Arizona denial, and also to this hearing. He wishes, in retrospect, that he had taken the opportunity to go to Arizona and at least tell them why he answered the questions in the way he did.

Dr. Ebner stated that once this proceeding started and he retained an attorney to represent him here, they tried to get Arizona to go back and give him a hearing. Unfortunately, Arizona advised that they could not do so. He had missed his one chance for a hearing, and he is stuck with this denial. Unfortunately, that brings him here today. When he reviewed Hearing Examiner Murphy's report, he disagreed wholeheartedly that he ever tried to mislead anybody, whether it be the Arizona Board or this Hearing Examiner. The proposed permanent revocation represents the end of his career, and he requested that the Board reconsider Ms. Murphy's proposal. He stated that he's not saying that he does not deserve to be disciplined in some way, but an end of a more than 20-year history of practicing medicine because of that, just seems that it doesn't fit with what he did wrong.

Dr. Ebner apologized to the Board for having to come before it today, and stated that he sincerely regrets his decision making and his apparent misunderstanding of the questions. He is very sorry. Dr. Ebner asked that the Board reconsider this proposal and not end his career because of this.

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

Mr. Wilcox stated that he fully supports Ms. Murphy's Report and Recommendation. It is apparent, if you look at the record, that Dr. Ebner wanted to hide some information from the Arizona Board. He didn't want the Arizona Board to know that he had been discharged from the Yavapai Apache Health Center. He also didn't want that Board to know that he had had lawsuits filed against him by the Federal Government,

December 8, 2004

regarding issues that concern his medical practice.

Mr. Wilcox stated that, in his objections to the Board, Dr. Ebner attempts to defend his actions in Arizona. This is something he neglected to do when he was given every opportunity by the Arizona Board to make a record. He has told the Board today that he was not a staff member or credentialed by the Phoenix Indian Medical Center, but at hearing there was documentation that shows that Dr. Ebner was credentialed on December 20, 2002. Mr. Wilcox stated that he has to agree with the Hearing Examiner in this matter. He doesn't think that Dr. Ebner was honest with the Arizona Board or with this Board, and he doesn't think that Dr. Ebner can be regulated in any meaningful way. Therefore, his license should be revoked.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF GREGORY LEE EBNER, D.O. MR. BROWNING SECONDED THE MOTION.

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

Dr. Kumar stated that he is quite troubled about several things in this case. He is somewhat confused and has conflict in his mind. On one hand it does appear that Dr. Ebner was trying to hide some information from the Arizona Board when he didn't list his association with the Yavapai Apache Health Center. On the other hand, when he goes back and looks at the Indian Health Services information or their stationery, he doesn't see anything listing it as a hospital. He's not certain that this is really a hospital or just a health service. He can't make that determination looking at the record. Dr. Kumar stated that he's not certain if a hospital really exists there. It doesn't say, and he can't tell one way or another.

Dr. Kumar advised that, concerning the lawsuits issue, Dr. Ebner did notify the Arizona Board about the liability cases. He did not list the lawsuit from the Federal Government. Dr. Kumar asked how many physicians, when asked to list lawsuits relating to health care, would include tax cases. Dr. Kumar stated that he wouldn't think that that is related to health care, so he's unsure that Dr. Ebner was trying to hide it. Dr. Kumar is confused about what the Board should do, and added that he's not comfortable with permanent revocation in this case.

Dr. Egner agreed, stating that the biggest concern that she has is that the Board is basing this on an action where Dr. Ebner never requested a hearing, so there are findings of fact without knowing if they really are factual. She stated that she can see where some of the questions are not as clear, and she can see where Dr. Ebner would answer them the way he did. Dr. Egner stated that permanent revocation is not something the Board does lightly, and she's not sure that what Dr. Ebner has done warrants permanent revocation. She added that she's not sure what the appropriate remedy is because she just is not sure of the facts of the case. If she believes everything that Dr. Ebner says, then he should be reprimanded. It's very difficult for her to go from a permanent revocation to a reprimand.

Dr. Steinbergh stated that her interpretation of this is that when he applied for privileges in Arizona, he didn't answer questions correctly on his application. She stated that she thinks that the Board can be clear about that. Concerning Dr. Ebner's explanation of the difference between the Phoenix Indian Medical Center versus the Yavapai Apache Health Center, Dr. Steinbergh noted that they did in fact credential

December 8, 2004

Dr. Ebner. She believes that that is clear. The Phoenix Indian Medical Center is clearly a hospital. Dr. Steinbergh noted that Dr. Ebner lost privileges at the Health Center. His explanation is that he did not see enough patients to support him. He was released from employment. The explanation of the Yavapai Apache Health Center was that Dr. Ebner was released because of patient complaints and poor documentation. Dr. Steinbergh stated that she doesn't know how that could be forgotten; she'd think one would know that. However, the Board doesn't have a clear record of that and cannot base an order on that. She commented that that is the Board's problem.

Dr. Steinbergh stated that Dr. Ebner did not appropriately apply in Arizona. When he tried to correct that issue, he was told not to bother. Then he realized the domino effect of this on his Ohio license, he attempted to change that but could not. So the Board is faced with an issue of lost privileges for some reason. However, this is a bootstrap action. Were Dr. Ebner applying for licensure in Ohio, she would probably vote to deny his application. However, Dr. Ebner is licensed, and she does not believe that permanent revocation is appropriate. She would probably propose an order including a period of suspension and probation, where he would be monitored, and take courses on personal and professional ethics.

Dr. Steinbergh stated that she is also concerned about the civil lawsuit. The Board doesn't know what type of decision making may or may not come before the Board in the future with regard to the civil lawsuit and with regard to taxes. The Board doesn't know what the charges are, but it does give her cause to pause and think that something else could be coming along on that. Dr. Steinbergh stated that she'll wait for further discussion and then work on an alternative order.

Dr. Robbins stated that he would support an alternative order in line with what Dr. Steinbergh has talked about. He added that he wishes that there was more documentation for the Board to review. He added that his sense is that Dr. Ebner clearly answered questions in a false fashion on his Arizona application. Dr. Robbins stated that his sense is that, with everything that happened there, Dr. Ebner was just attempting to put the Arizona experience totally behind him, as if it never occurred, not realizing that there was a bootstrap action here in Ohio where he already had a license. Dr. Robbins stated that he thinks that that would fit with why Dr. Ebner didn't contest. Dr. Robbins stated that his sense from what was said here today is that if Dr. Ebner knew that an action in Arizona could affect his Ohio license, he would have certainly been there to contest the denial in Arizona. Dr. Robbins stated that he also feels that permanent revocation is excessive here.

Dr. Steinbergh stated that she would make a motion to table, unless the Board wants to proceed with the motion on floor.

Ms. Lubow reminded the Board that the motion on the floor is a motion to approve and confirm the Findings of Fact, Conclusions and Proposed Order. She suggested that if the Board is considering amending the Proposed Order, it would be appropriate for the Board to also look at the Proposed Findings of Fact and Conclusions of Law to make certain that they are also what the Board wants to approve. If not, the Board will want to craft a motion amending those sections as well. She stated that, from the Board's discussion, she believes that the Board members should look at the language that appears on page 6 of the Report and Recommendation, below the five asterisks, to make certain that it says what the Board wants it

December 8, 2004

to say.

MR. BROWNING MOVED TO TABLE THIS MATTER TO CRAFT AN ALTERNATIVE MOTION. DR. STEINBERGH SECONDED THE MOTION. Mr. Albert abstained. All other members voted aye. The motion carried.

KWABENA OTENG, M.D.

Ms. Sloan directed the Board's attention to the matter of Kwabena Oteng, 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. Oteng. Five minutes would be allowed for that address.

Dr. Oteng was accompanied by his attorney, Jeffrey M. Poth.

Mr. Poth advised that he and Dr. Oteng only wish to say that they agree with the language in the Proposed Order.

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

Mr. Wilcox stated that he believes that the Report and Recommendation does a good job of summarizing the facts in this case. Obviously the issue here boils down to whether the Board members feel that Dr. Oteng's gout is a significant health condition that would delay his medical study. There is no testimony other than that of Dr. Oteng and his wife regarding the severity of this condition. The Board does know that he was able to complete the Bethesda Family Practice residency on June 30, 2003. This was in the time frame when he was supposedly suffering from the gout. Obviously a residency program is a very demanding thing to go through, both physically and mentally.

Mr. Wilcox stated that the Board has learned from the hearing that Dr. Oteng is a man of faith and has served his community well. Mr. Wilcox added that he's sure that Dr. Oteng will continue to do this whether he is granted license now or has to retake some portions of the USMLE. Mr. Wilcox stated that his opinion of the exemption language in the rule is that it is for serious medical conditions, something that would take a lot of time to recovery from, something that may have a long rehabilitation. If the Board members think that gout rises to that level, then it should grant Dr. Oteng a license. He added that he doesn't think that gout is something that was envisioned when the rule was written. Mr. Wilcox stated that he would object to Dr. Oteng being given an exemption for health reasons in this matter.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF KWABENA OTENG, M.D. MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh stated that she does agree with the Proposed Order. She does believe that Dr. Oteng suffered from a condition that caused pain. She agrees that there are some mitigating circumstances, but added that she is compelled to make a suggestion to Dr. Oteng. As she read the record, she questioned why Dr. Oteng didn't just take Allopurinol, which would reduce his uric acid and prevent his gout. She stated that that's clearly the way to go. Dr. Oteng's explanation was that he had concerns about Allopurinol causing liver failure and thrombocytopenia; and, yet, he continues on Ibuprofen, which clearly can cause liver failure. Dr. Steinbergh stated that, in her mind, Dr. Oteng was not in concert with his personal physician, if he had one. She added that she thought it was very foolish for him to deny himself this kind of therapy. Dr. Steinbergh stated that millions of people are on Allopurinol. She added that she can't tell the Board the number of people she yearly treats for gout. Appropriate monitoring of liver function tests and CVC, if you're concerned about thrombocytopenia, can allay all of your fears. Dr. Steinbergh stated that she thinks that Dr. Oteng was, in part, responsible for his pain. Dr. Steinbergh stated that this makes her feel that Dr. Oteng wasn't being treated properly by himself and by his physician, if he had one. She also thinks that Dr. Oteng needs to learn a little bit more about gout and the use of these medications as he continues to practice medicine. She added that he needs to work in concert with his primary care physician or rheumatologist to prevent this arthritic condition from affecting his medical positions in the future. Dr. Steinbergh acknowledged that it is difficult to practice when you're having chronic pain.

Dr. Steinbergh stated that she does feel that there were mitigating circumstances, and she would vote to allow Dr. Oteng to be licensed.

Dr. Kumar agreed that there are mitigating circumstances. He added that there was evidence to suggest that there were people driving him back and forth to various places when he had an acute attack. Dr. Kumar spoke in support of granting the license.

Dr. Robbins stated that he has a hard time believing that gout can be the mitigating factor in this. Two things struck him. When Dr. Oteng took USMLE Step 1, he passed on the first attempt. He commented that that's pretty commendable. He took Step 2 and passed it on the first attempt. Dr. Oteng then had nothing but trouble with Step 3. That raises concern. He had five attempts and now blames it on gout. Dr. Robbins stated that he just doesn't get it. Dr. Robbins stated that he's having trouble saying that he can overlook it and forget the seven-year rule and give Dr. Oteng a license. It bothers him that this occurred. He added that he doesn't like the fact that gout is being used. He added that gout is not a reason, as far as he's concerned.

Dr. Buchan agreed with Dr. Robbins, and, as he reviewed the case, he was disappointed that this was the medical condition that was being allowed to move from a seven-year to ten-year window. On the other hand, the record is reflective of a physician who reasonably should be licensed in the State of Ohio. He missed the window by seven months. He did have a medical condition, so there's a small crack in the window. Dr. Buchan recommended that the Board grant Dr. Oteng a license. Dr. Buchan added that he was bothered by the fact that the illness for which Dr. Oteng is requesting an exemption is gout, but on the merits of the individual and his training and education, with the medical condition, as stated, it would be reasonable to license this gentleman.

December 8, 2004

Dr. Davidson stated that she agrees with a lot that has been said. She added that missing the deadline by seven months feels like a technicality. She stated that she believes that Dr. Oteng is an exceptional individual in many ways. Dr. Davidson added, however, that she agrees with Dr. Robbins. She worries about precedent. She noted that he passed Step II in 1998 on his first attempt, and then didn't pass Step III until 2004. He came down with the gout in 2002. She commented that he could sit home and study without walking.

Dr. Davidson added that she also has serious problems with Dr. Oteng's not taking Allopurinol because it could cause liver damage. She stated that this is an unanswered question for her. Gout is an easily treated condition, and Dr. Oteng's life would potentially have been much different and better, and he wouldn't be before the Board today. Dr. Davidson stated that she doesn't understand why Dr. Oteng didn't get adequate treatment for his condition.

Dr. Kumar agreed with that. He stated that, on the other hand, gout can be quite debilitating when it gets in the joints and the toes and knees. If a person can't drive and someone else has to drive to various places, that tells him that it has to be a significant problem, whether he got treated well or not.

Dr. Steinbergh stated that he wasn't being treated for the disease really.

Dr. Kumar stated that he did have a medical problem.

Mr. Browning stated that the Board is giving Dr. Oteng the benefit of the doubt in granting him the exemption, and he believes it is a reasonable call.

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

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

The motion carried.

Dr. Buchan left the meeting at this time.

December 8, 2004

FINDINGS, ORDERS AND JOURNAL ENTRIESAFFILIATED DERMATOLOGY & COSMETIC SURGERY CENTER, INC.

Ms. Sloan advised that, by letter of September 30, 2004, the Board notified Affiliated Dermatology & Cosmetic Surgery Center, Inc., that it proposed to deny its Supplemental P.A. Utilization Plan for reasons outlined in the letter. Said notice was mailed via certified mail, return receipt requested, to the address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. However, no hearing request has been received from Affiliated Dermatology & Cosmetic Surgery Center, Inc., and more than 30 days have now elapsed since the mailing of the notice. This matter was presented to the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE SEPTEMBER 30, 2004 NOTICE AND TO ENTER AN ORDER DENYING AFFILIATED DERMATOLOGY & COSMETIC SURGERY CENTER, INC.'S SUPPLEMENTAL P.A. UTILIZATION PLAN, EFFECTIVE IMMEDIATELY. MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh stated that the record is clear. The group was appropriately served with the Board's letter and did not request a hearing.

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

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

The motion carried.

CRYSTAL CLINIC, INC.

Ms. Sloan advised that, by letter of October 7, 2004, the Board notified Crystal Clinic, Inc. that it proposed to deny its Supplemental P.A. Utilization Plan for reasons outlined in the letter. Said notice was mailed via certified mail, return receipt requested, to the address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. However, no hearing request has been received from Crystal Clinic, Inc. and more than 30 days have now elapsed since the mailing of the notice.

December 8, 2004

This matter was presented to the Board for final disposition.

DR. ROBBINS MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE OCTOBER 7, 2004 NOTICE AND TO ENTER AN ORDER DENYING CRYSTAL CLINIC, INC.'S SUPPLEMENTAL P.A. UTILIZATION PLAN, EFFECTIVE IMMEDIATELY. DR. DAVIDSON SECONDED THE MOTION.

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

Dr. Kumar stated that the Board has given the group an opportunity for a hearing and they didn't take that opportunity. There is enough evidence in the record to go forward.

A vote was taken on Dr. Robbins' motion:

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

The motion carried.

Mr. Albert asked whether he and Dr. Talmage could vote on these matters.

Mr. Dilling advised that since the matters before the Board today concern licensure applications and are not disciplinary in nature, he believes that both Dr. Talmage and Mr. Albert may vote on them.

HEIDI DONNELLY, M.D.

Ms. Sloan advised that, by letter of September 30, 2004, the Board notified Dr. Donnelly that it proposed to deny her Supplemental P.A. Utilization Plan for reasons outlined in the letter. Said notice was mailed via certified mail, return receipt requested, to the address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. However, no hearing request has been received from Dr. Donnelly and more than 30 days have now elapsed since the mailing of the notice. This matter was presented to the Board for final disposition.

DR. ROBBINS MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE SEPTEMBER 30, 2004 NOTICE AND TO ENTER AN ORDER DENYING HEIDI DONNELLY, M.D.'S SUPPLEMENTAL P.A. UTILIZATION PLAN, EFFECTIVE IMMEDIATELY.

December 8, 2004

MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh stated that the duties requested in this application require high levels of supervision and are complex. She spoke in support of denial.

A vote was taken on Dr. Robbins' motion:

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

The motion carried.

Dr. Buchan returned to the meeting at this time.

FAR OAKS ORTHOPEDISTS, INC.

Ms. Sloan advised that, by letter of October 7, 2004, the Board notified Far Oaks Orthopedists, Inc. that it proposed to deny its Supplemental P.A. Utilization Plan for reasons outlined in the letter. Said notice was mailed via certified mail, return receipt requested, to the address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. However, no hearing request has been received from Far Oaks Orthopedists, Inc. and more than 30 days have now elapsed since the mailing of the notice. This matter was presented to the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE OCTOBER 7, 2004 NOTICE AND TO ENTER AN ORDER DENYING FAR OAKS ORTHOPEDISTS, INC.'S SUPPLEMENTAL P.A. UTILIZATION PLAN, EFFECTIVE IMMEDIATELY. MR. BROWNING SECONDED THE MOTION.

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

It was noted that Far Oaks Orthopedists, Inc., did, in fact, request a hearing, but subsequently withdrew that request.

Dr. Robbins stated that this is another case where the Board is denying the application for a supplemental P.A. utilization plan for procedures that are complex and carry a high potential for complications.

December 8, 2004

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

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

The motion carried.

HMT DERMATOLOGY

Ms. Sloan advised that, by letter of September 30, 2004, the Board notified HMT Dermatology, that it proposed to deny its Supplemental P.A. Utilization Plan for reasons outlined in the letter. Said notice was mailed via certified mail, return receipt requested, to the address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. However, no hearing request has been received from HMT Dermatology, and more than 30 days have now elapsed since the mailing of the notice. This matter was presented to the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE SEPTEMBER 30, 2004 NOTICE AND TO ENTER AN ORDER DENYING HMT DERMATOLOGY'S SUPPLEMENTAL P.A. UTILIZATION PLAN, EFFECTIVE IMMEDIATELY. MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh stated that the Board proposed to deny this request due to the inadequate training and supervision of the P.A.s.

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

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

December 8, 2004

Dr. Robbins - aye
Dr. Steinbergh - aye

The motion carried.

CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

JAMES ROBERT BROWN, JR., M.D. – CITATION LETTER

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

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

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

The motion carried.

DANIEL HOWARD BRUMFIELD, M.D. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time Ms. Sloan advised that the Secretary and the Supervising Member have determined that, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, there is clear and convincing evidence that Daniel Howard Brumfield, M.D., has violated divisions (B)(15) and (B)(26) of Section 4731.22, Ohio Revised Code, and that, in accordance with the Step II Consent Agreement, Dr. Brumfield entered into with the Board on or about January 16, 2004, such violations constitute clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public. They therefore recommend that the Board suspend his certificate without a prior hearing. Copies of a proposed "Notice of Summary Suspension and Opportunity for Hearing" describing the basis for this determination have been distributed to all Board members. At this time, the Board members were given the opportunity to review the proposed notice.

MR. BROWNING MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF DANIEL HOWARD BRUMFIELD, M.D., IN ACCORDANCE WITH SECTION

December 8, 2004

4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

CAROL A. DOMER, C.T. – CITATION LETTER

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

DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO MS. DOMER. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ANIL H. JHANGIANI, M.D. – CITATION LETTER

At this time the Board read and considered the proposed citation letter in the above matter.

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

Vote:	Mr. Albert	- abstain
-------	------------	-----------

December 8, 2004

Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Buchan	- aye
Dr. Kumar	- abstain
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

Later in the meeting, the Board ratified a consent agreement with Dr. Jhangiani, addressing the issues in the citation letter. The citation was deemed moot and was rescinded. Therefore, a copy of the approved citation will not be included in the meeting exhibits.

JOHN BRUCE PAYNE, D.O. - LETTER OF PROPOSED DENIAL

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

DR. STEINBERGH MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. PAYNE. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

BARRY JOSEPH POLITI, M.D. – CITATION LETTER

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

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

Vote:	Mr. Albert	- abstain
-------	------------	-----------

December 8, 2004

Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

GREGORY S. ZINNI, M.D. - NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

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

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

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

The motion carried.

RATIFICATION OF CONSENT AGREEMENTS

DEBORAH LYNN TAYLOR, M.D.

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

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

December 8, 2004

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

The motion carried.

KENT ROBINSON, M.D.

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

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

The motion carried.

DR. STEINBERGH MOVED TO TABLE THE TOPIC OF “RATIFICATION OF CONSENT AGREEMENTS” UNTIL THE FOLLOWING DAY. DR. BUCHAN SECONDED THE MOTION. All members voted aye. The motion carried.

PERSONAL APPEARANCES

NICHOLAS G. ESPINOZA, D.O.

Dr. Espinoza appeared before the Board pursuant to his request for release from the terms of his September 12, 2001 Consent Agreement. If approved, release from probation would become effective December 12, 2004.

In response to Dr. Steinbergh's questions, Dr. Espinoza indicated that he no longer prescribes for weight control. He was a solo practitioner, but now he's in a group family practice. He stated that things are going much better for him. He will partner into the practice in January. He's been with the group for about a year and a half. He's full-time with them and then he's doing some part-time moonlighting in a practice in Findlay. Dr. Espinoza stated that the hardest part about the whole issue was getting recredentialed by the insurance companies and getting through their probationary periods. Hopefully, with this now done, he's anxious to see if the insurers will be willing to give him an opportunity. He added that

December 8, 2004

probably 20% to 30% have been unwilling to put him on their panels, but he's also had 70% that have.

Dr. Davidson asked whether Dr. Espinoza is confronted by patients asking for weight control medication.

Dr. Espinoza stated that he is not. He added that he's tried to educate all of his patients, including those patients he had in the past. He's made them aware of what's happened and that the State of Ohio has some very strict regulations. The patients know not to ask, and it hasn't been a problem.

In response to further questions by Dr. Steinbergh, Dr. Espinoza stated that everything else in his life is going well. His marriage is very intact and has been throughout the whole ordeal, and his children are healthy and well.

Dr. Steinbergh asked Dr. Espinoza what he thinks about the Board's process, now that he is about to be released.

Dr. Espinoza stated that it was better than he envisioned when he first received the citation letter. Unfortunately, the insurance issues dealt a greater penalty to him, as well as to others with whom he's talked. Concerning malpractice insurance, his first year out they categorized him into the high-risk category and it quadrupled his rates. Fortunately, that came back the second year and he was able to sign on into the regular carrier group. But the insurers have been very difficult as a result of the suspension status.

Dr. Steinbergh asked Dr. Espinoza if he's learned anything from this process.

Dr. Espinoza stated that he learned to say, "No."

DR. STEINBERGH MOVED TO RELEASE DR. ESPINOZA, EFFECTIVE DECEMBER 12, 2004, FROM THE TERMS OF HIS SEPTEMBER 12, 2001 CONSENT AGREEMENT. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Ms. Sloan asked Dr. Espinoza whether he understands that he is still restricted from prescribing, administering or personally furnishing controlled substance anorectic medications.

December 8, 2004

Dr. Espinoza stated that he does understand. He added that his group doesn't engage in using any weight control medications. With his moonlighting job in occupational medicine, there's no role for it at all.

Dr. Steinbergh asked whether Dr. Espinoza has his boards in family practice.

Dr. Espinoza stated that he does.

Dr. Steinbergh asked that he let the Board know if the limitation on his license becomes an issue for him when he goes for recertification. She noted that some Boards will not allow a physician to sit for recertification if there is a limitation on his or her license.

Dr. Espinoza stated that he will. He stated that he was not aware of the problem, but he will be applying to recertify in two years.

ROBERT E. EXTEN, M.D.

Dr. Exten appeared before the Board pursuant to his request for release from the terms of his December 8, 1999 Consent Agreement. If approved, release from probation would become effective immediately.

In response to Dr. Steinbergh's questions, Dr. Exten stated that he is doing great. He thanked the Board and indicated that he appreciates the opportunity for a second chance. Dr. Exten advised that he had a year off to think about things, and he realizes that he has the greatest job in the world, and he appreciates the opportunity to go back and do that job. As far as his sobriety is going, he has a meeting that meets in his office every Sunday morning at 8:00 and everyone is welcome to come.

Dr. Exten stated that he has a good support system. He has a great wife and great kids. His practice is going well. He advised that he's really been able to work on acceptance of who he is. Dr. Exten indicated that he was pretty well humbled by the experience and he got to work on what the definition of humility is. He will try to achieve that for the rest of his life.

In response to Dr. Davidson's questions about what Dr. Exten will change once he's no longer on probation, Dr. Exten stated that the obligations he has to the Board are the only things he really sees changing.

Dr. Davidson stated that she's speaking for Dr. Exten's doing whatever he can to avoid complacency. She commented that opiates are a bad thing to mess with, and the Board has heard more than one probationer come back and relapse two, five, or ten years later.

In response to Dr. Robbins' questions, Dr. Exten stated that he is working long hours again, but he thinks that that's the nature of the profession. There's no way around that. Dr. Exten again stated that he loves what he does, and he doesn't know of any other way to do it. He added that he's a pretty obsessive-compulsive person, so he thinks that that may be part of what he has to work on. Dr. Exten commented that he may work on that after he's retired.

December 8, 2004

Dr. Exten stated that there are things different in his own practice now. His business manager, his wife, sits behind him and she's pretty good at telling him when to stop working.

Dr. Steinbergh stated that management of stress is something that is part of his recovery. Without that, he may very well relapse. Dr. Steinbergh stated that maintaining his program of monitoring and maintenance groups and so forth she would support. Dr. Steinbergh added that there are ways for him to get around those long hours and that pressure. She stated that month after month people are before the Board. When he's finished with the Board, it's really the beginning of ongoing recovery. Dr. Steinbergh stated that the Board doesn't want to see him back. She added that that takes tremendous modification in his life, ongoing every day, the same as he's worked it all these years. She again stated that the Board sees people come back ten years later entering into consent agreements again, and that's heartbreaking. If one can do it for ten years, why can't one do it for eleven.

Dr. Exten stated that the one thing he's learned is that he can do it for one day at a time.

Dr. Steinbergh stated that that's the issue. It's a disease process that he will have to manage every day for the rest of his life. She wished him luck.

DR. STEINBERGH MOVED TO RELEASE DR. EXTEN, EFFECTIVE IMMEDIATELY, FROM THE TERMS OF HIS DECEMBER 8, 1999 CONSENT AGREEMENT. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

SIDDARTH M. KHOSLA, M.D.

Dr. Khosla appeared before the Board pursuant to his request for release from the terms of his December 14, 2001 Consent Agreement. If approved, release from probation would become effective December 14, 2004.

In response to Dr. Kumar's questions, Dr. Khosla stated that he is doing great. He started working at the University of Cincinnati about three months ago. He works about two clinical days and three research days a week, so he has plenty of time for his spiritual life and A.A. He's starting more service work. He's

December 8, 2004

starting a prison meeting, which he used to do in St. Louis. He's been in Cincinnati for three months. He has a psychiatrist he has been seeing once a week for the past three months.

Dr. Kumar asked whether there is anything that Dr. Khosla has learned from this experience that he would like to tell the Board.

Dr. Khosla stated that he's learned a tremendous amount in the last six and three-quarter years. He didn't have a spiritual foundation before. He wasn't happy. He was just aiming for success. Dr. Khosla stated that, as it says in the Big Book, he felt life was something to be endured. Now he looks at the joy in his life. Dr. Khosla stated that the two things that keep him sober today are how serene his wife is and how he's able to help people and especially understand them better. What also keeps him sober is the fear of becoming the person he doesn't want to be again. When he was using he definitely became that person he doesn't want to be today.

Dr. Kumar asked whether Dr. Khosla would continue with his medications. He stated that he would.

DR. KUMAR MOVED TO RELEASE DR. KHOSLA, EFFECTIVE DECEMBER 14, 2004, FROM THE TERMS OF HIS DECEMBER 14, 2001 CONSENT AGREEMENT. DR. ROBBINS SECONDED THE MOTION.

Dr. Steinbergh advised that the Board knows that the combination of chemical dependence and major depression is very difficult to overcome. The Board's goal is to support Dr. Khosla and pray that he will continue to do well. Maintaining his psychiatric counseling is very important, and taking his medications is also very important.

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

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

The motion carried.

JEREMY AMPS, M.D.

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

December 8, 2004

In response to Dr. Kumar's questions, Dr. Amps stated that he is doing very well. He's continuing his residency. He's researching spinal cord injuries. He has a year and a half left of his residency, and he's interested in pursuing one year of a spine fellowship after he's finished. Dr. Amps stated that he has been complying with all the terms of his agreement.

Dr. Kumar asked what Dr. Amps has learned about prescribing narcotics.

Dr. Amps stated that he's learned a tremendous amount. He's learned, first of all, that he has to follow the laws before he follows what he sometimes feels is good for people. Dr. Amps stated that he just didn't do the right thing at all, and now he can see that.

Dr. Robbins asked how Dr. Amps' family life is.

Dr. Amps stated that his family life is great. His family is very supportive.

Dr. Kumar commented that the issue involving his prescribing was with his girlfriend.

Dr. Amps stated that he hasn't seen her in over two years. He doesn't even know where she lives.

DR. KUMAR MOVED TO CONTINUE DR. AMPS UNDER THE TERMS OF THE BOARD'S ORDER OF JULY 14, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MICHAEL SHANE GAINEY, M.D.

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

In response to Dr. Kumar's questions, Dr. Gainey stated that he is doing well. He's working as an emergency room physician, primarily in Kentucky, as he has for the last few years. He stated that the episode that brought him to the Board's attention was a single episode in his life. It was an embarrassment to his profession and to himself. There has never been a thought to repeating anything like that.

December 8, 2004

Dr. Gainey stated that he keeps a very good therapeutic distance between himself and anyone who makes any sideways comments. He just ignores them and goes about his business.

Dr. Kumar asked whether Dr. Gainey has registered for any ethics course.

Dr. Gainey stated that he'd already started prior to his meeting with the Board, but he put them on hold during the hearing. He's supposed to start again in January and will finish by spring.

Dr. Kumar asked whether the course has been approved by the Board.

Dr. Gainey stated that the person developing the course got a copy of his Report and Recommendation and has developed courses for the Board before. Dr. Gainey stated that he's assuming that she will communicate with the Board, but he will make sure of that.

Dr. Steinbergh asked who is developing the courses.

Ms. Bickers stated that it's Ida Schick.

Dr. Steinbergh asked whether Dr. Schick is combining the two courses he's required to take into one course.

Dr. Gainey stated that she had combined them when he first started with her before the Board met, and he just leaves it to her. He just does what she asks him to do and he meets with her when she asks him to meet with her. He added that Dr. Schick wanted to postpone the course until January.

Dr. Kumar asked whether he has to get approval from the Board first.

Ms. Bickers stated that she will talk with Dr. Gainey about getting his courses approved.

Dr. Kumar advised Dr. Gainey that he has to get the courses approved first.

Dr. Gainey stated that he realizes that, but he's trusted in Dr. Schick. He added that she seems to be very knowledgeable about it.

Dr. Kumar stated that it is Dr. Gainey's responsibility to get the course approved.

Dr. Gainey stated that he realizes that.

Dr. Kumar stated that he can't rely on Dr. Schick getting approval, he needs to do that himself.

Dr. Gainey indicated that he understands.

DR. KUMAR MOVED TO CONTINUE DR. GAINNEY UNDER THE TERMS OF THE BOARD'S ORDER OF APRIL 14, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD

December 8, 2004

SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LAMBERTO T. R. GALANG, JR., M.D.

Dr. Galang made his initial appearance before the Board, pursuant to the terms of his September 9, 2004 Consent Agreement.

In response to Dr. Steinbergh's questions, Dr. Galang stated that he is currently an internal medical resident at the Jewish Hospital in Cincinnati, Hamilton County. He's doing well and has acclimated himself wonderfully in Cincinnati since June. He added that he is thoroughly enjoying being back in his internal medicine residency. Dr. Galang stated that he has recently established with an overseeing psychiatrist. There have been problems with referrals and denials of accepting his case. He's seeing Dr. Stuart Bassman and one of his associates on a weekly basis for his psychotherapy, along with two twelve-step meeting groups a week. Dr. Galang stated that he has seen Dr. Kevin Eggerman, whom he will nominate to be his psychiatrist, and whom he will see once a month. Dr. Galang stated that he was first referred to Dr. Eggerman, who was not accepting patients at the time. He got another referral to Dr. Chang, who originally accepted him, and whom the Board approved. Dr. Chang then decided that he didn't want to assume the responsibility of the therapy mandated by the Board. He was then referred to a Dr. Bennett, who he understood to be the head of the University of Cincinnati psychiatry department, who, after about a week, told him that she felt that there was no one qualified at the University of Cincinnati to take care of him. Finally, Dr. Bassman spoke with Dr. Eggerman and explained the situation and Dr. Eggerman has agreed to see him.

Dr. Steinbergh asked what Dr. Galang is learning about himself in his meetings with Dr. Bassman.

Dr. Galang stated that he's learning much more than he did with his therapist in Columbus. Dr. Bassman and his associates are head and shoulders above every other therapist he's had. They're looking at issues on deeper levels and more abstract levels of how he developed his addiction. They're dealing with why he's developed what he believes to be a survival or coping mechanism where he just denies himself any feeling whatsoever. Dr. Galang stated that he's found that this buildup of feelings of rejection, anger, whatever, that he doesn't allow himself to feel, gets vented by his acting out behavior. He now recognizes

December 8, 2004

the kinds of feelings that he's been suppressing that can lead to feeling triggered.

In response to Dr. Davidson's questions, Dr. Galang stated that he has been able to find a 12-step program in Cincinnati that meets every day. He stated that it is his higher power since he's struggling with religion. He's been attending 12-step meetings since 2002, and that recharges him throughout the week. Once he got past the first step, it was really the foundation of his recovery.

Dr. Kumar stated that he assumes that all of Dr. Galang's program and residency directors have been appropriately notified.

Dr. Galang stated that he personally went to each of his program directors and explained his situation when he was looking for a second-year spot. He also has a monitoring panel through the health alliance in Cincinnati, and he has to abide by their version of the Consent Agreement. Dr. Galang added that the Board's Consent Agreement is much more involved.

In response to Dr. Robbins' questions, Dr. Galang explained that now when he has feelings of rejection, he will rationalize what has him feeling that way in his own mind. He stated that there is still a small part of him that feels rejected, but he is able to rationalize the rest.

Dr. Robbins suggested that that might be a good time for him to call someone.

Dr. Robbins stated that it definitely is. He added that his parents have been supportive throughout his whole process here.

DR. STEINBERGH MOVED TO CONTINUE DR. GALANG UNDER THE TERMS OF HIS SEPTEMBER 9, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

FRANCINE R. MOSLEY, M.D.

Dr. Mosley made her initial appearance before the Board, pursuant to the terms of her September 9, 2004

December 8, 2004

Consent Agreement.

In response to Dr. Davidson's questions, Dr. Mosley stated that she is doing well. She advised that her oldest son and his wife are going to have a baby in January. Her daughter started college this fall, and she's proud of her. Her youngest son played football on the freshman team this year. Dr. Mosley stated that her personal life is good, but, professionally, it sucks having a consent agreement. Three job offers dried up the instant she mentioned that she has a consent agreement having to do with major depressive disorder. Since that time she's not been able to have any employment at all.

Dr. Mosley added that she's also learned in the course of the last year and a half that you should never under any circumstances tell your residency director that her skirts are too short and her heels are too high, because when you leave your residency and your third-year contract is not renewed, she will not give you an evaluation that will be conducive to making another residency position. Dr. Mosley stated that that continues to be a source of frustration to her. She's applied for a total of thirteen residency positions. In three of them she had gone as far as a second interview; however, after talking to her former residency director who has short skirts and high heels, those interviews dried up. She stated that this whole process has been incredibly frustrating.

Dr. Steinbergh stated that she has questions about that concept. She stated that she does appreciate the frustration of not being able to get into another residency program, but she asked whether Dr. Mosley thinks that she might be responsible for some of that.

Dr. Mosley stated that she certainly does. Had she learned at the time to keep her mouth shut and her opinions to herself, she would have gotten much further. One of the things she's talked about with her therapist is that she tends to put out on other people issues that are not so much about them as they are about her.

Dr. Steinbergh asked Dr. Mosley how she performed as a medical resident.

Dr. Mosley stated that, as far as the work that she did professionally, she did very well.

Dr. Steinbergh asked whether there are other people who will give her recommendations to substantiate that.

Dr. Mosley stated that the reasons she said what she said was to point out her own fault in the whole situation of putting off on another person what was her own personal issue. She had a personal issue with someone and, instead of dealing with it in a professional way, dealt with it in an unprofessional way and set up a bad relationship that has continued to be a problem, because she didn't handle it well. She's certainly taking 100% responsibility for it. That's one of the things she's learned.

Dr. Robbins asked about Dr. Mosley's seeing that residency director again.

Dr. Mosley stated that she has. She stated that they have met and talked. She stated that she talked about her inability, while they were working as boss and employee, to separate out some personal feelings that

December 8, 2004

she had and projected quite a bit onto the residency director that wasn't a part of an actual relationship. The residency director responded with statements of how hard it is, when someone has a bad attitude toward you, to be a good boss to that person. They've actually healed the relationship and she feels very good about that.

Dr. Mosley continued that she did a very bad job interpersonally, but not medically. That was never a question in the residency. Interpersonally, she did a very bad job there and, having done that has made it difficult now to get into a residency. She doesn't mean to put it off on the residency director.

Dr. Steinbergh asked whether the evaluation form asks about interpersonal relationships.

Dr. Mosley stated that asks whether she would be welcome in a residency, and the response is that she would not be. Dr. Mosley stated that she closed that door. When she went back and talked with her residency director about this, she was told that the residency director cannot honestly say that she would be welcome back to the residency. Dr. Mosley stated that that was her doing.

Dr. Steinbergh stated that she's trying to understand whether, when Dr. Mosley applies for a new residency program and is required to submit references, she gets an honest evaluation of skills other than interpersonal skills.

Dr. Mosley stated that she does.

Dr. Steinbergh suggested that by maintaining her medication and maintaining her work with her psychiatrist, she could get past that in order to convince a residency director that, although her interpersonal skills weren't very good at that time, she is now three years past that episode and has good academic and appropriate residency skills in terms of patient management. Dr. Steinbergh suggested that Dr. Mosley would find someone willing to give her an opportunity under that scenario.

Dr. Mosley stated that she's certainly hopeful they will. She's actively looking at a place in Richmond, VA. She's awaiting a transcript from the University of Kentucky and her Federation of State Medical Boards transcript. When those are received, she will be interviewed there. She will actually have an interview and is hopeful to be able to talk with them. Dr. Mosley stated that one of the good things about talking with her former residency director was that she was coached in a way to approach the issue and to talk with the residency director about the fact that they have talked and worked past some of that and are able to put it into perspective. Dr. Mosley stated that it has been very frustrating to have to wait because she wants it to be done.

Dr. Steinbergh asked how long it's been.

Dr. Mosley stated that she left her residency in October 2003.

Dr. Steinbergh stated that Dr. Mosley must continue with her psychiatrist and maintain her medication.

Dr. Mosley stated that at the time she underwent her Board-ordered psychiatric evaluation, she had already

December 8, 2004

seen her private physician and her private counselor, because she recognized the signs of depression coming again. It was a recurrent episode. She had actually gone to see them and gotten medication for herself. Dr. Mosley stated that she's certainly aware of the advantage of having to answer to a body outside herself and how that encourages compliance and encourages one to work on the issues, and she sees the value in that; however, for her own self, she'd like to say that she saw what was happening before it made an impact on her medical work and before it made an impact on her care of patients, and she got treatment herself. It wasn't ordered by Dr. Roman after she talked with Dr. Roman. Dr. Roman did give the diagnosis, but she already carried the diagnosis and knew it.

Dr. Mosley at this time thanked Ms. Debolt for her assistance through this process. Dr. Mosley indicated that she was disturbed by the fact that once an investigation is begun, no one on the Board's staff is permitted by law to give her any information on the status of the investigation or what is being done. She stated that she went from March, when she got the letter stating that there would be an investigation, until July before she actually knew something. The person she talked with was Ms. Debolt. She was the first person that Dr. Mosley was able to talk to, and at that time she was very frustrated, not knowing what was going to happen. During that period of time she couldn't talk to anybody about a residency program because she didn't know what the Board was going to do. She thanked Ms. Debolt for being very straightforward in giving information that is allowed. She asked whether it's always that length of time and whether staff always has to be that tight-lipped. She suggested that that's something the Board might think about in the future.

Mr. Schmidt stated that Dr. Mosley knows now.

She expressed dissatisfaction that it took four months.

DR. STEINBERGH MOVED TO CONTINUE DR. MOSLEY UNDER THE TERMS OF HER SEPTEMBER 9, 2004 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. KUMAR SECONDED THE MOTION.

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

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

The motion carried.

December 8, 2004

BRIAN D. SOUTHERN, M.D.

Dr. Southern made his initial appearance before the Board, pursuant to the terms of the Board's Order of September 8, 2004.

In response to Dr. Steinbergh's questions, Dr. Southern stated that things are going extremely well for him this time, and he added that he's glad to be sitting here today and not having to explain how he screwed up. He's actually been doing really well and everything's been going really well for him.

Dr. Steinbergh commented that, as Dr. Southern knows, the Board has significant concerns about his sobriety and whether he'll make it. She stated that this is it. She asked what he's doing and how it's different this time.

Dr. Southern stated that, professionally, he's working as project coordinator for the Northeast Ohio coalition for the homeless. This has been a blessing because he's getting to work with the homeless. For a long time now he has wanted to work with low-income and homeless persons, so this was an opened door that really worked out. He's actually making connections and learning a lot about non-profit organizations and that type of thing, so he's really excited about that. As far as recovery, things are going extremely well for him. He's still in the sober house into which he moved last March, and he's actually now the house manager, so he's running the place for the landlord. There are eight guys there he's helping to care for and watch out for. He's attending his meetings, working very closely with his sponsor. He was recently selected for a peer review committee that was just started in the Caduceus group in Cleveland. So things are going well for him.

Dr. Buchan noted that Dr. Southern has been down this road before, and he asked whether Dr. Southern has any questions for the Board.

Dr. Southern stated that he does not. He added that he has something to do during this year, and he's excited about that. He'll focus on that until it gets closer to time for him to apply for reinstatement. He'll have questions then, he's sure.

Dr. Buchan stated that the roadmap is pretty clear. He cautioned Dr. Southern to stay focused.

Dr. Steinbergh asked whether Dr. Southern has good family support.

Dr. Southern stated that he does, adding that, unfortunately, they're in Alabama, but he talks to them frequently. He's single. Here, his greatest support is his two best friends, a 55-year old hippy and a paranoid schizophrenic. He stated that these are guys that live with him.

Dr. Steinbergh stated that the Board would like to see him be successful.

DR. STEINBERGH MOVED TO CONTINUE DR. SOUTHERN UNDER THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 8, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. KUMAR SECONDED THE MOTION. A vote was

December 8, 2004

taken:

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

The motion carried.

MARY MEI-LING YUN, M.D.

Dr. Yun made her initial appearance before the Board, pursuant to the terms of the Board's Order of November 5, 2004.

Dr. Steinbergh asked Dr. Yun to tell the Board a little about her understanding of the Board's Order. She noted that Dr. Yun did not comply with her last consent agreement, and she asked how Dr. Yun was going to do things differently.

Dr. Yun stated that she came for a hearing in October. She stated that she doesn't think that Dr. Steinbergh was here at that time. She stated that she made a point that it wasn't an issue of compliance last time. It was an issue of two doctors not communicating and one was forcing her to take a medicine that the other one stopped. That led to the probate and all this the last time.

Dr. Egner explained that Dr. Yun had a dystonic reaction from a medication and they took her off it, but then she was readmitted and they wanted to put her back on it, and one thing led to another.

In response to Dr. Steinbergh's questions, Dr. Yun stated that she is doing well. She's taking Haldol and Zoloft. Just recently, because she wasn't doing as well with her depression, Dr. Crawford added Effexor. She's been on that about a week, and she sees a lot of difference. She feels like she's almost back to baseline, to where she was prior to getting sick 20 years ago; whereas, the last few years she wasn't really feeling that good. Especially the last year she has been very depressed.

In response to Mr. Albert's questions, Dr. Yun stated that she is taking her medication religiously. As for her personal life, she got married in March. Her husband is currently in North Carolina to take care of an ill father. She's moved in with her parents for the past three months. For the first time in a long time they're finally getting along. They fought a lot when she was really sick, but they're not fighting. Dr. Yun stated that she thinks that part of the reason she had problems was because of the disagreement she had with her parents. They were really her solid support for most of her life. Having their relationship restored has really helped her a lot. She added that she's glad she's had the opportunity for the last three months to

December 8, 2004

live with them. Dr. Yun advised that her husband will be coming back on December 11.

Mr. Albert asked whether Dr. Yun has her license back.

Dr. Yun stated that she does not, and added that she doesn't think she's ready. Dr. Crawford wants her to wait for two years to make sure she's really stable. Dr. Yun stated that she thinks she made a mistake in the past by trying to rush back too soon. She thinks she really wants to make sure that her depression has gone away.

In response to further questions by Mr. Albert, Dr. Yun stated that she's getting along well with her psychiatrist, Lisa Ford-Crawford, M.D., this time. Dr. Yun added that she really likes Dr. Crawford, who seems to really listen to her. She's made changes to Dr. Yun's medications. She feels that depression is more of an issue and has switched her to large doses of antidepressants and minimum doses of antipsychotics to keep her away from having symptoms. She feels this regimen makes her feel a lot better. Her mind's not so cloudy with so much sedation with antipsychotics. She feels that she is getting her desire and motivation back gradually. Dr. Yun stated that she wasn't herself for the last several years, and she lost sight of who she is. For a while she thought she wouldn't return to practice. She thought about going into research. But just recently she's decided that once she is well she will try to practice again.

Mr. Albert asked whether she's keeping her CME up.

Dr. Yun stated that she hasn't been doing so well with it this year because she's been so busy. During her spare time she sleeps a lot. She's found out that that's what keeps her from going crazy. Not getting enough rest when her mind is moving too fast is what makes her spin out of control, and she starts having delusions. She stated that that is part of the depression symptoms.

Mr. Albert stated that Dr. Yun needs to get a job.

Dr. Yun stated that she had a job, working in research with Procter and Gamble, until Thanksgiving.

In response to Dr. Robbins' questions, Dr. Yun stated that she has an apartment in Cincinnati. Her husband isn't working right now.

DR. STEINBERGH MOVED TO CONTINUE DR. YUN UNDER THE TERMS OF THE BOARD'S ORDER OF NOVEMBER 5, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

December 8, 2004

Dr. Robbins - aye
Dr. Steinbergh - aye

The motion carried.

REPORTS AND RECOMMENDATIONS

GREGORY LEE EBNER, D.O.

DR. STEINBERGH MOVED TO REMOVE THE MATTER OF GREGORY LEE EBNER, D.O., FROM THE TABLE. DR. KUMAR SECONDED THE MOTION. All members voted aye. The motion carried.

DR. STEINBERGH MOVED THAT THE CONCLUSIONS IN THE MATTER OF GREGORY LEE EBNER, D.O., BE AMENDED BY DELETING THE LAST TWO SENTENCES OF THE PARAGRAPH THAT APPEARS BELOW THE FIVE ASTERISKS.

DR. STEINBERGH FURTHER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF GREGORY LEE EBNER, D.O., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Gregory Lee Ebner, D.O., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time but not less than 180 days.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Ebner's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Ebner shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Personal and Professional Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Ebner shall provide acceptable documentation of successful completion of a course or courses dealing with personal and professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board 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.

In addition, at the time Dr. Ebner submits the documentation of successful

December 8, 2004

- completion of the course or courses dealing with personal and professional ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.
3. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Ebner has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.
- C. **PROBATION**: Upon reinstatement or restoration, Dr. Ebner's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:
1. **Obey the Law**: Dr. Ebner 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. Ebner 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. Ebner 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. **Practice Plan**: Prior to Dr. Ebner's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Ebner shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Ebner's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Ebner shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Ebner submits his practice plan, he shall also submit the name and

December 8, 2004

curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Ebner and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Ebner and his medical practice, and shall review Dr. Ebner'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. Ebner and his medical practice, and on the review of Dr. Ebner's patient charts. Dr. Ebner 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. Ebner's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Ebner must immediately so notify the Board in writing. In addition, Dr. Ebner 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. Ebner 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.

6. **Tolling of Probationary Period While Out of State:** Dr. Ebner shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
7. **Noncompliance Will Not Reduce Probationary Period:** In the event Dr. Ebner 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.
8. **Violation of Terms of Probation:** If Dr. Ebner violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

December 8, 2004

- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Ebner's certificate will be fully restored.
- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Ebner shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Ebner shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
- F. **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. Ebner 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 he currently holds any professional license. Dr. Ebner 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 he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Ebner 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. BUCHAN SECONDED THE MOTION.

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

Mr. Browning commented that the proposed amendment is consistent with the Board's earlier discussion and is a more sensible and balanced approach to this case. He added that a six-month suspension was what he had in mind, and he thinks the rest of it is appropriate, including the ethics course requirement.

Dr. Buchan stated that he does believe that there was some element of misrepresentation and deceit in regard to this particular case, and he would speak to being more harsh in its review and in its intentions. Dr. Buchan stated that he's grateful for the language left in beneath the asterisks, adding that he does think that there was intent to deceive. Dr. Buchan stated that, in his view, the employment history is just that, and to suggest that he forgot, or that something just escaped him, is just not credible. Dr. Buchan stated that he thinks permanent revocation is a bit harsh, but he would speak for a significant suspension. Six months is the minimum level that he would accept.

December 8, 2004

Dr. Kumar stated that he feels that a six-month suspension is probably sufficient in this case. He suggested that if Board members wish a harsher penalty, it might lengthen the period of probation. A two-year period of probation is too short. Dr. Kumar noted that there is a civil suit going on, and the Board doesn't know how long that will take to resolve. It might create another issue. Dr. Kumar suggested a probation period in the range of three to five years.

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

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF GREGORY LEE EBNER, D.O. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

PRESENTATION BY JOHN N. THOMPSON, M.D., PRESIDENT/CEO, FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INC.

At this time Dr. Thompson, accompanied by Martin Crane, M.D., member, Board of Directors, did a presentation on the services provided, working committees and future plans of the Federation. A copy of the materials used in the presentation will be maintained in the exhibits of this journal.

December 8, 2004

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

Thereupon at 6:05 p.m. the December 8, 2004 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on December 8, 2004, as approved on January 12, 2005.



Anquetette P. Sloan, President



Lance A. Talmage, M.D., Secretary

(SEAL)



December 9, 2004

MINUTES

THE STATE MEDICAL BOARD OF OHIO

December 9, 2004

Anquetette Sloan, President, called the meeting to order at 8:00 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: Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Deepak Kumar, M.D.; R. Gregory Browning, Ph.D.; Andrew F. Robbins, Jr., M.D., and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: David S. Buchan, D.P.M. The following did not attend the meeting: Patricia J. Davidson, M.D. Vice-President; Anant R. Bhati, M.D.; and Anand G. Garg, M.D.

Also present were: Thomas A. Dilling, Executive Director; William J. Schmidt, Assistant Executive Director; Diann K. Thompson, Assistant Executive Director; Shannon F. Baldwin, Executive Staff Attorney; Sallie J. Debolt, Enforcement Attorney; Tara L. Berrien, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Coordinator for Assessment and Development; Danielle Bickers, Compliance Officer; and Barbara Jacobs, Public Services Administrator.

EXECUTIVE SESSION

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

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

The motion carried.

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

Dr. Buchan arrived during the executive session.

December 9, 2004

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. KUMAR MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES WITH MOHAMMAD A. ADAS, M.D.; HANY M. AFRAM, M.D.; MARK D. BALDWIN, D.O.; FRANK R. BRUENING, M.D.; PAUL W. BURKE JR., M.D.; KEVIN R. CLARK, M.D.; YAZEED MANSI ESSA, M.D.; JAMES E. FLEMING, M.D.; MARK S. FLEMING, M.D.; DONALD B. FORD, M.D.; MARK E. GOLDSMITH, M.D.; DARRELL A. HALL, M.D.; MARK T. HALLE, M.D.; DAVID C. HANES, D.O.; RYAN P. HANSON, M.D.; MELANIE E. JUNGBLUT, M.D.; PAUL E. KELNER, M.D.; MICHAEL J. O'BRIEN, D.O.; ROBERT S. REEVES, JR., M.D.; STEPHEN J. ROLFE, M.D.; WILLIAM A. ROMER, M.D.; LAWRENCE B. ROTHSTEIN, M.D.; JAMES E. STURMI, M.D.; AND JEFFREY W. WINHOLT, M.D. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

PROBATIONARY REPORTS AND PROBATIONARY REQUESTSCRAIG L. BIERER, D.O.

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

DR. KUMAR MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON OCTOBER 12, 2004 WITH DR. BIERER. DR. KUMAR FURTHER MOVED TO APPROVE THOMAS E. MANDAT, M.D., TO SERVE AS DR. BIERER'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

December 9, 2004

Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

SCOTT M. CAMPBELL, M.D.

The staff's report of office conference and Dr. Campbell's requests for changes in his appearance schedule and drug screen requirements were presented to the Board for consideration at this time.

MR. BROWNING MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON OCTOBER 13, 2004 WITH DR. CAMPBELL. MR. BROWNING FURTHER MOVED TO REDUCE DR. CAMPBELL'S APPEARANCE SCHEDULE TO ONCE EVERY SIX MONTHS, AND TO REDUCE HIS DRUG SCREEN REQUIREMENT TO TWICE PER MONTH. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ROBERT R. DAIBER, M.D.

The staff's report of office conference and Dr. Daiber's requests for reductions in his chart review requirement and his drug screen requirement were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON NOVEMBER 9, 2004 WITH DR. DAIBER. DR. STEINBERGH FURTHER MOVED TO REDUCE DR. DAIBER'S CHART REVIEW REQUIREMENT TO TEN CHARTS PER MONTH. DR. STEINBERGH FURTHER MOVED TO DENY DR. DAIBER'S REQUEST FOR A CHANGE IN HIS DRUG SCREEN REQUIREMENT. DR. KUMAR SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
-------	------------	-------

December 9, 2004

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

PETER FRAGATOS, M.D.

The staff's report of office conference and Dr. Fragatos' requests for reductions in his appearance schedule, his drug screen requirement and his saliva testing requirement were presented to the Board for consideration at this time.

Dr. Steinbergh stated that she would support the request for reductions in his appearance schedule and drug screen requirement, but felt that the Board should wait until Dr. Fragatos' next appearance before acting on the request for a reduction in his saliva testing requirement. She noted that the Secretary and Supervising Member both supported the requests regarding drug screens and appearances; however, the saliva testing request was not submitted until after the November conference. She stated that, unless the Secretary and Supervising Member can unequivocally recommend approval of the change in saliva testing, she would suggest that he discuss this request at his next office conference.

Dr. Talmage stated that saliva testing is very reliable, particularly where alcohol is concerned. It's really not necessary for most people, but in some cases, where the risk of drinking is high and their daily work requires it, it's an excellent test.

Dr. Steinbergh stated that Dr. Fragatos is requesting a reduction in the saliva testing requirement. He didn't make this request at the last office conference. He's just submitting it now. He wants to reduce the saliva testing from prior to each work shift to once a week. Dr. Steinbergh stated that unless Dr. Talmage and Mr. Albert know this individual well enough to recommend approval today, she would suggest that the request be tabled until his next appearance.

Mr. Albert suggested waiting until next month.

Dr. Egner asked how far back does saliva testing reflect? If someone drank on Monday, how long would his saliva test positive?

Dr. Talmage stated that he thinks it's 72 hours.

Mr. Schmidt stated that it's his understanding that detection on alcohol is only in the neighborhood of 12 hours. There's a new test, ETG, which the saliva doesn't pick up. ETG is a much more sensitive and far

December 9, 2004

better test, but that's not what the Board is talking about here. That's a urine screen. He added that, as he understands it, the saliva test is really intended to detect whether you have consumed alcohol recently enough that it's affecting your functions.

Dr. Steinbergh stated that the once-a-week suggestion would be meaningless.

Several Board members indicated that it would still be a random test.

Mr. Schmidt commented that it's a very cheap test.

Ms. Bickers stated that she would be comfortable if the Board denied this request at this time.

Mr. Schmidt reminded the Board that denied requests are reported to the National Practitioners Data Bank.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON NOVEMBER 9, 2004 WITH DR. FRAGATOS. DR. STEINBERGH FURTHER MOVED TO: REDUCE DR. FRAGATOS' APPEARANCE SCHEDULE TO ONCE EVERY SIX MONTHS; REDUCE HIS DRUG SCREENS TO TWICE A MONTH; AND TO TABLE DR. FRAGATOS' REQUEST TO REDUCE HIS SALIVA TESTING REQUIREMENT UNTIL AFTER HIS NEXT OFFICE CONFERENCE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MARK S. HOPKINS, M.D.

The staff's report of office conference and Dr. Hopkins' request for approval of a mental health professional were presented to the Board for consideration at this time.

DR. KUMAR MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON NOVEMBER 9, 2004 WITH DR. HOPKINS. DR. KUMAR FURTHER MOVED TO APPROVE PHILIP M. PAULUCCI, LPCC, LISW, DSCW, TO SERVE AS DR. HOPKINS' MENTAL HEALTH PROFESSIONAL. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

December 9, 2004

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

CAROL E. LEWIS, M.D.

The staff's report of office conference and Dr. Lewis' requests for reductions in her appearance schedule and drug screen requirement were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON NOVEMBER 9, 2004 WITH DR. LEWIS. DR. STEINBERGH FURTHER MOVED TO REDUCE DR. LEWIS' APPEARANCE SCHEDULE TO ONCE EVERY SIX MONTHS AND TO REDUCE HER DRUG SCREEN REQUIREMENT TO TWICE A MONTH. DR. KUMAR SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

JOANNE POJE, M.D.

The staff's report of office conference and Dr. Poje's request for a reduction in her psychiatric session requirement were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON NOVEMBER 8, 2004 WITH DR. POJE. DR. STEINBERGH FURTHER MOVED TO REDUCE DR. POJE'S PSYCHIATRIC SESSIONS REQUIREMENT TO ONCE EVERY THREE MONTHS. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

December 9, 2004

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

The motion carried.

AKI S. PURYEAR, M.D.

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

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON OCTOBER 12, 2004 WITH DR. PURYEAR. DR. STEINBERGH FURTHER MOVED TO REDUCE DR. PURYEAR'S DRUG SCREEN REQUIREMENT TO TWICE PER MONTH. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

SUZANNE M. SMITH, M.T.

The staff's report of office conference and Dr. Smith's request for a reduction in appearance schedule were presented to the Board for consideration at this time.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON NOVEMBER 9, 2004 WITH MS. SMITH. DR. STEINBERGH FURTHER MOVED TO REDUCE MS. SMITH'S APPEARANCE REQUIREMENT TO ONCE EVERY SIX MONTHS. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

December 9, 2004

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

MICHAEL J. STANEK, D.O.

The staff's report of office conference and Dr. Stanek's request to eliminate his limitation to a 40-hour work week were presented to the Board for consideration at this time.

DR. BUCHAN MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON NOVEMBER 9, 2004 WITH DR. STANEK. DR. BUCHAN FURTHER MOVED TO ELIMINATE DR. STANEK'S LIMITATION TO A 40-HOUR WORK WEEK. DR. KUMAR SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

PROBATIONARY REQUESTS

MARK E. BLAIR, M.D.

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

DR. STEINBERGH MOVED TO APPROVE MARTHA E. TYMESON, M.D., TO SERVE AS DR. BLAIR'S SUPERVISING PHYSICIAN AND TREATING PSYCHIATRIST. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

December 9, 2004

Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

REINSTATEMENT REQUESTS

GERMAN V. PRADA, M.D.

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

Dr. Kumar noted that Dr. Prada's license was suspended for 180 days, but that Order was stayed and the suspension didn't go into effect until September 28. He noted that the letter from Dr. Prada's attorney indicates that he'll have served the 180-day suspension at the end of December. He asked for clarification.

Ms. Jacobs advised that the Court stayed Dr. Prada's suspension, but the stay didn't go into effect until Dr. Prada had served several weeks of suspension. The stay was lifted at the end of September. Dr. Prada will therefore be eligible to request reinstatement at the January 2005 Board meeting.

DR. STEINBERGH MOVED TO APPROVE DAVID BIENENFELD, M.D., AS DR. PRADA'S ASSESSOR FOR PURPOSES OF PERFORMING ONE OF THE ASSESSMENTS REQUIRED BY PARAGRAPH B.2 OF THE BOARD'S ORDER OF MARCH 10, 2004. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INC. CALL FOR NOMINATIONS

Dr. Talmage advised that the Federation's Nominating Committee will meet on January 23. He asked that,

December 9, 2004

if any Board members are interested in seeking office, or know of anyone from another Board they would like to nominate and support, he or she notify Dr. Talmage prior to the meeting date so that he can advocate for them in Committee.

Dr. Steinbergh stated that she might be interested in an appointment to the Nominating Committee. It's a one-year commitment.

Mr. Dilling stated that he believes the Federation bylaw changes are due on January 10, before the next Board meeting. He noted that the previous afternoon Dr. Thompson indicated that there are three boards that are not part of the Disciplinary Action Data System. Mr. Dilling stated that it is very important for Boards to be notified of disciplinary actions taken in other states in a timely manner. He stated that he finds it astounding and he asked Dr. Thompson's opinion of a motion to change the bylaws to require participation in the System for membership in the Federation. Mr. Dilling stated that such a change could get voted down and so forth, but there would be discussion at the national meeting and focus on the fact that there are three boards that don't join in on one of the most fundamental things.

Dr. Steinbergh stated that that would be a positive approach.

Board members authorized Mr. Dilling to draft such a proposal for presentation to the Federation.

ADOPTION OF RULES 4731-6-14 AND 4731-6-16

Mr. Dilling advised that these rules were adopted by the Board in November; however, due to a technical error with the electronic filing of these rules, JCARR's jurisdiction now officially ends on December 20, 2004. In order to be in compliance with JCARR's jurisdiction, the Board must adopt the rules with a new effective date.

DR. STEINBERGH MOVED THAT THE "FINDINGS AND ORDER" IN THE MATTER OF THE ADOPTION OF PROPOSED RULES 4731-6-14 AND 4731-6-16, AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 9TH DAY OF DECEMBER, 2004, BE ADOPTED AS THE FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE PROPOSED RULE CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULE IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER, WITH AN EFFECTIVE DATE OF DECEMBER 31, 2004. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

December 9, 2004

Dr. Steinbergh - aye
Ms. Sloan - aye

The motion carried.

ELECTION OF OFFICERS FOR 2005

DR. STEINBERGH NOMINATED DR. DAVIDSON TO SERVE AS PRESIDENT AND DR. ROBBINS TO SERVE AS VICE-PRESIDENT. DR. KUMAR SECONDED THE NOMINATION.

There were no further nominations. By acclamation, Dr. Davidson will be President and Dr. Robbins will be Vice-President in 2005.

DR. KUMAR NOMINATED DR. TALMAGE TO SERVE AS SECRETARY AND MR. ALBERT TO SERVE AS SUPERVISING MEMBER. DR. ROBBINS SECONDED THE NOMINATION.

There were no further nominations. By acclamation, Dr. Talmage and Mr. Albert will continue as Secretary and Supervising Member, respectively.

LICENSURE

PHYSICIAN LICENSURE APPLICANTS

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

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

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

The motion carried.

December 9, 2004

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. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

P.A. UTILIZATION PLANS

A number of standard P.A. Utilization Plans were presented to the Board for consideration at this time.

DR. TALMAGE MOVED TO APPROVE THE STANDARD P.A. UTILIZATION PLANS SUBMITTED BY TODD IGNARSKI, M.D., WESTERVILLE DERMATOLOGY, AND WHOLE HEALTH MANAGEMENT, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. KUMAR SECONDED THE MOTION.

Dr. Steinbergh stated that she has a question about the application of Westerville Dermatology. She noted that they indicate that the P.A.s' patient load will be 30 to 35 patients a day.

Ms. Rieve advised that the staff will not process this application until there is a response from the group about the patient load.

Dr. Talmage stated that he thinks that for a dermatology practice it is unrealistic to say 20 to 25, when the dermatologist sees one patient every five minutes.

Dr. Steinbergh stated that she thinks the Board needs to be consistent. If they have a request, and they document why they need to see more, the Board can handle that on an individual basis. She expressed concern over beginning to define which practices ought to be allowed more.

December 9, 2004

Dr. Talmage stated that there is no rule limiting the number of patients a P.A. can see. The Board isn't being inconsistent by approving this; it has done so on previous applications.

Dr. Steinbergh stated that she actually thinks that seeing a patient every five minutes is too much.

Dr. Talmage stated that that's what the doctors do.

Dr. Steinbergh stated that it may be, but she doesn't think that it's appropriate for a doctor or for a physician assistant.

Mr. Dilling noted that there's a big difference between 30-35 and every five minutes.

Dr. Steinbergh agreed.

Dr. Kumar stated that he may see post-op patients for five minutes.

Dr. Talmage stated that 30 patients in an eight-hour day does not seem at all excessive for dermatology.

Mr. Albert commented that if they see one every five minutes, that would be 96 patients.

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Robbins	- nay
	Dr. Steinbergh	- nay

The motion carried.

ACUPUNCTURIST APPLICANTS

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

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

Vote:	Mr. Albert	- aye
-------	------------	-------

December 9, 2004

Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

RATIFICATION OF CONSENT AGREEMENTS

MR. BROWNING MOVED TO REMOVE THE TOPIC OF RATIFICATION OF CONSENT AGREEMENTS FROM THE TABLE. DR. BUCHAN SECONDED THE MOTION. All members voted aye. The motion carried.

ANIL H. JHANGIANI, M.D.

Mr. Dilling advised that the previous day the Board had approved a citation letter to be sent to Dr. Jhangiani. If this consent agreement is approved, all issues would be addressed and the citation letter will be moot.

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

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

The motion carried.

ADMINISTRATIVE REPORT

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

Dr. Kumar referred to the report on the on-line renewal process and advised that he has heard many

December 9, 2004

physicians indicate a concern for the security of renewing on-line. He suggested that an article be written for the next newsletter addressing that issue.

Ms. Rieve stated that she is looking into the security of the system.

REPORTS OF ASSIGNED COMMITTEES

SCOPE OF PRACTICE COMMITTEE

Dr. Steinbergh advised that the Committee discussed a pharmacy program to perform rapid strep A testing to screen patients for Group A Beta-Hemolytic Streptococcus. She referred Board members to materials from OSMA contained in the agenda package on this issue. Dr. Steinbergh stated that the Committee overwhelmingly agreed with Association that this is the practice of medicine. The Committee directed Mr. Dilling and others to submit a letter to the Director of Management Care of the pharmacy chain, telling him that this is the practice of medicine. She noted that the pharmacy has suspended its performance of these tests awaiting a Board response.

Dr. Steinbergh added that representatives of the pharmacy chain have indicated that they'd like to appear before the Committee to discuss this issue, but her personal feeling was that the Committee members stand firm that this is the practice of medicine.

Dr. Talmage stated that the general impression he got was that the Pharmacy Board was also going to look at this and that that Board is not positively disposed toward it.

Dr. Kumar stated that he agrees with what Dr. Steinbergh has said, but the other side is going to say that this is a screening procedure, like those done for diabetes. There is a difference between those screens and this particular screen. This is more for symptomatic patients, the other is for totally asymptomatic patients. This involves a physical examination of some fashion, you have to look inside the throat. There are a lot of people who are carriers of this problem. For multiple reasons, this doesn't fly as a true screening test.

Dr. Steinbergh stated that the Committee's discussion will document the need for an appropriate clinical assessment of a patient with a sore throat, and the differential diagnosis and so forth.

DR. BUCHAN MOVED TO SEND A LETTER TO GIANT EAGLE PHARMACIES ADVISING THAT THE BOARD FEELS THAT PERFORMANCE OF RAPID STREP A TESTING TO SCREEN PATIENTS FOR GROUP A BETA-HEMOYTIC STREPTOCOCCUS IS THE PRACTICE OF MEDICINE. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

December 9, 2004

Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

LICENSURE COMMITTEE

Dr. Robbins advised that the Committee reviewed the application of Kim Gabrielle Mendelson, M.D., Ph.D., who has requested a waiver of the seven-year sequence requirement for passing the USMLE. Dr. Mendelson passed Step 3 six months after the ten-year limit expired. She has also asked that the Board grant her approval beyond the ten-year limit in place for those in M.D./Ph.D. programs. Dr. Robbins stated that Dr. Mendelson was very close to having completed the sequence within the ten-year program, and the Committee recommends granting her an extension beyond the ten-year limit.

Dr. Steinbergh noted that Dr. Mendelson has an extensive and lengthy educational piece here. She agreed that it is appropriate to extend that to her.

DR. ROBBINS MOVED TO GRANT DR. MENDELSON AN EXTENSION BEYOND THE TEN-YEAR LIMIT, ACCEPTING HER USMLE EXAMINATION SEQUENCE. DR. ROBBINS FURTHER MOVED TO APPROVE DR. MENDELSON'S APPLICATION FOR LICENSURE, CONTINGENT UPON NEWLY ADOPTED RULE 4731-6-14, O.A.C., BECOMING EFFECTIVE, AND CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

At this time Dr. Kumar expressed the Board's appreciation for Ms. Sloan's leadership during the past year.

Ms. Sloan commented that she has learned a lot in the past year, and has seen how much work the Secretary and Supervising Member do. Ms. Sloan thanked them for their work. She also thanked the Board members for their support during the past year.

December 9, 2004

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

Thereupon at approximately 10:00 a.m. on December 9, 2004, the December 8-9, 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 December 8-9, 2004, as approved on January 12, 2005.



Anquetette P. Sloan, President



Lance A. Talmage, M.D., Secretary

(SEAL)

