

December 14, 2005

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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

December 14, 2005

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

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

#### EXECUTIVE SESSION

**DR. BUCHAN 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. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Saxena	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

December 14, 2005

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The following Board members joined the meeting during the executive session: Carol L. Egner, M.D.; Nandlal Varyani, M.D.

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

#### MINUTES REVIEW

**DR. BUCHAN MOVED TO APPROVE THE MINUTES OF NOVEMBER 9-10, 2005.**  
**DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### REPORTS AND RECOMMENDATIONS

Dr. Davidson announced that the Board would now consider the findings and orders appearing on the Board's agenda. She asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Binh Quoc Doan, M.D.; Adam P. Hall, D.O.; James L. Kegler, M.D.; John Michael Lonergan, M.D.; Richard Daniel Price, M.D.; Craig L. Rich, M.D.; Charles Christian Rickey, P.A.; Stephen John Shor, M.D.; and Robert Martin Stang, D.O. A roll call was taken:

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

December 14, 2005

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

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

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

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

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

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

BINH QUOC DOAN, M.D.

Dr. Davidson directed the Board's attention to the matter of Binh Quoc Doan, M.D. She advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

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

Dr. Doan was accompanied by his attorney, Kevin P. Byers. Mr. Byers stated that Dr. Doan came up from

December 14, 2005

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Florida today to make a brief presentation to the Board. He noted that there are no objections to the Hearing Examiner's Report and Recommendation; they believe that this is a fair and reasonable proposal from the Hearing Examiner.

Dr. Doan thanked the Board members for their time in reviewing this case and giving him the opportunity to speak with the Board. He stated that he's sorry if he brought any embarrassment to the profession. He's pleased with the outcome of the hearing. Dr. Doan stated that it was important to him that he appear here today to allow the Board members to ask him questions they might have.

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

Mr. Clifford declined.

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

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

Dr. Egner stated that she's not sure that she agrees with the Hearing Examiner's recommendation in this case, adding that it seems too harsh to her. Dr. Egner added that she feels she understands Dr. Doan's reasoning for not including the information on his application. She stated that she's never been arrested before, and she doesn't have first-hand experience with looking at court papers that one would get personally for something like this, but Dr. Doan has indicated that nothing on the paperwork said that the charge was a misdemeanor. He said that he didn't know it was a misdemeanor until he received the Board's notice of opportunity for hearing. Dr. Egner stated that, if that's the case, she can understand.

Dr. Egner continued that Dr. Doan seemed to be very forthcoming at the time of the hearing; he seemed to be remorseful. He comes today with an apology for his actions, and not with excuses. Dr. Egner stated that she would propose an amendment to a reprimand.

Dr. Kumar expressed agreement with Dr. Egner, and added that he had drafted an amendment. He stated that he looked at the document from the court, and nowhere does it say that Dr. Doan was actually convicted of a misdemeanor. In fact, when he looked at the State's Exhibit and the court documents, he couldn't figure out that that was a misdemeanor conviction, either. Dr. Kumar stated that he had to ask someone on staff to show him where it indicated that this was a misdemeanor. Dr. Kumar stated that he can't say that Dr. Doan lied, because lying is saying something that you know is wrong, and Dr. Doan didn't know it was wrong.

**DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF BINH QUOC DOAN, M.D., BY SUBSTITUTING THE FOLLOWING:**

December 14, 2005

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### PROPOSED ORDER

It is hereby ORDERED that:

- A. **SUSPENSION:** The certificate of Binh Quoc Doan, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of 30 days.
- B. **PROBATIONARY CONDITIONS:** Upon reinstatement, Dr. Doan's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:
1. **Obey Laws in Ohio:** Dr. Doan shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
  2. **Quarterly Declarations:** Dr. Doan 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 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. Doan 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. Dr. Doan shall also appear upon his request for termination of the probationary period, and/or as otherwise requested by the Board.
  4. **Violation of Probation; Discretionary Sanction Imposed:** If Dr. Doan 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.
  5. **Tolling of Probationary Period while Out of Compliance:** In the event Dr. Doan 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.
- C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Doan's certificate will be fully restored.

December 14, 2005

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**D. REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND**

**HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Doan 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. Doan 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. This requirement shall continue until Dr. Doan receives from the Board written notification of his successful completion of probation pursuant to Paragraph C, above.

**E. REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING**

**AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Doan 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. Doan shall also provide a copy of this Order by certified mail, return receipt requested, at 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. Doan shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. This requirement shall continue until Dr. Doan receives from the Board written notification of his successful completion of probation pursuant to Paragraph C, above.

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

Dr. Kumar noted that the proposed amendment includes a shorter suspension period of 30 days, and a probationary period. He added that he would also be agreeable to a reprimand.

Dr. Robbins stated that he also thinks that the Hearing Examiner's Proposed Order, which included a 180-day suspension, was excessive. Dr. Robbins also indicated that a stayed revocation rather than a stayed permanent revocation would be more appropriate. He stated that he would also agree that it's refreshing to hear someone come and apologize to the Board for what he or she did, and he added that that's important here. He added that it also means something to him that Dr. Doan and his attorney thought that the Proposed Order was fair. That in itself was somewhat surprising to him. Therefore, he would not support just a reprimand in this case. He does feel, however, that 180 days is excessive, and that it should be cut down.

Dr. Buchan stated that he's not buying Dr. Doan's argument. He stated that he's been here a while, has listened to a lot of conversations, and has read a lot of reports and arresting records. He just doesn't buy that Dr. Doan wasn't pulled over for good cause. Dr. Doan was arrested and charged with DUI. He wasn't convicted. That's a big deal in his mind, and to not declare it on a license renewal application is a big deal.

December 14, 2005

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Dr. Buchan advised that he's not sure that Dr. Doan wasn't DUI. Dr. Buchan stated that what was missing in this Order was an evaluation. Dr. Buchan stated that the public needs to understand that Dr. Doan is not impaired, and an evaluation, in addition to the Hearing Examiner's Proposed Order, is in order.

Mr. Browning stated that he's in general agreement with the Proposed Order being too severe. Mr. Browning stated that he doesn't think that the Board can retry this case. He added that he doesn't see the substance of the argument for an evaluation three and a half years later on a reckless operation charge. Mr. Browning stated that two weeks after the incident the court dismissed the DUI charge. Mr. Browning stated that he respects Dr. Buchan's opinion, but that is not what the Board has in the record. He doesn't feel that it's fair for the Board to speculate in a manner inconsistent with what happened in court. Mr. Browning stated that he thinks that Dr. Kumar's proposal is reasonable.

Dr. Egner stated that it does make a big difference to her whether the Board includes revocation, permanent revocation stayed or no revocation at all. Dr. Egner stated that she doesn't think that the Board should use those words unless it really means them. From the conversation around the table, no one is saying that this is up to the level of a revocation, or, if something happens again, the doctor should definitely be revoked. Dr. Egner stated that she would like to see the revocation language removed from the order completely.

Dr. Steinbergh also agreed that the original Proposed Order is too harsh and she does not want to use any terms about revocation for this.

Dr. Steinbergh stated that, if the Board is going to suspend this physician's license, she doesn't see the point in putting him on probation for two years. She's not sure what the Board would be monitoring. If the Board is going to suspend the doctor rather than reprimand him, what is the Board taking action on? She needs to know what the Board is taking action on. The Board understands what occurred. She agreed with Dr. Buchan that there may be a red flag in here that the Board members are missing in regard to the DUI concept, but the Board doesn't know what happened in West Virginia that caused the West Virginia court to resolve the issue as it was resolved. She would like to know for sure what the Board is finding him guilty of today. She stated that she's going to believe that Findings of Fact three to five constitute making a false, deceptive, misleading statement. She asked whether the Board would agree that that is what it is basing its sanction on.

Board members indicated that it was.

Dr. Steinbergh stated that, in that case, she would agree to suspend for 30 days, but she doesn't know that the Board has reason to put him on probation and make him come in for personal appearances. She thinks that the Board just needs to be done with this case.

Dr. Kumar stated that he considered amending this Order to just a reprimand, but he feels that the question asked on the Florida application is worded in a different way than the question on Ohio's renewal application. The question on the Florida application asks whether the applicant has ever been "charged with any intentional or negligent action related to use or misuse of drugs, alcohol, or illegal chemical substances." Dr. Kumar noted that Dr. Doan responded, "no," to that question. Dr. Kumar stated that that

December 14, 2005

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response bothered him, and that's why he felt that a suspension was warranted.

Dr. Steinbergh stated that she agrees with that. She added that she doesn't know that this is worth having probationary conditions attached. She suggested an order suspending the license for 30 days. As far as requiring him to report this action to other agencies, she would like that requirement to remain.

Ms. Thompson suggested that, if the Board does include that requirement in an amended order, it should also include an expiration time for that requirement, otherwise he will be required to report this forever.

Dr. Steinbergh suggested putting a time limit of two years on the requirement.

**DR. KUMAR ACCEPTED DR. STEINBERGH'S RECOMMENDATION TO DELETE THE PROBATION PORTION OF HIS AMENDED ORDER, AND TO PUT A TIME LIMIT ON THE REPORTING REQUIREMENT PARAGRAPHS OF TWO YEARS FROM THE EFFECTIVE DATE OF THE ORDER, WHICH WILL BE IMMEDIATELY UPON MAILING OF THE ORDER.**

Dr. Buchan spoke against the amendment, noting that Dr. Doan is willing to accept the Hearing Examiner's Proposed Order. He stated that this speaks volumes to him. Dr. Buchan stated that, if the Board members don't believe that this is anything other than a man who is changing his radio station or is sleepy, then it should reprimand him and not make this a bigger deal than it needs to be. If Board members believe that there was, at the minimum, misleading information, then he would agree with a suspension and no strings attached.

Dr. Kumar stated that he believes that the question on the Florida application is clear, and Dr. Doan erroneously responded, "no." That is why he would favor something beyond reprimand.

Mr. Browning stated that he agrees with Dr. Buchan. He questioned whether, if the Board decides to suspend Dr. Doan's license because of his response, it really needs to include the probationary terms. He stated that those aren't responsive to what happened. He suggested suspending Dr. Doan's license for 30 days and then moving on.

Dr. Steinbergh stated that the additional language is only to obligate Dr. Doan to notify his employers over the next two years.

Noting that there was not a second to Dr. Kumar's motion, Dr. Egnor moved as follows:

**DR. EGNER MOVED TO MODIFY THE PROPOSED ORDER IN THE MATTER OF BINH QUOC DOAN, M.D., BY SUBSTITUTING AN ORDER OF REPRIMAND. MS. SLOAN SECONDED THE MOTION.**

Dr. Robbins stated that, although he's in the leniency camp, he does feel that, had he gone through everything Dr. Doan went through, he would have at least written an addendum to the application explaining the situation. Dr. Doan didn't do that. Dr. Robbins stated that, for that reason, he wants a

December 14, 2005

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harsher penalty than just a reprimand.

Dr. Kumar agreed with Dr. Robbins, stating that he didn't choose to amend to reprimand because of Dr. Doan's response to the questions on the Florida application. Dr. Doan knew that he'd been charged in West Virginia, but he responded in the negative to the question.

Dr. Egner stated that she doesn't think that it's appropriate for this Board to discipline Dr. Doan based on his response on the Florida application.

Dr. Steinbergh disagreed, stating that Dr. Doan has been misleading in his responses on applications. She stated that she does not think that a reprimand is appropriate in this case.

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

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

The motion failed.

**DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF BINH QUOC DOAN, M.D., BY SUBSTITUTING THE FOLLOWING:**

**PROPOSED ORDER**

It is hereby ORDERED that:

- A. **SUSPENSION:** The certificate of Binh Quoc Doan, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of 30 days.
- B. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Doan 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. Doan shall provide a copy of this Order to all employers or entities

December 14, 2005

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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. This requirement shall continue for two years following the effective date of this Order.

**C. REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING**

**AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Doan 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. Doan shall also provide a copy of this Order by certified mail, return receipt requested, at 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. Doan shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. This requirement shall continue for two years following the effective date of this Order.

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

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

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF BINH QUOC DOAN, M.D. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

December 14, 2005

---

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

The motion carried.

ADAM P. HALL, D.O.

Dr. Davidson directed the Board's attention to the matter of Adam P. Hall, D.O. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

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

Mr. Byers stated that he has submitted objections to the Hearing Examiner's Report and Recommendation, and he hopes that Board members have had the chance to earnestly consider those. He stated that Dr. Hall has recently learned that, if his license is issued and then immediately suspended, he may very well have his residency training program extended. Under A.O.A. guidelines, if he has over 20 days of work leave, he must have that program extended and the program must afford him that right.

Dr. Hall stated that he appreciates the Board's time. He stated that he is sorry for his actions, and he has taken responsibility for them. He's learned a valuable lesson from his actions, and he has been honest. He's learned honesty and has made that a primary concern in his dealings with the Board. He's been honest in his application; he didn't deceive or try to deceive anybody on this Board. He has also been honest with his program and the people with whom he's worked. Dr. Hall stated that he believes that a suspension could detrimentally affect his training. Dr. Hall asked the Board for a fair and tolerant decision.

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

Ms. Berrien stated that she agrees with the Proposed Order in this case, but she would also like to address something Mr. Byers raised in his objections regarding a mistake in the basis for hearing. The Board is not taking action against Dr. Hall for providing false information on his application for licensure. Ms. Berrien stated that she doesn't think this error harmed Dr. Hall or negatively affected his case because the Hearing Examiner notes after her Conclusions of Law that Dr. Hall was forthcoming in his application. This was the reason she believed that he learned from his mistakes. Ms. Berrien asked the Board to not consider this mistake as the basis for hearing.

December 14, 2005

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Ms. Berrien stated that, if the Board decides to grant Dr. Hall a certificate, a suspension is appropriate. It's true that Dr. Hall did disclose the incident on his application; however, the Board is not taking a disciplinary action against him for fraud in applying for a certificate. It's taking action against him for making a false, fraudulent, deceptive or misleading statement in relation to the practice of medicine. When the Board considers the magnitude of Dr. Hall's dishonesty, his conduct does warrant some time out. Dr. Hall was the resident on call one night, and instead of being available by pager, he made the conscious decision to leave the hospital, to travel home, to take cough medicine and sleep throughout the night. He compounds this error of extremely poor judgment by being dishonest about what happened, not just once or twice, but four different times. In the letter that he wrote to appeal his dismissal, he was misleading, at least. He wrote that he had his pager on him, but he left out the important fact that he was not at the hospital; he was at home and he was asleep. Then, during a face-to-face conversation with the director of the program, he told a completely fabricated story about being in the library that night and reading several journals. During that conversation, he was asked three separate times about his activities that night, and he stuck to his story.

Ms. Berrien stated that the fact that Dr. Hall didn't continue his deception or dishonesty on his application should be given less weight when the Board considers what he was dishonest about, how many times he made false statements, and why he was being deceptive. Ms. Berrien noted that the course on personal/professional ethics, required by the Proposed Order, is appropriate to ensure that Dr. Hall stays on track and continues to be more cautious and forthcoming.

Ms. Berrien stated that she appreciated Dr. Hall's appearance at the hearing and, again, here today. He does seem as though he's trying to change and he has made efforts to keep dishonesty out of his character. Ms. Berrien continued, however, that if the Board is going to license Dr. Hall and at the same time ensure public protection, she would ask the Board to adopt the Hearing Examiner's Proposed Order to ensure that Dr. Hall is a trustworthy, conscientious and vigilant physician.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ADAM P. HALL, D.O. DR. ROBBINS SECONDED THE MOTION.**

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

Ms. Sloan stated that she would be abstaining from the discussion and vote on this case.

Dr. Steinbergh stated that Dr. Hall made a very serious error that evening, making the decision not to be available when he was on call. He put patients at risk, and that's the issue here. He made up stories and excuses, but she can somewhat understand why he did that; he was fearful. Dr. Steinbergh commented that Dr. Hall has come a long way since those days, and the hearing record demonstrates that he's currently in an anesthesiology program and doing very well. The Board reviewed letters from a number of physicians whom she knows to be very appropriate physicians and anesthesiologists. She stated that she is impressed by a comment made by Bhaskar K. V. Reddy, M.D., MBA, Division Chair of the Department of

December 14, 2005

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Anesthesiology at Doctor's Hospital West/Ohio Health. Dr. Reddy advises that "Dr. Hall has a full understanding of the ethical, moral and legal duties as applicable to medical practice, and that he currently is a valuable asset to the medical community," and also advised that they are continuing to endorse him in their program. Dr. Steinbergh noted that Dr. Hall has moved forward in his training.

Dr. Steinbergh continued that she feels the Proposed Order is a bit harsh. She added that, although she did feel, during her reading of this case, that Dr. Hall needed the ethics course, and she does somewhat believe that he should be exposed to such a course, she does feel more confident from Dr. Reddy's comments that Dr. Hall does now understand. Dr. Steinbergh stated that when you make a mistake like that in your training years, you come to understand the depth of that mistake.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER GRANTING DR. HALL A LICENSE AND REPRIMANDING HIM. DR. KUMAR SECONDED THE MOTION.**

Dr. Kumar commented that he is seconding the motion for discussion purposes.

Dr. Buchan stated that he appreciates Dr. Steinbergh's comments, but his assessment was that time would be necessary to determine Dr. Hall's course. He believes that the facts do support Dr. Hall's discharge from his earlier residency, and he thinks that the facts support the Proposed Order. Dr. Buchan stated that he thinks that it is necessary for the Board to monitor Dr. Hall. Dr. Buchan stated that he is opposed to the amendment and would speak in favor of the Proposed Order, as written.

Dr. Robbins agreed with Dr. Buchan. What Dr. Hall did put patients at significant risk, and it was further along in his medical career. Dr. Robbins stated that he cannot ignore this, and in his mind, a reprimand is too lenient. He stated that he agrees with Ms. Berrien's comments, and he cannot emphasize enough how serious he felt Dr. Hall's actions were, or what the potential risk of patient harm could have been that night. As he reads the case, who knows what happened that night. The Board has heard what Dr. Hall has said, but he's not sure that he buys that. He doesn't know what happened that night, but he knows what didn't happen. Dr. Hall was on call but he wasn't responsive to patients' needs, and, potentially, significant harm could have been done. Dr. Robbins stated that Dr. Hall needs to be monitored for a time, and he would be against reprimand.

Dr. Kumar asked whether Dr. Hall currently has a training certificate.

Dr. Hall stated that he is currently practicing under a letter of authorization. When he applied, he applied for a full license here, and he doesn't have a training certificate.

Dr. Kumar stated that that's how it appeared to him as he was going through this case. Dr. Kumar stated that he would agree with the Hearing Examiner's Proposed Order, as written. He stated that he saw all of those excellent letters of recommendation, but Dr. Hall did make a serious mistake. He noted that Dr. Hall was honest about it, telling the Board about it, and that's why he's only getting a 30-day suspension. Otherwise it would have been a lot longer.

December 14, 2005

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

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

The motion failed.

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

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

The motion carried.

JAMES L. KEGLER, M.D.

Dr. Davidson directed the Board's attention to the matter of James L. Kegler, M.D. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

December 14, 2005

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Dr. Kegler was accompanied by his attorney, Caleb Brown, Jr.

Dr. Kegler stated that he appreciates the opportunity to address the Board. Dr. Kegler stated that his degree of legal knowledge probably didn't rise to the level the Board needed when he answered the question on his restoration and renewal applications. The term "expungement" meant one thing to him, and that's why he answered the questions the way he did. Dr. Kegler at this time yielded the floor to Mr. Brown.

Mr. Brown stated that he filed objections on behalf of Dr. Kegler. Mr. Brown stated that they don't believe that Finding of Fact 2, that Dr. Kegler failed to disclose his felony conviction to the Kentucky State Board of Medical Licensure, is supported by the evidence. Mr. Brown stated that Dr. Kegler checked "yes" to the question on the Kentucky application, indicating that his license and privileges to practice as a health care professional had either been denied, revoked or suspended by the Ohio State Medical Board. Dr. Kegler attached an explanation for that response; however, Exhibit 8 was not sent by the State of Kentucky Board of Medical Licensure to the Ohio Board, and it was not entered into evidence at the time of the hearing. Dr. Kegler testified that he advised the Kentucky Board of his conviction in Exhibit 8. He also checked "yes" to question 4, that his hospital privileges were either suspended or revoked. He checked "yes" to question 7, that his certificate to dispense controlled substances was suspended. He checked "yes" to question 8, concerning the voluntary or involuntary surrender of his medical or controlled substance certificate. He also checked "yes" to question 9, as having been under investigation by any state authority.

Mr. Brown stated that Dr. Kegler also attached Exhibit 1, the Ohio State Medical Board's Finding as to his suspension or license revocation. This exhibit was not returned to the State of Ohio by the Kentucky Board of Medical Licensure. Mr. Brown stated that, in addition, the Kentucky Board, even though they had all the answers to the questions in regard to revocation, etc., did not contact the Ohio Board for any more information after having received Dr. Kegler's application. Instead, they contacted Dr. Kegler by letter for a written explanation. The letter to Dr. Kegler requesting an explanation was not submitted to Ohio by the State of Kentucky, and was not entered into evidence.

Mr. Brown stated that Dr. Kegler submitted a written statement on August 25, 1999, which was attached to the documents from Kentucky, and also as one of his exhibits. In that statement, Dr. Kegler stated quite clearly that he was convicted of a felony and given probation. Mr. Brown stated that Dr. Kegler may not have stated that in terms that he, as a lawyer, would have used. He used the word, "misdemeanor," but it was quite clear that felony was there and there was a conviction. Plus, Dr. Kegler testified that he had notified them on the application in Exhibit 8.

Mr. Brown continued that on November 19, 1999, the Kentucky Board sent Dr. Kegler a letter, which was entered into evidence by them at hearing, specifically stating in part, "you have provided information that your Ohio license was revoked and has not been reinstated." Then they gave Dr. Kegler an opportunity to come before them, which he accepted, to talk to them in person. After that, he was advised that his application was denied until he satisfied the requirements of the Ohio Board. Mr. Brown stated that in 1999, Dr. Kegler had been in contact with the late Susanne Milam in regards to making application for a license in another state. In an e-mail to Dr. Kegler, Ms. Milam stated that she was not aware of any part of

December 14, 2005

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Ohio's Board Order that would preclude Dr. Kegler from applying for a license in his home state of Mississippi. Dr. Kegler made application in Kentucky at that point in time so that he could practice in a prison in order to keep his medical skills up while he waited to pass the SPEX, which was required by this Board to get his license reinstated.

Mr. Brown stated that they believe that the Hearing Examiner's Conclusions of Law are not supported by the evidence. Dr. Kegler explained in some detail as to why he answered the questions on all applications the way that he did. There was no testimony presented to dispute Dr. Kegler's explanations. As to his 2003 Kentucky application, Dr. Kegler testified that he only applied because his employer wanted him to since they had an office in northern Kentucky, just across the river from Cincinnati. Even though Dr. Kegler had expunged his criminal conviction, some members of the Kentucky Board were not satisfied with what they had presumed was the course of action taken by the Ohio Board. They ordered Dr. Kegler to undergo psychiatric evaluation, and Dr. Kegler spent over \$2,000 doing that. He was offered a chance to enter into probation, even though he had not done anything wrong in the state of Kentucky, in order to get that license. He was given a license and has been licensed there ever since.

Mr. Brown stated that Dr. Kegler did not intentionally misrepresent, commit fraud or deception in any of these applications. Mr. Brown asked what Dr. Kegler would have to gain by doing so, noting that he never practiced anywhere but in Ohio until 1995 when his Ohio license was suspended. Dr. Kegler has not practiced in any state but Ohio since he was relicensed. Mr. Brown stated that when Dr. Kegler applied for a Kentucky license, he was practicing in Ohio, and he has been here his whole career.

Mr. Brown stated that Dr. Kegler's sin, if any, was his interpretation of questions as related to facts as he understood them in completing an application. For example, in question 11 of Petitioner's Exhibit 4, Kentucky's application, Dr. Kegler checked "no" and explained that it was a two-part question. The first part asked whether he'd ever been convicted of a felony. He'd already explained to the State of Kentucky in Exhibit 8 that he had been. The second part of the question was whether there were any criminal charges pending against him. He had none. But that was only one answer, and that was "no." There weren't two places to respond to each part of the two separate questions.

Mr. Brown stated that they do not believe that Dr. Kegler's actions warrant the permanent revocation being recommended by the Hearing Examiner. If this Board feels compelled to do anything, based upon the totality of the facts and circumstances, it should issue a public reprimand against Dr. Kegler.

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

Ms. Berrien stated that she agrees with the Proposed Order in its entirety in this case. Ms. Berrien stated that she will address Dr. Kegler's objections. She noted that Dr. Kegler objects to the finding that he failed to disclose the felony conviction to the Kentucky Board. She stated that Kentucky's license application did have a two-part question. One part asks whether the applicant has ever been convicted of a felony in any state. The second part asks whether any criminal charges are pending against the applicant. Ms. Berrien asked how one should respond to a two-part question. She stated that Dr. Kegler doesn't mark "yes" and "no," although both applied. He didn't circle the question about the felony conviction and mark "yes." He

December 14, 2005

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could have just added an addendum to explain that although the second part of the question doesn't apply to him, the first part does. Responding simply "no," was false. The letter that Dr. Kegler later submitted to Kentucky to explain was in response to Kentucky's letter asking what happened before the Ohio Board, not before a criminal court.

Ms. Berrien noted that Dr. Kegler, in his explanation, doesn't specifically state that he was convicted of a felony. There was no conviction written about at all in that letter. It doesn't take legal knowledge to say, "I've been convicted of a felony." Ms. Berrien stated that the bulk of the explanation that he provided talks about his handicapped daughter and the fact that he prescribed pain medication for her. That's not even what Dr. Kegler was convicted for. He was convicted for prescribing Valium for himself and ordering the prescription in his daughter's name. That explanation is buried somewhere in Dr. Kegler's written response and it doesn't clearly state that he was convicted, or for what he was convicted, so his explanation that he submitted later was, at minimum, deceptive and misleading. Ms. Berrien stated that the evidence does support Finding of Fact 2.

Ms. Berrien continued that Dr. Kegler claims that the Conclusions of Law were not supported by the totality of the testimony and the evidence. She stated that the standard here is reliable, probative and substantial evidence. Here the State presented the certified copy of all of the relevant documents. Those documents are reliable proof that Dr. Kegler made false, fraudulent and deceptive statements in each of them, both before this Board and before the Kentucky Board. There doesn't need to be testimony disputing Dr. Kegler's testimony because the proof is in his responses in the certified documents.

Ms. Berrien stated that Kentucky denied Dr. Kegler a license, and then on the Ohio restoration application, it asks whether he has ever been denied a license. Dr. Kegler responded "no," and that's false. Dr. Kegler entered into an agreement with Kentucky to be placed on probation. Then on his renewal application before this Board, he marked "no" to the question of whether he has consented to probation. Dr. Kegler's testimony was confusing. During the hearing he kept saying, "in his mind," he interpreted the questions differently from the plain reading of them. Ms. Berrien stated that that is disappointing, because the questions are fairly clear. You don't need legal knowledge. Ms. Berrien stated that she doesn't think that they are subject to any other reasonable interpretation than what's plainly written in each of the applications.

Ms. Berrien advised Dr. Kegler is on probation in Ohio and in Kentucky. As the Hearing Examiner pointed out, the evidence shows that Dr. Kegler has made repeated untruthful statements before both the Ohio and Kentucky Boards. Ms. Berrien stated that there comes a time when continuing to be dishonest and continuing to be deceptive and not recognizing your faults turns into perpetrating a fraud. This may be such a case.

Ms. Berrien stated that earlier in the meeting the Board said that it doesn't put a permanent revocation in an Order unless it was meant to be there. In 1996, when Dr. Kegler previously appeared before the Board, the Board issued a stayed permanent revocation. In addition, the Board issued probationary conditions. Ms. Berrien stated that, with such a pattern of dishonesty, there's no assurance that this Board can properly monitor Dr. Kegler. It is appropriate in this case to lift the stay on the permanent revocation.

December 14, 2005

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**DR. EGNER MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JAMES L. KEGLER, M.D. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Egner stated that she won't reiterate everything Ms. Berrien just said, but she would agree with her summary completely. This physician is under a stayed revocation, and, as she earlier said, the Board shouldn't use stayed revocations unless they mean them. Dr. Kegler was under a stayed revocation when he made multiple false statements or lies. Dr. Egner stated that there is no other conclusion to reach here but a permanent revocation. Dr. Egner stated that she thinks that the questions are very clear, and even if you were confused by the question, and you've already had experience with the Ohio Board, and you're under probationary terms and a stayed permanent revocation, the reasonable person would make a phone call and say, "can you give me assistance in how I should answer this question?" Dr. Egner stated that she thinks Ms. Berrien's presentation was excellent.

Dr. Steinbergh agreed, especially with the concept that once one is on a stayed permanent revocation, he or she should know the clock is ticking. If you come before the Board again and continue to lie and falsify statements, that's what one must expect to happen.

Dr. Kumar stated another thing that convinced him that the Board should adopt the Report and Recommendation, as written, was that, when he was asked why he responded "no" on the Ohio application regarding Kentucky's denial of his application, he answered that he thought that the denial was temporary. Dr. Kumar stated that wordsmithing that completely is playing games. Dr. Kumar stated that he thinks Dr. Kegler knew what was going on and he's trying to get through this. Dr. Kumar spoke in support of permanent revocation.

Dr. Robbins stated that he also totally supports the Report and Recommendation, and he commended Ms. Berrien for her remarks. Dr. Robbins stated that he will echo one thing Dr. Egner said. What would a reasonable person do under the same circumstance under a stayed permanent revocation with the State of Ohio? Dr. Robbins stated that you'd pick up the phone, you'd call, and you'd ask how to fill this out because you don't want to get into any more trouble with the State of Ohio.

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

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

December 14, 2005

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

The motion carried.

JOHN MICHAEL LONERGAN, M.D.

Dr. Davidson directed the Board's attention to the matter of John Michael Lonergan, M.D. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

Dr. Davidson continued that materials included with the objections are being construed as a request to submit additional evidence. She noted that the Assistant Attorney General has indicated that he has no objections to the Board's considering these materials in its deliberation.

**MR. BROWNING MOVED TO CONSIDER THE ADDITIONAL EVIDENCE SUBMITTED WITH THE OBJECTIONS. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF JOHN MICHAEL LONERGAN, M.D. DR. SAXENA SECONDED THE MOTION.**

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

Dr. Steinbergh stated that Dr. Lonergan was convicted on eight felony counts and was sentenced to 22 months incarceration in a federal facility. There was one count of income tax evasion, five counts of filing

December 14, 2005

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false income tax returns, one count of mail fraud, and one count of health care fraud. Dr. Steinbergh stated that she absolutely agrees with the Conclusions of Law and the Proposed Order that Dr. Lonergan's license should be permanently revoked. She added that she thinks that this case warrants permanent revocation. She doesn't see any extenuating circumstances that would allow him to practice in Ohio. His justification for hiring an unlicensed physician was absurd. Dr. Steinbergh stated that she did read Dr. Lonergan's objections, and she sees no mitigating evidence that would change her mind about Dr. Lonergan. Dr. Steinbergh stated that she agrees with the Report and Recommendation.

Dr. Kumar stated that he also agrees with the Report and Recommendation. Dr. Kumar stated that you can have problems filing your tax returns, but in this situation, after he was found guilty once, he kept doing the same thing again and again. He didn't just do this once, but he filed wrong returns and hiding income four or five times.

Dr. Kumar continued that what really bothered him was that during 1991 to 2001 he engaged in a scheme to defraud Medicare. He not only billed for services exceeding 24 hours, but the services were either not provided or, if they were provided, they were provided by a person who was not licensed to practice medicine in the State of Ohio. Dr. Kumar stated that he can't believe, just because someone is a physician someplace else and knows about medicine, that someone would employ that person to go and work for him or her. Dr. Kumar stated that that is absolutely unacceptable. For these reasons, and those mentioned by others, he supports permanent revocation.

Dr. Robbins stated that he also supports permanent revocation. He noted that Dr. Lonergan billed Medicare and Medicaid for services exceeding 24 hours in a single day. Dr. Robbins stated that that is incredible.

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

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

The motion carried.

December 14, 2005

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RICHARD DANIEL PRICE, M.D., M.P.H.

Dr. Davidson directed the Board's attention to the matter of Richard Daniel Price, M.D., M.P.H. She advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Price was accompanied by his attorney, James M. McGovern.

Mr. McGovern stated that, given that this is the Board's first and only opportunity to observe and hear from Dr. Price first-hand, he will allow Dr. Price the bulk of the time to address. He at this time introduced Dr. Price.

Dr. Price thanked the Board for providing him with the opportunity to address it in person. He stated that he has been waiting for this day since his hearing before Mr. Porter, eager for the Board members to have the opportunity to hear from and observe him firsthand. Unfortunately, due to his physical health problems, including non-Hodgkin's lymphoma and Hepatitis C, and his treatment, he was unable to travel from Alabama to Ohio for the November meeting. Dr. Price stated that he's feeling a little better now, but doesn't feel as healthy or look it as much as he hoped he would.

Dr. Price stated that he's here to acknowledge and apologize for a terrible mistake when he attempted to carry weapons through airport security on October 26, 2001 at the Birmingham airport. He stated that it was a tremendous error in judgment, based entirely on his impulsivity and fear in the wake of September 11, 2001 (9/11). The mistake has deeply impacted his professional and family life. His family and he have paid dearly for his mistake. Since 2001 he's worked very hard to learn and grow from his past mistakes and try to move forward with his life.

Dr. Price stated that today he's hopeful that he will receive permission from the Board to take the biggest step of all and get his career in medicine back on track. All the evaluations he's undergone since October 2001 have really opened his eyes to the fact that he has personality and impulsivity issues and has had them for some time. He stated that that's not to say that he didn't realize prior to then that he did have them. In fact, recognizing some of the difficulties and challenges he faced during his medical training, he chose the field of occupational and environmental medicine because it accentuated his positive skills and attributes while minimizing his weaknesses. During the year of his occupational medicine residency at UAB, he felt as though he found his niche. He was elected co-chief of the residency program and had received superior ratings for his clinical rotations. Even more importantly, he enjoyed doing what he was doing and he looked forward to a career in occupational medicine.

Dr. Price advised that, unfortunately, everything began to change for him with the events of 9/11, due to what he believes Drs. LaRussa, Gupta and Reed have correctly labeled "an adjustment disorder, now resolved," and some traits exhibited by those with personality disorders. He became very depressed,

frightened and angry. As a result, his judgment became very poor, and that result in poor judgment led him to do what he did. He asked that the Board note that the events of that day amounted to a life-changing wakeup call for him. Following the October 26, 2001 incident, he voluntarily entered treatment with Dr. LaRussa in Alabama, and he continues to treat with him today. Dr. Price stated that Dr. LaRussa has helped him to understand and work through his problems. He added that Dr. LaRussa currently believes that he is fit to practice medicine.

Dr. Price stated that, having benefited from Dr. LaRussa's treatment, he's completely confident that he will never again display the lapses of judgment that he displayed on or before October 26, 2001. Moreover, knowing firsthand how costly errors in judgment can be, he's currently much more likely to seek support from mentors and peers in making important decisions, especially clinical decisions he will need to make should he be permitted to have his license restored and resume his training.

Dr. Price stated that much has been made of his carrying an illegal firearm prior to 9/11 and the notion that he did so on October 26 in order to be a hero. He advised that while it may be difficult to understand, he was raised in a culture of guns and he often carried one in his car, primarily because he believes it ensured protection for him and for his family. His purpose in carrying a weapon or keeping one in his car was not primarily to help or save others like a superhero, but, rather, any assistance he envisioned providing to others would have been secondary or incidental to protecting himself. Dr. Price stated that he doesn't want the Board to excuse his conduct in carrying a weapon, but he does want the Board to understand that he knows that he was wrong in doing so and that he has no desire or intention to ever again carry a weapon illegally.

Dr. Price stated that he believes that he has fully paid his debt to society for his actions. That was his belief in August 2003, when he applied to reactivate his Ohio medical license. He applied so that he could an occupational and environmental residency program at the University of Cincinnati. Dr. Price asked that the Board keep in mind that, in applying to this Board and to UC, he was open and honest about his past. He included all legal records and the four mental status evaluations he had undergone to that point. He realized that he was applying with extra baggage, but he was hoping to communicate to this Board and to UC that he was ready, willing and able to comply with the recommendations from all these evaluations. In particular, he tried to communicate that: 1. He has paid all fines and served all punishments levied by federal and municipal authorities; 2. He was applying for a position in a residency program in a field of medicine where he had previously excelled; 3. He would be in a supervised setting with mentoring; 4. He has been in, and will seek professional counseling; 5. He has been in and will seek participation in the impaired physicians program. Dr. Price asked that the Board keep in mind that he has never been required to seek counseling or participate in the impaired physicians program; however, he has done so, and does so now, on his own volition.

Dr. Price stated that since he filed to reactivate his Ohio medical license, he has had two more mental status evaluations for a total of six. Of those six evaluations, Dr. Reed, who has by far conducted the most thorough, independent evaluation, has agreed with Dr. LaRussa that he is qualified to continue to practice medicine. Dr. Reed did not find a personality disorder; however, he did find undesirable personality traits. The consensus opinions at Rush Behavioral Health of Ohio and the Professional Renewal Center in Kansas

December 14, 2005

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are that he should continue to practice medicine in a supervised setting. These four evaluations concur in the finding that he should be supervised, not excluded, from practicing. The Taylor Hardin evaluation made no comment about his ability to practice medicine. Only Dr. Noffsinger's evaluation, the State's evaluator, suggested that his condition is untreatable and that his license should not be restored. However, contrary to Dr. Noffsinger's belief, he has read and been informed that hundreds of psychiatrists find that all types of personality disorders, including Schizotypal, are treatable and that the patients can live functional, professional lives. Dr. Price stated that he would like for the Board to give him the opportunity to demonstrate that he can do just that.

Dr. Price stated that among the variety of diagnoses and recommendations, the consensus can be seen that some personality traits and ADHD have played a role in the October 26, 2001 incident, and the other difficulties he's experienced in his medical training. As mentioned, however, in working with Dr. LaRussa, he's been successful in learning not to let emotions or impulsivity impact his decisions.

Dr. Price again stated that he deeply regrets what he did, and he apologizes for it. Currently, however, neither poor judgment nor emotional impulsivity impact his behavior. He stated that he is fit to practice medicine. Other than Dr. Noffsinger, the evaluators and people who know him endorse his return to practice. The Board has heard the testimony of physicians and military personnel with whom he's worked before and after October 2001, who believe that he should be allowed to resume his medical practice. Dr. Price stated that he would very much like to resume his postgraduate medical training, preferably in occupational and environmental medicine, but at least in a field whereby he can serve mankind with some degree of proficiency. The consensus opinion of all of his psychiatric evaluations is that there is no current reason why he should not practice medicine. Given his current health problems, he may seek an administrative or less clinical role.

Dr. Price stated that he realizes that the Board has a responsibility to consider the health and welfare of the people of Ohio; however, as was his intention when he originally applied, as a condition for licensure he is ready, willing and able to accept any treatment and monitoring the Board may see fit to impose. He stated that he has learned not to let emotions or impulsivity affect his decisions. He can learn even more with supervision. But above all, after four years of financial loss, shame and disease, he wants to get on with his life where he can serve others and support his family.

Mr. McGovern stated that he trusts that all the Board members have read the written objections he's prepared on behalf of Dr. Price. He added that he hopes that the Board can recognize the flawed nature of Dr. Noffsinger's opinions and Mr. Porter's reasons, in essence, his credibility determination in adopting Dr. Noffsinger's opinions as opposed to those of all of the other evaluators who have taken a look at Dr. Price. Quite simply, Dr. Noffsinger's opinions don't stand up to the criteria set forth in the DSMV form. Dr. Noffsinger says that they cannot guarantee with certainty that Dr. Price will not reoffend. Mr. McGovern stated that requiring absolute certainty in any situation like this is unfair. He added that he doesn't think that that's what the Board does with people who come before it with alcohol or drug problems. There are no guarantees in those situations. Dr. Price should be given the opportunity to demonstrate that he can exercise judgment and he would be doing so within the context of a training program. Hopefully that would give the Board the added assurance that it needs.

December 14, 2005

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

Mr. Clifford stated that there were a few issues that have been raised, and he would like to focus on some of the things that occurred in this case. Even Dr. Price admits that he has these personality and impulse issues. Mr. Clifford stated that he just wants to go to the conviction; he wants the Board to understand that Dr. Price was convicted of a felony, trying to bring weapons onto an airplane after 9/11. These issues surround Dr. Price taking a 25 caliber derringer, putting it in a Baggie, putting that in a can of peanuts, gift wrapping it because he thought that it was radio opaque so it wouldn't be discovered, along with a switchblade in aluminum file under the assumption that it would not be detected by x-rays, along with a sword cane, which he thought that he could carry with him, passed through such that they would not be detected.

Mr. Clifford stated that he also wants to talk about the environment of being raised with guns. Dr. Price freely admitted that he kept a handgun in his vehicle. He also admitted carrying a handgun in Washington, D.C., even though he was aware that it was prohibited under law. Dr. Price also admitted that he would carry a firearm onto military installations while being there. Mr. Clifford stated that those instances occurred prior to 9/11. These are just an intent or knowledge of a person who disregarded the law. Regarding the notion that Dr. Reed disagrees with Dr. Noffsinger, or Dr. Reed's opinion has more weight, Mr. Porter had the ability to examine these two people and talk with them. Mr. Porter had to weigh the testimony and what was heard. Mr. Porter was in the position to make that credibility decision. Mr. Clifford stated that he believes that Mr. Porter is correct in his analysis in that Dr. Reed found that, regarding Axis I Clinical Syndromes, Dr. Price showed no evidence of psychological pathology. Mr. Clifford stated that Dr. Reed was the only doctor who thought that there was nothing wrong with Dr. Price. Even the other physicians who evaluated Dr. Price, based upon Dr. Reed's evaluation, all found some sort of mental issue; yet, Dr. Reed said that there was none. Moreover, Dr. Reed didn't even have any response to the issue with regard to the prior criminal acts. Mr. Clifford stated that he assumes Dr. Reed's basis was the fact that, because Dr. Price was never criminally charged for these instances, there were no criminal problems.

Mr. Clifford stated that he also wanted to note that Dr. LaRussa initially, in conducting an evaluation of Dr. Price, found that Dr. Price suffered from many psychological disorders, to include: Adjustment Disorder with mixed emotional features, Attention Deficit Hyperactivity Disorder Combined, Dysthymic Disorder by history, and Axis II: Personality Disorder NOS with mixed features.

Mr. Clifford stated that it is the opinion of the State that Dr. Noffsinger was correct in his evaluation, and that this personality disorder has been pervasive through Dr. Price's entire lifetime. Based upon this prior history, which has gone through the entire lifetime until now, the State believes that Dr. Noffsinger is correct in his opinion and, therefore, that the evidence supports violation of (B)(19), (B)(22) and (B)(9).

Mr. Clifford stated that he would also like to note that Georgia and Alabama did also revoke Dr. Price's licenses to practice in those respective states.

December 14, 2005

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**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF RICHARD DANIEL PRICE, M.D., M.P.H. DR. SAXENA SECONDED THE MOTION.**

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

Dr. Steinbergh stated that she doesn't see this as just a psychiatric issue. After her first reading of the Report and Recommendation, she decided she'd need a better picture of Dr. Price in order to understand whether or not she would feel confident in relicensing, or whether the public would be best served by the Board's not licensing Dr. Price. Dr. Steinbergh noted that Dr. Price, in fact, has a felony conviction. The Board has reviewed the reasons for his felony conviction, and those reasons, to her, are extremely serious.

Dr. Steinbergh reviewed Dr. Price's background, noting that in 1993 he received his M.D. degree from the University of Kentucky, College of Medicine, having repeated his second and fourth year. In July 1993, he started an IM residency in Kettering Center in Ohio. He left that program in March 1995. Dr. Steinbergh stated that Dr. Price had difficulty completing the academic requirement. He left with a certificate that said he completed one year of postgraduate training. In 1995 he met the basic requirements for licensure in Ohio, and subsequently was licensed in Georgia and Alabama. Both of those licenses are revoked at this time. Dr. Steinbergh stated that in 1999, Dr. Price entered a family practice residency at the Medical College of Georgia. A memo in 1999 indicated that he had unacceptable performance on two rotations and had shown a serious basic knowledge deficit and inability to synthesize data. Subsequently, in December 1999, Dr. Price resigned this residency. In July 2000 he entered a third residency in occupational and environmental medicine at the University of Alabama. He was terminated in October 2001, following the firearms incident.

Dr. Steinbergh stated that Dr. Price is now applying for restoration of his Ohio license, but much has happened to him since his initial licensure, when he met the basic requirements. Now the Board has a different picture of Dr. Price. He has a very serious felony conviction, poor performance in two residencies, removal from a third residency due to the firearms arrest. The psychiatric issues are very concerning. Is he or is he not amenable to treatment, and does the Board have a legitimate concern for his lack of good judgment and his ability to appropriately practice medicine? Dr. Steinbergh stated that these are her concerns with Dr. Price.

Dr. Egner agreed with Dr. Steinbergh and stated that she appreciates Dr. Steinbergh's summary of this case. Dr. Egner noted that Dr. Price suffers from an impulse disorder, and an impulse disorder does not lend itself to getting help before one does something injurious to themselves or other people. Dr. Egner stated that she would like to speak for Dr. Noffsinger, adding that she thinks he was an excellent expert witness who did the job that he was asked to do. Dr. Noffsinger evaluated Dr. Price well, and came to conclusions that were not in conflict with the other psychiatrists. The only psychiatrist who was very outside the conclusions was Dr. Reed. Dr. Egner stated that she must agree with Dr. Noffsinger's evaluation that Dr. Price has schizoid and narcissistic traits in his personality disorder. These are very unamenable to treatment, and the Board has seen that this was not a single episode. This has been going on for years and has not been treated.

December 14, 2005

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Dr. Egner stated that Dr. Price would like the Board to believe that part of the failsafe here is that he will practice occupational medicine, and that this, then, shrouds it in a safer way. It lends itself more to a 40-hour work week and less stress. Dr. Egner stated that she thinks that every specialty in medicine carries stress with it, all of them have varied hours of work associated with them, and, lastly and most importantly, this Board licenses a physician to practice medicine and surgery in Ohio. The Board doesn't license them to practice a specific specialty, nor does the Board have anything to say about what the physician is going to do after that license is granted.

Dr. Egner stated that for all of these reasons, she thinks that permanently denying Dr. Price's application for licensure is the safest thing in terms of public protection.

Dr. Kumar stated that he will address two things. First, as he looks at this carefully, even if he accepts Dr. Gupta's evaluation, in many aspects he doesn't see much difference between what Dr. Gupta said and what Dr. Noffsinger said. Dr. Kumar explained that Dr. Gupta's evaluation says "Axis II," which talks about narcissistic personality traits, and rules out narcissistic disorder; and, when asked specifically, he indicates that he believes that Dr. Price has a personality disorder. He testified that he had very little time to evaluate Dr. Price's narcissism, and could not rule on how severe it is. Dr. Kumar stated that if you go back and look at Dr. Noffsinger's evaluation, Dr. Noffsinger indicates that Dr. Price has Axis I disorder, which, by the way, is treatable. Dr. Noffsinger is saying that the Axis II disorder, which Dr. Gupta also talked about that he had, are not treatable by medications. Axis II disorders are persistent, difficult to treat, and they will come up at a moment's notice. Because of that reason, Dr. Noffsinger is saying that Dr. Price's narcissistic disorders are not going to be treatable, and that that substantially impairs his ability to practice medicine according to acceptable standards of care.

Dr. Kumar continued that the other issue that Dr. Steinbergh raised, he would like to emphasize. Dr. Kumar stated that he doesn't know Dr. Price personally, but Dr. Price was a resident in Dr. Kumar's institution. He started in Kettering Medical Center, and he did close to two years there. Dr. Kumar indicated that he trusts Dr. McDonald, the program director, very well. Dr. McDonald indicated that Dr. Price has extreme difficulty doing routine physicals, sticking to one spot and not going beyond it. It was very difficult to teach or train Dr. Price. Dr. Price spent two years in that program, but was only given credit for one year. Dr. Kumar stated that he doesn't believe that Dr. Price will be a very fruitful physician and the Board would not be protecting the citizens of Ohio if it grants Dr. Price a license. Dr. Kumar spoke in support of the Proposed Order of permanent denial.

Dr. Talmage left the meeting during Dr. Kumar's comments.

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

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

December 14, 2005

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

The motion carried.

CRAIG L. RICH, M.D.

Dr. Davidson directed the Board's attention to the matter of Craig L. Rich, M.D. She advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF CRAIG L. RICH, M.D. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Kumar spoke in support of the Report and Recommendation. Dr. Kumar stated that this is a physician who is impaired and who had tested positive for Darvon before. Dr. Kumar commented that although Dr. Rich explained his way out of it at that time, if one is addicted, he will eventually get caught. In 2004 he was charged with a DUI, and there was no way of denying that and getting out of it. Dr. Kumar stated that this is a physician with whom the Board has tried to work, but Dr. Rich doesn't seem to learn his lessons very well. Dr. Kumar stated that he is in favor of the Proposed Order of revocation. Dr. Kumar stated that Dr. Rich needs to straighten his act up, and the Proposed Order does allow him the opportunity to reinstate if he does prove that he's clean.

Dr. Steinbergh agreed with Dr. Kumar. She stated that Dr. Rich is a chemically dependent physician who has had multiple relapses. He doesn't show appropriate interest in his recovery program. Dr. Steinbergh added that she thinks that the Board has considered for a long time that a revocation would be appropriate in a matter like this. If, in fact, Dr. Rich recovers and wants to reapply at some point in the future, the Proposed Order gives him the opportunity to do that.

Dr. Buchan left the room during the previous comments.

Dr. Talmage returned to the room during the previous comments.

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

Vote: Mr. Albert - abstain

December 14, 2005

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

The motion carried.

CHARLES CHRISTIAN RICKEY, P.A.

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

Dr. Davidson stated that a request to address the Board has been filed on behalf of Mr. Rickey, but was not filed in a timely manner. She asked whether Board members wished to allow Mr. Rickey to make his address.

**DR. STEINBERGH MOVED TO ALLOW MR. RICKEY TO ADDRESS THE BOARD. MR. BROWNING SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Davidson advised Mr. Rickey that he would be allowed five minutes for his address.

Mr. Rickey thanked the Board for allowing him to address it today. He stated that he understands that his case is complicated. He has been serving in the State of Kentucky for approximately one and a half years under a letter of agreement with the Kentucky Medical Board. During this time he served satisfactorily, and he also served at Fort Knox military installation as a health care provider to U.S. troops, as well. Currently he is working in Jackson, Kentucky; and pending another contract with the U.S. Government, he will be returning in February 2006.

Mr. Rickey stated that he does agree to the terms of the Proposed Order, which requires that he report to the Board for three years. Mr. Rickey stated that the only thing he would ask is that the physical reporting dates be changed to a yearly fashion, as he is already under a letter of agreement to the State of Kentucky. It would be disruptive to his schedule in treating patients.

Mr. Rickey stated that he would like to note that he has served satisfactorily with no other incidents, and the incident occurred in 1995. There has been nothing since that time. He has attended schools, graduated and moved on with his life. Mr. Rickey stated that he would like the opportunity to return to Ohio, pending his contracts with Kentucky, and be able to serve people who can't afford medical insurance and clinics.

December 14, 2005

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

Mr. Clifford stated that he does not.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF CHARLES CHRISTIAN RICKEY, P.A. MR. BROWNING SECONDED THE MOTION.**

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

Dr. Egner stated that she found this case to be very interesting. It's very original and she doesn't know that the Board has seen one like this. Dr. Egner noted that Mr. Rickey committed felonies of bank fraud and he owes \$36,000. Dr. Egner stated that she's not sure why the court was lenient regarding Mr. Rickey's payback, but she thought that the court was very lenient in requiring him to pay only \$200 a month when he owes \$36,000. That will take him 15 years to pay this money back. Dr. Egner stated that what she doesn't understand is that this is now ten years old, and he's only paid \$5,000. If he was paying this at his \$200 a month fee that he's supposed to be paying, he should have already paid back \$14,000. Dr. Egner stated that Mr. Rickey already has a financial agreement that is very much in his favor and he hasn't even kept up with that. Dr. Egner stated that that makes her question Mr. Rickey's integrity.

Dr. Egner continued that she doesn't know what to make of the fact that the Federal Government has hired Mr. Rickey to work at Fort Knox. She stated that she supposed that this could lend some credibility that Mr. Rickey has been rehabilitated and that they trust him; but she doesn't think that she can say that. They may have made a mistake. They may have made a decision that she might not have made. Dr. Egner added that she doesn't know that she can be unduly influenced by that. She won't let that sway her to be more lenient in this case. Therefore, she is not in agreement with the Report and Recommendation. She would not grant Mr. Rickey a license.

**DR. EGNER MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT DENIAL.** The motion died for lack of a second.

Dr. Buchan stated that this was an interesting case. He noted that the Board had a very experienced Hearing Examiner on the case, and he tried to appreciate all the intricacies and complexities that presented. At the end of the Report he felt that it was a good and fair Order, and he supports it. Dr. Buchan stated that the mitigating factors outweigh the horrendous offense that occurred ten years ago, and he's willing to give Mr. Rickey another shot. Dr. Buchan again complimented Mr. Porter on his Report and Recommendation, adding that it was very fair under the circumstances.

Dr. Steinbergh stated that she also thought that the Proposed Order was fair. She agreed with Dr. Egner that this was an unusual case. She commented that it's not so unusual that the government hires people who have already defrauded them because the Board has seen that on the State level. Physicians who have defrauded the government go on to get contracts with the government.

December 14, 2005

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Dr. Steinbergh stated that what impressed her is that this conduct occurred almost ten years ago. Mr. Rickey is a young man who has obviously tried to rectify that very, very poor decision, and is doing, apparently, appropriate work as a P.A. Regardless of how much money he owes the government, Dr. Steinbergh stated that she feels that the Board ought to grant Mr. Rickey a license.

Dr. Steinbergh stated that she would like to amend the Order, however, to require that he complete a course in professional ethics. The reason for that is to reinforce his ethical responsibility to patient care. She stated that, having just trained as a P.A., Mr. Rickey may have, in fact, recently completed an ethics course. She stated that she would allow him to present that to the Board for approval. Dr. Steinbergh stated that the responsibility of being a P.A. is enormous. Patients trust P.A.s and they give their lives to the P.A.s, and she can't emphasize enough the need for a course in personal and professional ethics.

Concerning Mr. Rickey's request to not be required to appear before the Board as outlined in the Report and Recommendation, Dr. Steinbergh stated that she would not be in agreement with that. She stated that it's important that this Board see Mr. Rickey. If he's licensed in Ohio, he would have to be monitored in Ohio.

Dr. Kumar stated that he agrees with what has been said before. He would make one correction, and that, basically, is the fact that, the way the Report and Recommendation is written, it requires him to notify the Kentucky Board where he is going to be and who his supervising physician is. If he practices in Ohio, he should report to the Ohio Board. He indicated that he would accept Dr. Steinbergh's suggestions to require a course in personal and professional ethics.

**DR. KUMAR MOVED TO MODIFY THE PROPOSED ORDER IN THE MATTER OF CHARLES CHRISTIAN RICKEY, P.A., BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED that:

- A. **GRANTING OF CERTIFICATE:** The application of Charles Christian Rickey, P.A., for a certificate to practice as a Physician Assistant in the State of Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements, and subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
1. **Obey the Law:** Mr. Rickey shall obey all federal, state, and local laws, and all rules governing the practice of Physician Assistants in the state in which he is practicing.
  2. **Quarterly Declarations:** Mr. Rickey 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

December 14, 2005

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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. **Declarations of Compliance with Probation of the Kentucky Board of Medical Licensure:** Mr. Rickey shall submit to the Ohio Board declarations under penalty of Board disciplinary action or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the Letter of Agreement with the Kentucky Board of Medical Licensure [Kentucky Board]. Moreover, Mr. Rickey shall cause to be submitted to the Board copies of any reports that he submits or are submitted on his behalf to the Kentucky Board or its agent whenever the Kentucky Board requires such submission. In addition, Mr. Rickey shall ensure that the declarations of compliance with his Letter of Agreement with the Kentucky Board are forwarded to the Ohio Board on a quarterly basis and are received in the Ohio Board's offices no later than the due date for Mr. Rickey's quarterly declaration.
4. **Personal Appearances:** Mr. Rickey 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.
5. **Designation of Reporting Physician:** Prior to Mr. Rickey's commencement of practice as a physician assistant in Ohio, or as otherwise determined by the Board, Mr. Rickey shall obtain the written approval of the Board. If Mr. Rickey will be supervised by more than one supervising physician, Mr. Rickey's request for approval to practice in Ohio shall designate one supervising physician to serve as his reporting physician. The reporting physician shall be responsible to submit reports concerning Mr. Rickey's performance as required pursuant to Paragraph A.6 of this Order.

In the event that Mr. Rickey has more than one supervising physician and the designated reporting physician becomes unable or unwilling to serve in this capacity, Mr. Rickey must immediately so notify the Board in writing. In addition, Mr. Rickey shall designate another supervising physician to serve as his reporting physician within thirty days after the previously designated reporting physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Mr. Rickey shall ensure that the previously designated reporting physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

December 14, 2005

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6. **Reporting Physician Reports:** Mr. Rickey's designated reporting physician shall provide the Board with reports on the performance of Mr. Rickey in his practice as a physician assistant in the State of Ohio, including information concerning Mr. Rickey's clinical skills, professionalism, ethical behavior, amenability to supervision and any complaints from patients or coworkers. Mr. Rickey 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 Mr. Rickey's quarterly declaration.
7. **Professional Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Mr. Rickey shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board 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. A professional ethics course taken as part of Mr. Rickey's recent physician assistant training may be submitted to the Board for approval.

In addition, at the time Mr. Rickey submits the documentation of successful completion of the course or courses dealing with 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 as a physician assistant in the future.

8. **Personal Ethics Course:** Before the end of the first year of probation, or as otherwise approved by the Board, Mr. Rickey shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed. A personal ethics course taken as part of Mr. Rickey's recent physician assistant training may be submitted to the Board for approval.

In addition, at the time Mr. Rickey submits the documentation of successful completion of the course or courses dealing with personal 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 as a physician assistant in the future.

December 14, 2005

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- B. TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Rickey's certificate will be fully restored.
- C. REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Rickey 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, Mr. Rickey 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. This requirement shall continue until Mr. Rickey receives from the Board written notification of his successful completion of probation pursuant to Paragraph B, above.
- D. REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Mr. Rickey 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. Mr. Rickey 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, Mr. Rickey 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. This requirement shall continue until Mr. Rickey receives from the Board written notification of his successful completion of probation pursuant to Paragraph B, above.

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

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

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

December 14, 2005

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

The motion carried.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF CHARLES CHRISTIAN RICKEY, P.A. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

STEVEN JOHN SHOR, M.D.

Dr. Davidson directed the Board's attention to the matter of Steven John Shor, M.D. She advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

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

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

Dr. Steinbergh noted that Dr. Shor had a consent agreement and is mentally impaired and is willing to give up his license at this time. The Proposed Order is one of revocation. Should Dr. Shor someday become well, he can reapply for a license. Dr. Shor has simply not complied with the terms of the consent agreement.

Mr. Browning stated that this seems like the right decision for Dr. Shor and for the Board.

December 14, 2005

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Dr. Robbins stated that this is clearly the right decision for the State of Ohio and the Medical Board, but he would like to say that it's the wrong decision on Dr. Shor's part. Dr. Robbins indicated that he wished, for Dr. Shor's own personal health, that he would be willing to subject himself to the requirements of the Medical Board. That being said, he thinks that the State of Ohio is well served by the Proposed Order, and he totally supports the Report and Recommendation.

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

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

The motion carried.

ROBERT MARTIN STANG, D.O.

Dr. Davidson directed the Board's attention to the matter of Robert Martin Stang, D.O. She advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

Dr. Davidson continued that materials included with the objections are being construed as a request to submit additional evidence in this case. The Assistant Attorney General has indicated that he has no objections to the Board's considering these materials in its deliberations.

**DR. STEINBERGH MOVED TO ACCEPT THE ADDITIONAL MATERIALS INTO THE HEARING RECORD. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

December 14, 2005

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF ROBERT MARTIN STANG, D.O. DR. ROBBINS SECONDED THE MOTION.**

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

Dr. Egner stated that this was a very disturbing case, and she is in total agreement with the Report and Recommendation. She noted that Dr. Stang is a physician who practices sports medicine, and he engaged in extremely inappropriate sexual behavior with sixth and seventh grade boys. This took place in his home and his office. Dr. Egner stated that she thinks that this is one of the worst cases the Board has seen.

Dr. Egner added that she is extremely disappointed in the Michigan Board's treatment of this case. The Michigan Board suspended Dr. Stang's Michigan license for three years and fined him \$5,000. Dr. Egner stated that there is nothing that will make up for what Dr. Stang has done. Dr. Egner stated that she doesn't think that there is anything else that the Board can do but permanently revoke this license. She commented that the case is very clear-cut, and she would be extremely disappointed if this Board did something less than that.

Dr. Buchan agreed with Dr. Egner. He stated that every now and again the Board members see these cases that are quite disturbing, and it really bothers him. Dr. Buchan also spoke in strong support of revoking Dr. Stang's license permanently. The Board should not allow Dr. Stang to ever again engage in this type of behavior as a physician.

Dr. Steinbergh also agreed, but stated that she wants to note the number of individuals who supported Dr. Stang by signing letters submitted with his objections. She stated that these letters urge the Michigan Parole Board to release Dr. Stang from imprisonment, reinstate him into society and to allow him to continue to practice. Dr. Steinbergh noted that one letter was signed by someone who writes:

"I am the athletic supervisor at Flat Rock H.S. I have known Dr. Stang for the last 7 years. Dr. Stang has been my team doctor, head boys & girls cross-country coach and also my asst. track coach with me. Dr. Stang was also are (sic) family doctor. He also was my children (sic) doctor and our grandchildren. At **NO!** time have I ever seen or heard of this man not acting like a professional."

Dr. Steinbergh indicated that this writer goes on and on, and what amazes her is that this is the athletic

December 14, 2005

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supervisor, responsible for children, and he doesn't think that there's anything wrong here. These families are saying that Dr. Stang is a nice doctor, an appropriate physician. Dr. Steinbergh commented that the Board isn't looking at minimal standards here, but at some point, does the public not get it? She expressed concern over the number of letters of support received from Dr. Stang's patients and from community members. She stated that this is shocking to her.

Dr. Robbins stated that he was shocked by that, too. He added that the citizens of the State of Ohio are much better served without someone like this practicing in our state. Dr. Robbins stated that he totally supports the Report and Recommendation.

Dr. Kumar stated that he agrees with the Report and Recommendation, but one of the things that Dr. Stang objected to was that he couldn't appear at the hearing because he was in jail. He asked whether that would be grounds for an appeal. Dr. Kumar suggested that the Board revoke Dr. Stang's license rather than permanently revoking it.

Dr. Steinbergh stated that she doesn't disagree with Dr. Kumar's concerns, but she thinks that the Record before the Board is very clear and she thinks the Board can make a decision.

Dr. Kumar stated that he just doesn't want the Board to be caught in legal jeopardy when someone appeals this because he wasn't given due process.

Ms. Thompson advised that Dr. Stang has been given due process. He had the right to send representatives to the hearing and to send his position in writing. The Board can't issue a lesser sanction now so that later it can go back to it and try it again. This is the Board's opportunity to do what it believes is appropriate, based on the evidence before the Board.

Dr. Kumar stated that the appropriate sanction is permanent revocation.

Dr. Robbins added that, like Dr. Egner, he is also concerned about the sanction imposed by the Michigan Board. He stated that, although this Board's duty is to serve the citizens of the State of Ohio, he feels that there is a greater good for citizens throughout this United States. To think that this individual was suspended for three years and can then apply for reinstatement is incredible. Dr. Robbins stated that he personally thinks that some communication from here should go to Michigan, and he would clearly like to have a dialogue of some sort with Michigan to educate us or for this Board to educate them. Dr. Robbins stated that the two Boards aren't in two different parts of the world. He expressed concern about having this kind of diverse opinion between the two Boards.

Dr. Steinbergh stated that this will be a wonderful topic for discussion at the Midwest Regional Board meeting in February.

Dr. Robbins stated that he couldn't agree more.

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

December 14, 2005

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

The motion carried.

#### PROPOSED FINDINGS AND PROPOSED ORDERS

##### JAMAL ALLEN, M.T. APPLICANT

Dr. Davidson directed the Board's attention to the matter of Jamal Allen, M.T. Applicant. She advised that by letter of May 18, 2005, the Board notified Mr. Allen that it proposed to deny his application for a certificate to practice massage therapy in the State of Ohio based on allegations contained in the letter. The notice was mailed to Mr. Allen's address of record and proper service was documented. No hearing request has been received from Mr. Allen and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Davidson, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition. Mr. Albert was supervising member. Dr. Talmage was secretary.

**DR. BUCHAN MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE MAY 18, 2005 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF JAMAL ALLEN, M.T. APPLICANT, AND TO ADOPT THE PROPOSD FINDINGS AND PROPOSED ORDER. DR. SAXENA SECONDED THE MOTION.**

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

Dr. Buchan stated that Ms. Davidson has done a very good review of this case and has proposed a very good, fair Order.

Dr. Egner agreed with Dr. Buchan, and added that this case was incredible to her and the Proposed Order of permanent denial is appropriate.

Dr. Egner expressed concern, however, about an approved school accepting such an individual into its

December 14, 2005

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program. She suggested that the Board either send a letter to the school expressing that concern, or send an investigator to talk to them about what they know about such applicants prior to accepting them into the school without giving them prior knowledge that the likelihood of their getting a license is very low.

Dr. Steinbergh agreed, stating that, based on Mr. Allen's history, he didn't have a prayer of getting a license.

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

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

The motion carried.

YAZEED M. ESSA, M.D.

Dr. Davidson directed the Board's attention to the matter of Yazeed M. Essa, M.D.. She advised that by letter of April 13, 2005, the Board notified Dr. Essa that it proposed to take disciplinary action against his license to practice medicine and surgery in the State of Ohio based on allegations contained in the letter. The notice was mailed to Dr. Essa's address of record and proper service was documented. No hearing request has been received from Dr. Essa and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Davidson, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition. Mr. Albert was supervising member. Dr. Talmage was secretary.

**DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE APRIL 13, 2005 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF YAZEED M. ESSA, M.D., AND TO ADOPT THE PROPOSD FINDINGS AND PROPOSED ORDER.  
DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Steinbergh stated that Dr. Essa is an impaired physician who has not complied with his Step II Consent

December 14, 2005

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Agreement of May 2004. On more than one occasion he didn't submit urine specimens for drug testing, nor did he make his quarterly appearances or office conferences. Dr. Steinbergh stated that she would agree with Ms. Davidson's conclusion that Dr. Essa is not interested in continuing under his consent agreement, and revocation of his license is appropriate at this time.

Dr. Robbins agreed with Dr. Steinbergh, but added that he again feels somewhat compelled to say that he has difficulty washing his hands of the licensee in cases such as this. This physician is clearly impaired.

Dr. Steinbergh stated that the individual has to buy into being rehabilitated and agree with it.

Mr. Browning left the meeting during the previous discussion.

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

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

The motion carried.

At this time Mr. Albert invited Dr. Robbins, as President, to attend the office conferences held with probationers. Dr. Robbins stated that he would be there.

VENU GOPAL MENON, M.D.

Dr. Davidson directed the Board's attention to the matter of Venu Gopal Menon, M.D.. She advised that by letter of August 10, 2005, the Board notified Dr. Menon that it proposed to take disciplinary action against his license to practice medicine and surgery in the State of Ohio based on allegations contained in the letter. The notice was mailed to Dr. Menon's address of record and proper service was documented. No hearing request has been received from Dr. Menon and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Murphy, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition. Mr. Albert was supervising member. Dr. Talmage was secretary.

**DR. BUCHAN MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND**

December 14, 2005

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**SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE AUGUST 10, 2005 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF VENU GOPAL MENON, M.D. AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. KUMAR SECONDED THE MOTION.**

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

Dr. Kumar stated that initially the Board's action was related to minimal standards. Dr. Menon is an anesthesiologist, and the issues were minimal standards or how he was providing services. Dr. Menon was even dismissed from Upper Valley Medical Center and Stouder Memorial Hospital. Dr. Kumar stated that he remembers clearly that during one of the probationary appearances, Dr. Menon was very emphatic that the issue was more related to his documentation, people couldn't read his handwriting, etc. In fact, now there is evidence that Dr. Menon was using the same syringe on multiple patients, he couldn't intubate, and so forth. Dr. Kumar stated that he is in favor of the Proposed Order of Permanent Revocation.

Dr. Steinbergh noted that, subsequently, Nebraska also took Dr. Menon's license.

Dr. Egner stated that she had the same sick feeling when she read that he used the same syringe on multiple patients as she got when she read the case of Dr. Stang. This is so terrible, it isn't even practice.

Dr. Robbins stated that it's horrifying, because the patient is under anesthesia and Dr. Menon leaves the room to go drink coffee.

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

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

The motion carried.

CAROL E. LEWIS, M.D.

Dr. Davidson directed the Board's attention to the matter of Carol E. Lewis, M.D.. She advised that by letter of September 14, 2005, the Board notified Dr. Lewis that it proposed to take action against his license

December 14, 2005

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to practice medicine and surgery in the State of Ohio based on allegations contained in the letter. The notice was mailed to Dr. Lewis's address of record and proper service was documented. No hearing request has been received from Dr. Lewis and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Davidson, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition. Mr. Albert was supervising member. Dr. Talmage was secretary.

**DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE SEPTEMBER 14, 2005 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF CAROL E. LEWIS, M.D., AND TO ADOPT THE PROPOSD FINDINGS AND PROPOSED ORDER. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Steinbergh stated that this is a case of a chemically dependent physician who relapsed, failed to comply with the terms of his Step II Consent Agreement. The Board summarily suspended her license and she did not request a hearing. Revocation in this case allows Dr. Lewis to reapply under healthier conditions if she can demonstrate that she can practice according to acceptable standards.

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

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

The motion carried.

Mr. Browning returned to the meeting at this time. Dr. Egner left the meeting at this time.

December 14, 2005

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CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSION

KATHERINE ALICIA HUMES, 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. HUMES.  
DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MARK A. MITCHELL, L.M.T. – CITATION LETTER

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

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

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

December 14, 2005

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The motion carried.

MUKUNDA DEV MUKHERJEE, 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. MUKHERJEE. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

CHIJOKE VICTOR OKORO, M.D. – CITATION LETTER

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

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

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

December 14, 2005

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Dr. Davidson - aye

The motion carried.

**ROBERT FRANKLIN SHORT, M.D. – CITATION LETTER**

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

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

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

The motion carried.

**BRETT E. TOWARD, 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. TOWARD. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

December 14, 2005

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Dr. Steinbergh - aye  
 Dr. Davidson - aye

The motion carried.

JOHN ANDERSON KING, D.O. – CITATION LETTER

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

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

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

The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

Board members were provided with copies of settlement agreements negotiated by Board staff and/or the staff of the Office of the Attorney General, as authorized by the Board's Secretary and Supervising Member, and as appropriate, the Board President, as well as copies of summaries of the agreements. The names and license numbers of the licensee or applicant subjects of such settlement agreements were removed from the documents.

TANIA RENEE ECK, M.T.

Dr. Steinbergh stated that she had some concerns about this agreement. This is a case of a massage therapist who has been alcohol dependent. She stated that she agrees with everything in the consent agreement except that there is no evidence that anyone will monitor this individual. Dr. Steinbergh stated that, in her opinion, any impaired licensee, regardless of his or her degree, needs to be monitored. She stated that licensed massage therapists are performing medical massage, and are seeing patients. If she prescribes massage therapy for a patient to be done once or twice a week to help reduce muscle spasm and

December 14, 2005

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so forth, she would like to know that that massage therapist is appropriate. Dr. Steinbergh stated that she did discuss this with Ms. Debolt. She noted that this individual doesn't live in a large city in Ohio and, therefore a monitoring massage therapist might not work, but she's recommending that the Board require this licensee to submit a practice plan for the Board approval so that she knows that patients are being monitored.

Dr. Egner returned to the meeting during Dr. Steinbergh's statement.

Ms. Marshall stated that the agreement before the Board is the one it must act on at this time.

Ms. Gilbert stated that the Board doesn't include practice plans regularly, even in physician agreements.

Dr. Steinbergh stated that she thinks that some piece of monitoring needs to be in place for this massage therapist, and she doesn't care how it gets done, except it ought to be done for patient protection. That's why she disagrees with this consent agreement.

Dr. Robbins asked why a practice plan isn't included in this type of agreement.

Ms. Gilbert stated that a practice plan is not a part of the standard agreement. A monitoring physician is a part of the standard agreement, but has not always been included in the massage therapy agreements of the past. If that's something the Board wants to see in the future, the staff can do that.

Dr. Buchan stated that there does appear to be monitoring in place in this agreement. He asked Dr. Steinbergh whether she's requesting monitoring from another professional as opposed to random urines and aftercare, etc.

Dr. Steinbergh stated that that's supervision. The agreement does require urine screens, but only twice a month. Dr. Steinbergh stated that what she is suggesting is that this licensee should not be treated any differently than the Board treats its physician licensees. Impairment is impairment, and the issue is patient protection. Dr. Steinbergh stated that some type of monitoring of her practice ought to be appropriate.

Dr. Robbins asked how she would want that done.

Dr. Steinbergh stated that it could be one of two ways: Either someone who is in a co-practice could send quarterly reports; or in a practice plan where the Board knows that she's not practicing by herself and that patient care is respected. This individual is getting twice monthly screens and could be consuming alcohol at times that it wouldn't be detected.

Dr. Varyani stated that he thinks that the easiest way would be to have this individual's supervising physician certify to the Board that he's doing the testing.

Dr. Steinbergh stated that there is someone checking her urine screens.

December 14, 2005

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Dr. Varyani stated that there may be a logistics problem. Who's going to do it? How is it going to be reported?

Dr. Steinbergh stated that when physicians are in consent agreements, they're obligated to provide a monitoring physician. She added that if the supervising physician also wants to monitor, she has no problem with that.

Ms. Gilbert again stated that the Board has this agreement to vote on at this time. If there's something that the Board wants in the agreement that isn't there, it will have to vote to not ratify it; otherwise, it is as written.

Dr. Buchan stated that he thinks that there is a difference between the practice of medicine and the practice of massage therapy. He stated that he doesn't think that the limited scope of practice demands the intensive monitoring that the Board would do with the general surgeon or family practitioner.

**DR. BUCHAN MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MS. ECK. DR. VARYANI SECONDED THE MOTION.**

Dr. Steinbergh stated that she disagrees with Dr. Buchan's concept. She added that she feels that it is this Board's responsibility to properly monitor this individual to ensure that patients are receiving appropriate care.

Dr. Egner stated that she agrees with Dr. Buchan that it's not the same standard.

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

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

The motion carried.

December 14, 2005

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SAMUEL ELLSWORTH GAYTON, M.D.

**DR. STEINBERGH MOVED TO RATIFY DR. GAYTON'S PERMANENT SURRENDER OF HIS LICENSE TO PRACTICE MEDICINE AND SURGERY. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Mr. Browning left the meeting at this time.

NANCY L. SWANINGER, M.T.

**DR. STEINBERGH MOVED TO RATIFY MS. SWANINGER'S PERMANENT SURRENDER OF HIS LICENSE TO PRACTICE MASSAGE THERAPY. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

December 14, 2005

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ANTHONY O. AMIEWALAN, M.D.

**DR. KUMAR MOVED TO RATIFY DR. AMIEWALAN'S PERMANENT SURRENDER OF HIS LICENSE TO PRACTICE MEDICINE AND SURGERY. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

ROBERT L. BRANDT, JR., M.D.

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

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

The motion carried.

RYAN STEVEN FRYMAN, D.O.

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

Vote:	Mr. Albert	- abstain
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December 14, 2005

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Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye

The motion carried.

LEROY P. RISE, M.D.

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

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

The motion carried.

CHRISTOPHER S. SHAW, M.D.

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

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

December 14, 2005

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Dr. Saxena - aye  
Dr. Steinbergh - aye

The motion carried.

RICHARD A. ZINNI, D.O.

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

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

The motion carried.

THOMAS A. NGUYEN, M.D.

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

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

The motion carried.

December 14, 2005

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WILLIAM E. POWELL, II, M.D.

**DR. KUMAR MOVED TO RATIFY DR. POWELL'S PERMANENT SURRENDER OF HIS LICENSE TO PRACTICE MEDICINE AND SURGERY. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MATTHEW ALLAN SNYDER, L.M.T.

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

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

The motion carried.

LEE ADAM WILSON, M.T.

**DR. KUMAR MOVED TO RATIFY MR. WILSON'S PERMANENT SURRENDER OF HIS LICENSE TO PRACTICE MASSAGE THERAPY. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

December 14, 2005

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

The motion carried.

WILLIAM CAGE STEVENSON, M.D.

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

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

The motion carried.

Dr. Davidson stated that at this time she is tabling the topic of Ratification of Settlement Agreements until the next morning.

Dr. Robbins commended the Board's staff on the work it has done with these agreements.

PERSONAL APPEARANCES

DON R. SHEGOG, M.D.

Dr. Shegog appeared before the Board pursuant to his request for release from the terms of the Board's Order of December 13, 2000.

December 14, 2005

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In response to Board Members' questions, Dr. Shegog stated that he is currently doing a general practice, sharing offices with Dr. C. O. Dillard, who is his supervisor. For the past 25 years he's worked as a radiologist; however, the area in which he practices was running out of general practitioners. He then went into general practice and radiology, and that's where the problem with prescribing narcotic medication evidenced itself. Since then he hasn't practiced radiology, but has been in a general practice with Dr. Dillard.

Dr. Shegog stated that he would like to say that the practice has been totally uneventful, but as the Board members know, that wouldn't be the case. He found a number of methods to help him supervise his own use of narcotics. Probably the best one he has is with the pharmacists. Occasionally, when he calls them, they will advise him that the patient is also seeing another physician who is also prescribing a medication for the patient. Dr. Shegog stated that when he receives that type of report, most of the time, if not all the time, the patients are discontinued from his practice. With every person he's put on a narcotic for pain, he explains to the patients that he has to be cautious because the street value of narcotic medication is quite high. Dr. Shegog stated that he'd like to say that no one for whom he prescribed was selling drugs on the street, but he knows that that would be a lie also because he has caught some of them doing that, particularly those who were getting medications from two physicians.

Dr. Shegog stated that, other than that, his practice has been uneventful.

Continuing his response to Board members' questions, Dr. Shegog stated that, in terms of C.M.E. for radiology, he still receives journals and he occasionally goes back to University of Cincinnati Hospital for the team meeting, the teaching conference, which usually runs from about 12:30 to 2:00 p.m.

Dr. Shegog advised that he was board eligible, and has not been board certified, but he does believe he could be certified. He would have to apply again. Dr. Shegog stated that radiology has changed significantly in the last five years. Dr. Shegog stated that he does intend to return to the practice of radiology, but was advised to wait until he was released from probation by the Board before doing so.

**DR. STEINBERGH MOVED TO RELEASE DR. SHEGOG FROM THE TERMS OF THE BOARD'S ORDER OF DECEMBER 13, 2000. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

December 14, 2005

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The motion carried.

TIMOTHY J. HEYD, M.D.

Dr. Heyd made his initial appearance before the Board, pursuant to the terms of the Board's Order of May 18, 2005.

In response to Board members' questions, Dr. Heyd advised that he is rebuilding his practice. When he returned to practice after suspension, he had the opportunity to move into a different office site. The transition of patients is coming along more slowly than he would want, but the patients are finding him again and are happy that he's back.

Dr. Heyd acknowledged that his marriage broke down, but he does get a lot of support from family and friends. He lives in the same community as his ex-wife, and he has frequent interactions with her that are going quite well. He added that his relationships with his children and other family members have never been better.

When asked whether he could look the Board in the eye and say that he's not having any ongoing relationship with any patient today, Dr. Heyd stated that he could.

**DR. STEINBERGH MOVED TO CONTINUE DR. HEYD UNDER THE TERMS OF THE BOARD'S ORDER OF MAY 18, 2005, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MAHENDRA K. MAHAJAN, M.D.

Dr. Mahajan made his initial appearance before the Board, pursuant to the terms of his September 14, 2005 Consent Agreement. Dr. Mahajan has also requested approval of a course in prescribing.

December 14, 2005

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In response to Board Members' questions, Dr. Mahajan stated that he is destroyed. Three insurance boards have made his certifications invalid; and he's off United Healthcare, and that is most of his outpatient practice. In a couple more months, he'll be gone.

Concerning courses required by the Consent Agreement, Dr. Mahajan stated that he sent a course to Ms. Bickers, which was approved by the Supervising Member. There was some confusion about another course he sent, but he's talked with Ms. Bickers about that.

When asked what he's learned since he signed the Consent Agreement, Dr. Mahajan stated that he made a mistake, no question about it. He understands that the Board's word is final, and he looks to the Board for appropriate justice. Dr. Mahajan stated that his mistake was a forced mistake. He worked in a mental health clinic that had a policy of keeping signed prescription blanks in a locked box in the office. He stated that he went along with that system so that he could help his patients who needed the medication, but didn't always keep their appointments.

Dr. Mahajan continued that he reported the nurse who was using these prescription blanks to obtain medications for her own use. He stated that it was very difficult for him to do that, but it was the ethical thing for him to do. The nurse then made an allegation, and because of that the Board found out that there were blank signed prescriptions. Dr. Mahajan stated that the Director of the Mental Health Center has written a letter to that effect. Dr. Mahajan stated that he hopes other doctors don't suffer the way he's suffering. Dr. Mahajan stated that the Center's physicians were leaving signed prescriptions before he went there. He stated that he could have refused to do it, but would he be serving the patients? The Center did not have the money and could not hire him for a longer period. Dr. Mahajan stated that his ethics wouldn't let the patients suffer. Dr. Mahajan stated that the Board has punished him and he will take the punishment. His ethics would not allow him to go to the courts under any circumstances. Dr. Mahajan again asked that the Board reconsider its position, but added that if the Board won't, he will accept it.

Dr. Kumar commented that the Board previously discussed sending a letter to the Health Department, addressing the Board's concerns regarding its clinics having a policy of having their physicians pre-sign prescription blanks. He asked whether a letter has been sent.

Ms. Wehrle stated that she will follow up on that.

Dr. Mahajan stated that he saw up to 400 children every two months, seven days a month. He was trying to accommodate the system. He took appropriate precautions that a professional nurse would write up the prescription after calling him. The Mental Health Director assured him that the prescriptions would be kept in a locked box. He asked what he did wrong that he has to go through all of this.

Dr. Davidson stated that she believes that the Board handled Dr. Mahajan's situation as fairly as they could, and as generously as they could. A reprimand is as light a penalty as it can give.

Dr. Mahajan indicated that the probation is the problem. He has received letters from three boards telling him that his certificates are invalid. Dr. Mahajan admitted to making a "forced mistake." If, as a doctor,

December 14, 2005

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he had to decide between the patient and his license, there is a big ethical conflict.

When asked whether Dr. Mahajan ever considered going somewhere else to practice where he could practice according to what he knew were the appropriate standards, or whether he tried to change the system because he knew it was illegal, Dr. Mahajan stated that in the mental health field, as a psychiatrist, if you want to have a job or you want to help, you don't have much say. They tell you what to do and you're fired otherwise. Dr. Mahajan stated that he hadn't done this for three or four years, until the numbers went up. Then the Mental Health Director assured him that the prescriptions would be locked and safe, and the nurse would call him prior to writing the prescription. Dr. Mahajan admitted that he knew signing the prescription forms was wrong.

Dr. Steinbergh stated that at that point he has to make an ethical decision. He has to make the decision as to whether or not he can continue in the practice or try to improve it by changing the behavior by talking to the Medical Director and telling him that it was illegal. Dr. Steinbergh stated that she understands what Dr. Mahajan is saying, but the Board has had cases where a licensee has been asked to do something that was not within his or her scope of practice. The Board knows that the person did it to keep his or her job, but that makes no difference. The person has to make a professional decision about what's right and wrong. If you know it's wrong, you have to make that decision.

Dr. Mahajan stated that he quit that job. It never happened in his practice where he has control over time and what happens. So his practice has been clean for 25 years. Dr. Mahajan stated that he was caught between helping the patients and this. Dr. Mahajan admitted that he was wrong, stating that there's no question about that.

In response to further questions by Board members, Dr. Mahajan stated that the rationale to sign these prescriptions ahead of time is that many patients would not show up on the day of appointment. They were on amphetamines. Then the day their prescription is empty, the patient's mother, grandmother, school, etc. are all calling saying that this child is very destructive and needs to be on their medicine right away. Dr. Mahajan stated that he's not scheduled to go into the Clinic for about a week. There is no other physician there. He was the only doctor there. It's a children's clinic and they only had him as the physician. The nurse would write the prescription and on his next visit he would be made aware of that prescription.

Dr. Mahajan acknowledged that he clearly sees the implications and the legal jeopardy he was under to have that there. He stated that in his own practice it would not happen. In his practice he has the control.

Dr. Mahajan indicated that he wants to do the courses required by the consent agreement because he'll learn more. He added that he thinks he has followed his practice very ethically. He's left hospitals that don't have enough staff on the Children's unit. Dr. Mahajan again stated that he will admit he did the wrong thing, but he begged the Board to do something so that he won't lose his certification. He's willing to do anything the Board wants him to do. He stated that he's hurting.

Dr. Robbins recommended that Dr. Mahajan contact medical directors of the pertinent insurance

December 14, 2005

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companies to explain exactly what happened. Dr. Robbins stated that he would not do anything by phone or letter, but would call and ask for a meeting with the medical director of every plan that is denying him coverage at this point. Dr. Robbins stated that he won't promise that this will work, but he thinks it's better than what Dr. Mahajan is doing now.

Dr. Egner agreed, stating that Dr. Mahajan comes across as a very caring physician.

Dr. Mahajan stated that at United Healthcare, three medical directors have written a letter on his behalf. They know his work. He has heard that his last date is December 21. If they cut him off, he's gone because 90% of his work is United Healthcare.

Dr. Robbins stated again that Dr. Mahajan needs to make a last-ditch effort of personally seeing the individual responsible for making the decision.

Dr. Buchan stated that Dr. Mahajan will meet with the Secretary and Supervising Member again in six months, and they will be paying attention to what is going on.

**DR. BUCHAN MOVED TO APPROVE THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY'S *MINI-RESIDENCY IN APPROPRIATE PRESCRIBING*, AS PARTIAL FULFILLMENT OF THE REQUIREMENTS OF PARAGRAPH 6 OF DR. MAHAJAN'S SEPTEMBER 14, 2005 CONSENT AGREEMENT. DR. BUCHAN FURTHER MOVED TO CONTINUE DR. MAHAJAN UNDER THE TERMS OF HIS CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MARK S. MCALLISTER, M.D.

Dr. McAllister made his initial appearance before the Board, pursuant to the terms of his November 9, 2005 Consent Agreement.

December 14, 2005

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Dr. Egner warned Dr. McAllister, that with a stayed permanent revocation on his record, he is in a precarious position. Dr. Egner stated that if Dr. McAllister can't abide by the terms of his consent agreement, he will lose his license permanently. She advised that the Board wants Dr. McAllister to have a successful medical career, but added that he is in a bad position right now.

In response to Board members' questions, Dr. McAllister stated that this past October marked seven years of uninterrupted sobriety for him. He added that he appreciates the Board's leniency in the most recent matter, commenting that his returning to practice when his license was under suspension was premature and admittedly naïve, but it wasn't done in a self-serving manner. He did it because he felt obligated to take on his share of the burden of his residency as soon as he was allowed to. He had no indication that there were issues to prevent him from doing so, so he went to work on that basis and that basis alone. There was no effort to spite the Board. Dr. McAllister stated that he's been involved with the Board for a long time and he would have never walked into that hospital knowing that he didn't have a license. He was under every assumption that he did hold a license. Dr. McAllister stated that he had an attorney who did not inform him that his license did not get reinstated. Dr. McAllister added that he thanks God that no one got hurt that day.

Dr. McAllister again apologized for his actions and advised that they were never, in his wildest dreams, intended to spite the Board. His only intention was to make good with his fellow residents as quickly as he could.

Dr. McAllister explained that he was under a year's suspension for a Board-defined relapse. During that time he didn't practice medicine, but he continued to interact with the residents at the hospital educational conferences and such. He became acutely aware of how seriously the lack of his presence affected them from a workload standpoint. He was supposed to be a chief resident that year and had a lot of responsibilities. That responsibility was now shared by two people instead of three. Dr. McAllister stated that Fairview is a very small program and to get the required attributes of surgical training, at any given point several residents are at outside institutions, so there aren't that many people there on any given day. Added to that was the imposition of an 80-hour work week and requirements, his absence was felt very strongly by the individuals who were there. Dr. McAllister stated that he was made aware of this on every occasion he returned to attend conferences. He was asked half a dozen times when he was coming back. The two residents with whom he was supposed to be serving his chief year developed a tremendous amount of animosity toward him, and he felt abandoned.

Dr. McAllister stated that he was very anxious to go back for his own purposes. It's what he loves to do and he wanted to get back at the earliest opportunity. The reason he went back at the very earliest chance he could, after the Board's meeting of May 18, was that he wanted to reshoulder his share of the burden as soon as he could. He learned the following morning that he had had two false positive toxicology screens, that were confirmed negative by GCMS for amphetamines. Through his own research, he discovered that that was due to an antidepressant he was taking for smoking cessation. The antidepressant was prescribed by Dr. Collins. Because of the proximity of the toxicology screens to his reinstatement, the Board wanted to investigate the matter further. Unfortunately, he wasn't made aware of this that day, and so he went to work that night with the understanding that everything was going to go smoothly at the Board meeting that

December 14, 2005

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day. Dr. McAllister stated that he thought that if something unexpected had happened, his attorney, John R. Irwin, M.D., Esq., would have called him. Since he didn't hear from him, he expected that everything went as planned. Dr. McAllister again stated that it was naïve, he should have checked for himself and gotten verification. Dr. McAllister stated that he only practiced one night.

Dr. McAllister stated that he lost his position as a result of this, and he understands the rationale for that. He again stated that he appreciates the Board's leniency on this matter. He currently works as a research assistant for Dr. Collins, doing work with topics such as physicians and anabolic steroid abuse, the success of re-entry of anesthesia residents after chemical dependency treatment back into anesthesia, medical/legal initiatives for prescription opiate abuse, and things of that nature. He would like to finish his surgical training, but he doesn't know whether he will get that opportunity. He never got the opportunity to meet with the residency officials. Dr. McAllister stated that his hope is that with the conclusion of the Board action, they will reconsider it and take him back, but when all this was going on, they weren't open to that option. He added that he doesn't know where he'll go.

Several Board members encouraged Dr. McAllister to go to the powers that be at the hospital and discuss reinstatement once his license is returned to him.

**DR. BUCHAN MOVED TO CONTINUE DR. MCALLISTER UNDER THE TERMS OF HIS NOVEMBER 9, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION.**

Ms. Gilbert asked whether Dr. McAllister's plans related to the military have changed.

Dr. McAllister stated that he interviewed for a position with the military, but didn't get the position that was offered at that time. The decision was made in the first week of December or the last week of November. There's a future possibility, but, after discussion with his attorney, they believe that the best thing for him and his struggling marriage is for him to stay here.

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

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

The motion carried.

December 14, 2005

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CARLA M. MYERS, D.O.

Dr. Myers made his initial appearance before the Board, pursuant to the terms of his September 14, 2005 Consent Agreement.

In response to Board members questions, Dr. Myers stated that she was discharged from Shepherd Hill again on October 21 and committed to 90 meetings in 90 days. She's going to a meeting just about every day; and on days she can't, she's making those up. She talks to her sponsor every day. She has a 15-year-old and an 18-year-old, so she's being "mom", and taking care of her house and getting things back in order. Dr. Myers stated that she's reading every day. She added that her heart is in her recovery this time. Sobriety and recovery are her number 1 priority.

Dr. Myers advised that, when she is reinstated, she plans to return to work. She stated that several years ago she started her practice and was working ridiculous hours. She started getting involved in other things that didn't have to do with her addiction, and she backed out. When she completed treatment the first time she got back into working more, although that was only about 30 to 35 hours a week. That's what she plans to do: Work a couple three-quarter days in the office, do Board review with residents one day a week, supervise an indigent clinic a few days a month, and then do hospital call at the satellite hospital one week a month. She will do that when she is reinstated and back on insurance boards.

Dr. Myers stated that when she first went into treatment, she knew that she had a problem but she wasn't ready to admit it. She thought she could get sober on her own, but her husband disagreed. Her very first step towards recovery was going to what she thought was an appointment, and finding her clothes in the back seat. She was essentially taken to an intervention. She was able to accept it in her head, but it wasn't in her heart at all. As time went on, she doesn't think that she was ready to get sober. It was never her idea, basically. As time progressed, she was really ready. This time she self-reported and went back to Shepherd Hill.

Dr. Myers advised that she is in a contract with OPHP.

**DR. STEINBERGH MOVED TO CONTINUE DR. MYERS UNDER THE TERMS OF HIS SEPTEMBER 14, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

December 14, 2005

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Dr. Robbins - aye  
 Dr. Saxena - aye  
 Dr. Steinbergh - aye

The motion carried.

ANDRE PROCHOROFF, M.D.

Dr. Prochoroff made his initial appearance before the Board, pursuant to the terms of his September 14, 2005 Consent Agreement.

In response to Board members' questions, Dr. Prochoroff stated that he currently works in New York, doing pediatric neurology. He has licenses in both New York and Connecticut. He has not yet done the ethics course required by the Consent Agreement. He stated that he will be setting that up with Ms. Bickers. Dr. Prochoroff stated that his practice is going very well. He works in a big group, part of the medical college. Dr. Prochoroff continued that his family is still in Shaker Hts., Ohio. He finished his pediatric neurology residency in July 2005.

Dr. Prochoroff continued that, as required by his Consent Agreement, he did notify the appropriate agencies, as well as the New York and Connecticut Boards. He added that he would be surprised if action is taken on his New York license. He's not been notified by that Board of anything. He notified both Boards within two weeks of getting the signed Consent Agreement. He advised that his New York license is due for renewal in 2006. He stated that he thinks that his Connecticut license is renewed annually. He does have letters prepared to submit with his renewal applications.

Dr. Prochoroff stated that he did not intend to deceive anyone. He thinks that there were just a lot of misunderstandings at crucial points.

**DR. BUCHAN MOVED TO CONTINUE DR. PROCHOROFF UNDER THE TERMS OF HIS SEPTEMBER 14, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

Vote:

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

December 14, 2005

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The motion carried.

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

Thereupon at 5:23 p.m. the December 14, 2005 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on December 14, 2005, as approved on January 11, 2006.



Patricia J. Davidson, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



December 15, 2005

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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

December 15, 2005

Patricia J. Davidson, M.D., President, called the meeting to order at 8:20 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1960, with the following members present: Andrew F. Robbins, Jr., M.D., Vice-President; Carol L. Egner, M.D.; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Kamala Saxena, M.D., and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member. The following member was absent: Deepak Kumar, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Mark R. Blackmer and Kathleen S. Peterson, Enforcement Attorneys; Damion M. Clifford, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Michael K. Miller, Public Policy & Government Affairs Officer; Sallie J. Debolt, Executive Staff Attorney; Gary Holben, Administrator; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; and Kay L. Rieve, Administrative Officer.

#### LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

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

Dr Steinbergh stated that she would like to consider the probationary request of Dr. North separately.

**DR. BUCHAN MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON SEPTEMBER 12 AND 13, 2005 WITH: MOHAMMAD A. ADAS, M.D.; ASHFAQ TAJ AHMED, M.D.; MARK L. ALLEN, M.D.; MARK D. BALDWIN, D.O.; ROBERT R. BRIGHTWELL, D.O.; DONALD B. FORD, M.D.; JAMES E. FLEMING, M.D.; STEPHEN R. GIORDANO, D.O.; DARRELL A. HALL, M.D.; DAVID C. HANES, D.O.; JEFFREY T. JONES, P.A.; JEANNE M. KIRKLAND, M.D.; ANTHONY W. KITCHEN, M.D.; ROBERT E. MARSICO, JR., M.D.; JAMES M. MCGINNIS, D.O.; FRANCINE R. MOSLEY, M.D.; THOMAS R. PICKETT, P.A.; NYKOLAI VASIL PIDHORODECKYJ, M.D.; ROBERT S. REEVES, JR., M.D.; MARK ALLEN RENZ, M.D.; LEROY P. RISE, M.D.; LAWRENCE B. ROTHSTEIN, M.D.; CHRISTOPHER S. SHAW, M.D.; DAVID P. SPEARS, D.O.; AND SCOTT THOMAS STEWART, P.A.; DR. BUCHAN FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S**

**RECOMMENDATIONS AS FOLLOWS:**

- **TO APPROVE JENNIFER M. TAKATS, M.D., TO SERVE AS TREATING PSYCHIATRIST;**
- **TO APPROVE MARK E. REYNOLDS, M.D., TO SERVE AS MARK E. BLAIR, M.D.'S SUPERVISING PHYSICIAN AND TREATING PSYCHIATRIST;**
- **TO GRANT DAVID T. BROCK, D.O.'S REQUEST TO DISCONTINUE HIS CHART MONITORING REQUIREMENT;**
- **TO GRANT STEVEN W. CRAWFORD, M.D.'S REQUEST TO DISCONTINUE HIS CHART MONITORING REQUIREMENT, AND TO REDUCE THE A.A. ATTENDANCE REQUIREMENT FROM FOUR MEETINGS PER WEEK TO AT LEAST TWO MEETINGS A WEEK, WITH A MINIMUM OF TEN PER MONTH;**
- **TO GRANT DAVID C. ERNST, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS AND A REDUCTION IN HIS DRUG SCREENS TO TWO SCREENS PER MONTH;**
- **TO GRANT MARY JO FOOTE, P.A.'S REQUEST FOR A REDUCTION IN HER PSYCHIATRIC SESSION TO ONE PER MONTH, WITH INTERIM COUNSELING ONCE A WEEK;**
- **TO APPROVE THE PRACTICE PLAN SUBMITTED BY TIMOTHY A. GOODEN, M.D. AND TERRY L. ALLEY, M.D., TO SERVE AS DR. GOODEN'S MONITORING PHYSICIAN, REVIEWING TEN CHARTS PER WEEK;**
- **TO APPROVE THOMAS E. SMALLWOOD, M.D., TO SERVE AS DARRELL A. HALL, M.D.'S MONITORING PHYSICIAN;**
- **TO GRANT DAVID J. LEVY, M.D.'S REQUESTS TO DISCONTINUE THE DRUG LOG REQUIREMENT FOR HOSPITAL PATIENTS, AND TO REDUCE HIS A.A. REQUIREMENT TO AT LEAST TWO MEETINGS PER WEEK, AND A MINIMUM OF TEN MEETINGS PER MONTH;**
- **TO GRANT JOANNE POJE, M.D.'S REQUEST TO REDUCE HER APPEARANCE REQUIREMENT TO EVERY SIX MONTHS; AND**
- **TO APPROVE WILLIAM J. LEAHY, M.D., TO SERVE AS TOBY JAMES TIPPIE, P.A.'S SUPERVISING PHYSICIAN.**

**DR. BUCHAN FURTHER MOVED TO GRANT PHILIP F. MYERS, JR., M.D.'S REQUEST FOR**

December 15, 2005

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**APPROVAL OF CASE WESTERN RESERVE UNIVERSITY'S *INTENSIVE COURSE IN CONTROLLED SUBSTANCE MANAGEMENT AND INTENSIVE COURSE IN MEDICAL ETHICS, BOUNDARIES AND PROFESSIONALISM*, AS FULFILLING THE REQUIREMENTS OF PARAGRAPHS B.(2) AND B.(3) OF THE BOARD'S ORDER OF SEPTEMBER 14, 2005.**

**DR. BUCHAN FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT "A", THE P.A. APPLICANTS LISTED IN EXHIBIT "B", AND THE P.A. UTILIZATION PLANS SUBMITTED BY THE FOLLOWING: CARNATION CLINIC; CINCINNATI CHILDREN'S HOSPITAL-NEUROSURGERY; CLEVELAND ANESTHESIA GROUP; SHARON DORMAN, D.O., & ASSOCIATES; FIRST CAPITAL INTERNAL MEDICINE; KIRAN TAMIRISA, M.D.; UHPL DEPT. OF ORTHOPAEDICS; UNIVERSITY RADIOLOGY ASSOCIATES OF CINCINNATI; VASCULAR SERVICES OF OHIO; WHEELERSBURG MEDICAL ASSOCIATES; AND WHEELING HEALTH RIGHT.**

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

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

The motion carried.

#### PROBATIONARY REQUESTS

##### PHILLIP THIELE NORTH, M.D.

Dr. Steinbergh referred the Board members to the CV of Dr. Gursal, the proposed monitoring physician, and commented that it wasn't complete. It lists her as working at one location until March 2005, and then indicates that she is now in Baltimore, Ohio.

Ms. Bickers advised that Dr. Gursal works in the clinic where Dr. North works. She added that there are no concerns about Dr. Gursal's practice.

**DR. STEINBERGH MOVED TO APPROVE MARY M. GURSAL, D.O., TO SERVE AS PHILLIP**

December 15, 2005

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**THIELE NORTH, M.D.'S MONITORING PHYSICIAN. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

LICENSURE

ADAM P. HALL, D.O.

Dr. Davidson advised that the Board approved and confirmed a Report and Recommendation in the matter of Dr. Hall the previous day. Based on that Proposed Order, Dr. Hall's application for licensure is now before the Board.

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

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

The motion carried.

December 15, 2005

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RATIFICATION OF SETTLEMENT AGREEMENTS

JAMES F. ZIMMERMAN, D.P.M.

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

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

The motion carried.

ELECTION OF OFFICERS

**DR. STEINBERGH MOVED TO UNANIMOUSLY ELECT DR. ROBBINS AS PRESIDENT, DR. KUMAR AS VICE-PRESIDENT, DR. TALMAGE AS SECRETARY AND MR. ALBERT AS SUPERVISING MEMBER FOR THE YEAR 2006. DR. BUCHAN SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Davidson stated that the experience of being the Board President has been a particularly meaningful, wonderful experience. She stated that working with the Board and the Board staff is something that she will remember and cherish forever.

The Board recognized Dr. Davidson with applause.

JOINT REGULATORY STATEMENT REGARDING THE PROVISION OF ESTHETIC, COSMETOLOGY AND RELATED SERVICES

Dr. Steinbergh reviewed the history and the various changes made to the document with the Board. She stated that the Cosmetology Board has requested that the paper go back to the Scope of Practice Committee for further work. Dr. Steinbergh stated that the alternative would be for the Board to adopt the document as it stands as a Medical Board policy statement. She asked for guidance from the Board.

Dr. Talmage joined the meeting at this time.

Dr. Egner stated that she thinks that it's very important that this paper be a joint statement from both

December 15, 2005

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boards. She asked that it be sent back to Committee to try to work out the problems in a timely fashion. She added that the Committee has to tell the Cosmetology Board that it needs to be very clear on what the bones of contention are.

Following further discussion by the Board, the decision was made to return the document to Committee for further negotiations with the Cosmetology Board.

Mr. Whitehouse suggested meeting with the new Director of the Cosmetology Board to discuss this matter and to explain to him that the Medical Board will make its final decision in January.

DRAFT REPORT OF THE FEDERATION OF STATE MEDICAL BOARDS SPECIAL COMMITTEE ON THE EVALUATION OF UNDERGRADUATE MEDICAL EDUCATION

Dr. Davidson commented that this is a topic the Board has discussed many times, and one which the Federation can do that nobody else can. She stated that she was encouraged by this draft report, and asked whether there were any other comments by Board members.

Dr. Varyani stated that it is a fantastic report.

Dr. Davidson stated that it makes you realize what a complicated mess it is.

Mr. Browning referred to page 713 of the report, talking about the fact that medical schools located outside the U.S. comprise one fourth of licensed physicians of the U.S. The Board has to deal with questions of the quality of the medical schools, which is very difficult to do. Mr. Browning stated that he read in an article a month or two ago that California is one of the only states in the United States to attempt to evaluate these schools, and he wondered whether this is what Ohio should be doing. Mr. Browning said that one fourth is a huge number, and due to fiscal pressures, the United States will not build medical schools to be responsive to increases in population; and, largely because of economics, the United States will depend more on foreign medical graduates. This is all the more reason to get as sophisticated and knowledgeable about the foreign schools as possible.

Dr. Varyani noted that the article also talked about U.S. citizens who go to foreign medical schools and then come to New York for clinical training. He stated that New York is the only state where they can do that.

Dr. Davidson commented that the article also said that that group does the poorest in U.S.M.L.E. testing. She stated that this is a huge problem.

Dr. Varyani stated that the Board can start looking at it and talking about it, but it will need the help of medical schools. The Board can't do it on its own. He commented that he thinks that the Board has already initiated that.

December 15, 2005

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Dr. Davidson stated that she takes note during consideration of licensure applicants, and that closer to one third of the applicants this Board sees are graduates of foreign schools. She stated that the Board will have to work with other states to see what they are doing to evaluate foreign medical schools.

Dr. Robbins stated that he intends to invite the deans of Ohio's medical schools to meet with Board members during the Thursday session of the April 2006 Board meeting.

Mr. Browning stated that the Board should also do an evaluation of the clinical skills testing.

#### ADMINISTRATIVE REPORT

Mr. Whitehouse at this time reviewed items contained in his written report, a copy of which shall be maintained in the exhibits section of this journal.

Mr. Whitehouse at this time introduced Investigator George (Dan) Henderson, and advised that he will be retiring on January 6. He advised that Mr. Henderson has had a long history of state service, having been with the Board for 16 years and with the Highway Patrol prior to coming to the Board.

At this time the Board recognized Mr. Henderson with applause.

Mr. Whitehouse referred to Attachment A of his report, his proposed strategic plan for the Board. He stated that the plan lists three areas that he wants to emphasize over the next five years: Culture, Competency, and Collaboration, as described in the document.

Dr. Davidson commented that the three topics are the result of all of the discussions the Board and staff has held over the last several months.

Mr. Browning asked whether the staff is in full support of this plan.

Mr. Whitehouse indicated that he believes the staff is waiting for the Board's reaction. He does believe that the staff, in general, is behind this proposal. He added that the staff is looking for direction from the Board.

**DR. BUCHAN MOVED TO ADOPT THE PROPOSED STRATEGIC PLAN. MR. BROWNING SECONDED THE MOTION.** All members voted aye. The motion carried.

Mr. Clifford advised that Dr. Steinbergh has asked for statistics regarding the success of appeals of Board Orders. He stated that the staff has compiled the following statistics for the past five years:

- 2000 – 10 cases were appealed. Six were resolved in the Board's favor, two were dismissed, and two were not in the Board's favor.



December 15, 2005

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Dr. Varyani	- aye
Dr. Buchan	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Saxena	- aye
Dr. Steinbergh	- aye

The motion carried.

Alexander Beylinson, M.D.

Dr. Robbins stated that Dr. Beylinson has asked for two things. The first was for a waiver of the seven-year rule for taking the U.S.M.L.E. He missed the seven year deadline by nine months, and he has not failed any of the steps more than three times. Dr. Robbins stated that Dr. Beylinson's explanation as to why he missed the deadline was because he was dealing with difficulties with the care of a daughter who was severely challenged. The Committee found it difficult to deny this part of Dr. Beylinson's request, and recommends approval of the U.S.M.L.E. sequence and allow the variance within the ten-year period.

Dr. Robbins continued that the second part of Dr. Beylinson's request is for equivalency regarding his training. Dr. Robbins stated that Dr. Beylinson has not had two years of training through the second year level, as required. It appears he has had two years of PGY 1 training. His residency director sent a letter which indicated that they would call the one year PGY 2 if that's what Dr. Beylinson needs. The Committee recommends denying the request for equivalency.

**DR. TALMAGE MOVED TO APPROVE DR. BEYLINSON'S REQUEST FOR AN EXEMPTION TO RULE 4731-6-14(C)(3). DR. TALMAGE FURTHER MOVED TO PROPOSE TO DENY DR. BEYLINSON'S REQUEST FOR ENDORSEMENT LICENSURE AS HE HAS NOT COMPLETED 24 MONTHS OF TRAINING THROUGH THE SECOND YEAR LEVEL, OR ITS EQUIVALENT. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

December 15, 2005

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Zhijun Guo, M.D.

Dr. Robbins stated that Dr. Guo has also requested an exemption of the seven year rule. He completed the U.S.M.L.E. eight months over the deadline; however, in the course of his training he spent a significant amount of time studying for his Ph.D. The Committee recommends approval.

**MR. BROWNING MOVED TO APPROVE DR. GUO'S REQUEST FOR AN EXEMPTION TO RULE 4731-6-14(C)(3), AND TO GRANT DR. GUO'S REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Andre Guelman Machado, M.D.

Dr. Robbins stated Dr. Machado is requesting an exemption of the seven-year rule. He noted that Dr. Machado missed the deadline by 19 months, but he did pass all three parts on his first attempt. Dr. Robbins commented that Dr. Machado's scores on all three parts were quite good. During his training, Dr. Machado was enrolled in a Ph.D. program that he completed in January 2004.

Dr. Robbins stated that Dr. Machado has also requested that the Board find that his previous training and experience are equivalent to 24 months of training through the second year level. Dr. Machado trained for surgery and neurosurgery in Brazil and is currently in his second year of fellowship training. He's advised that he needs the equivalency in order to get his visa renewed so that he can stay in the United States and complete his training. Dr. Robbins stated that the Committee members felt that Dr. Machado is well trained and is in a great program here. It recommends granting his requests.

**DR. STEINBERGH MOVED TO FIND THAT DR. MACHADO'S PREVIOUS TRAINING AND EXPERIENCE IS EQUIVALENT TO 24 MONTHS OF TRAINING THROUGH THE SECOND YEAR LEVEL. DR. STEINBERGH FURTHER MOVED TO GRANT DR. MACHADO'S**

December 15, 2005

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**REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Sabiha Siddiqui, M.D.

Dr. Robbins stated that Dr. Siddiqui has also requested an exemption to the seven-year rule. She missed the deadline by one month, and explained that she was unable to take the U.S.M.L.E. prior to getting additional training. Dr. Siddiqui explained that she had to take two years of postgraduate training before she was permitted to sit for Step 3.

Several Board members indicated that that is not correct.

Ms. Rieve stated that Dr. Siddiqui took the U.S.M.L.E. for Arkansas, and the Arkansas requirements may be different.

Dr. Robbins stated that she failed Steps 1 and 3 the first time she took them, but passed both on her second attempt. Dr. Robbins stated that he does question the excuse she gave for going beyond the deadline, but noted that it was only one month late.

**DR. STEINBERGH MOVED TO GRANT DR. SIDDIQUI AN EXEMPTION OF RULE 4731-6-14(C)(3) AND TO APPROVE DR. SIDDIQUI'S REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

VOTE:	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye

December 15, 2005

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

The motion carried.

David Mark Stern, M.D.

Dr. Robbins advised that Dr. Stern is the newly appointed dean of the College of Medicine of the University of Cincinnati. He has not had any clinical practice since 1985. Dr. Robbins stated that Committee tabled this request to get further information in January.

Dr. Robbins stated that he believes the recommendation will be to require Dr. Stern to pass the SPEX.

PRESCRIBING COMMITTEE

Dr. Varyani stated that he and Mr. Schmidt met with representatives of the Ohio Hospice Association and discussed the pros and cons of changing the Board's prescribing rules to allow hospice medical directors to prescribe pain medication to patients who are in hospices without seeing the patients. The Committee will be working on these rules. Under the current rules, this is not permitted. The Committee is contemplating making an exception for patients in hospices.

Dr. Talmage stated that many times the primary care physician refers or transfers the patient to hospice and then is reluctant to prescribe narcotics because they are no longer seeing the patient on a regular basis. The only person able to be reached by hospice is the medical director, who can prescribe the pain medications. These patients are clearly terminal and need pain care. Some exception needs to be granted.

Dr. Steinbergh stated that she has had patients in hospice whose care she has transferred to the hospice physician. Dr. Steinbergh stated that her expectations are that the hospice physician will see that patient. She sees no reason why, at least once, the hospice physician shouldn't go see the patient and make a cursory exam.

Dr. Talmage stated that they don't. He commented that some of these patients are in their own homes and the physicians can't get to them.

Dr. Steinbergh disagreed, stating that Medicare pays for the physician to make that house call.

Dr. Varyani stated that Dr. Steinbergh's concerns are also his. He stated that the problem of the hospice director not seeing the patient is only ten percent. Ninety percent of them are seen. Dr. Varyani stated that there has to be an orderly transfer from the primary health care physician to the hospice medical director.

December 15, 2005

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He agreed that there will be some incidents of the patient being at home and the medical director not being able to see the patient, but every effort should be made before the transfer to at least talk to the primary care physician and take over the patient's care. Dr. Varyani stated that he doesn't want to give the medical directors carte blanche to not see the patient. Dr. Varyani stated that that is what the Committee needs to work on.

Mr. Albert arrived during the previous discussion.

Dr. Davidson stated that the Board needs a lot more information than it has now to change the rules. She commented that the Board needs to tread lightly.

Dr. Talmage commented that the potential for abuse is extremely small. The change would be in the interest of caring for these patients.

#### QUALITY ASSURANCE COMMITTEE

Dr. Egner stated that the Committee reviewed the closed case report and found that most were closed appropriately. The Committee sent three cases back to the Secretary and Supervising Member for reconsideration.

#### LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed the credentials of a number of schools and recommends granting a certificate of good standing to all of them.

**MR. BROWNING MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO THE FOLLOWING SCHOOLS: THE ACADEMY & CLINIC OF MASSOTHERAPY; THE AMERICAN INSTITUTE OF MASSAGE THERAPY; ANTONELLI COLLEGE; CUYAHOGA COMMUNITY COLLEGE; HEALING ARTS INSTITUTE; MERCY COLLEGE; NEW YORK COLLEGE OF HEALTH PROFESSIONS; OHIO COLLEGE OF MASSOTHERAPY; THE SOMA INSTITUTE; WASHINGTON STATE COMMUNITY COLLEGE; AND YOUNGSTOWN COLLEGE OF MASSOTHERAPY. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

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

December 15, 2005

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Dr. Steinbergh - aye

The motion carried.

P.A. COMMITTEE

Dr. Talmage advised that last month the Board tabled a request by Don Eun Lee, M.D. to allow his P.A.s to see more than 25 patients per day. The Board directed staff to obtain additional information concerning the type of examination being performed by the P.A. at Dr. Lee's clinic. Dr. Talmage stated that Mr. Clifford is ready to address that matter.

Mr. Clifford stated that he worked with Ms. Thompson and Ms. Hacker to obtain information. He stated that the staff started tracking utilization plans in 2005, and in this year alone the Board approved several requests for P.A.s to see more than 25 patients a day, most of which were for shifts longer than eight hours. He stated that there was one outlier, where the Board approved the P.A. to see 75 patients per day.

Dr. Steinbergh stated that she recalls that case, and the P.A. was making rounds in a dialysis center. She stated that the Board discussed that and appreciated the circumstances.

Ms. Thompson stated that Dr. Lee wants his P.A. to see up to 32 patients per day doing employment physicals. She referred to information submitted by Dr. Lee concerning how the P.A. will be used.

**DR. STEINBERGH MOVED TO REMOVE THE APPLICATION OF DR. LEE FROM THE TABLE. MS. SLOAN SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Robbins asked whether the Board has a lot to stand on should it deny the request.

Mr. Clifford stated that the 25 patients per day is more of an internal policy as opposed to any sort of legislation or rule that's out there. He stated that he thinks that Courts would be deferential to the Board and their expertise should they say that this is what they think is appropriate and the hearing examiner agrees with that decision. He feels it would be hard to overturn that decision. Mr. Clifford stated that he's not saying that there couldn't be instances when it would be overturned because there is no law or Administrative Code section that mandates what is occurring, there is the potential for reversal.

Dr. Steinbergh stated that she thinks that this is a heavy workload for a P.A. She will vote no against a motion to approve.

Ms. Thompson stated that there isn't any statute or rule that addresses this. What the Board is doing is trying to assess some sort of minimal standard of care issue as to how many patients of this type can a patient see in eight hours a day. If a P.A. sees four patients an hour, four times eight is 32. At the hearing the Board would have to have expert testimony to testify that that's too many.

December 15, 2005

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**MR. ALBERT MOVED TO APPROVE DR. LEE'S REQUEST FOR HIS P.A. TO SEE 32 PATIENTS PER DAY. DR. SAXENA SECONDED THE MOTION.**

Dr. Buchan asked whether a CPT code for simple or complex histories and physicals require a certain time frame.

Dr. Varyani stated that a simple is ten minutes.

Dr. Talmage stated that that's CPT Code 1. Code 2 is 15 to 20 minutes, Code 3 is 20 to 30 minutes and Code 4 is 30 to 45 minutes.

Dr. Buchan stated that a simple history and physical then takes ten minutes.

Dr. Steinbergh stated that she has done these Department of Transportation exams and so forth, and she still feels responsible to make certain that examination is appropriate. You cannot do a ten-minute physical examination and do the paperwork and ask questions.

Dr. Buchan stated that he would argue against approving this request based upon the fact that a blood pressure check is one thing in the family practice arena, and a history and physical is another. It requires more time.

A vote was taken on Mr. Albert's motion:

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

The motion failed.

Dr. Talmage stated that the Committee also discussed the issue of the term, "PA-C", stating that that may not be obvious to the patient. The Committee recommends encouraging the P.A.P.C. to relook at the issue of identification of a P.A. who is going to do a procedure.

Dr. Talmage stated that the Committee also reviewed applications for supplemental plans.

December 15, 2005

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Youngstown Orthopaedic Associates

Dr. Talmage stated that the Committee reviewed a number of requests from the above-captioned group. He stated that the Committee recommends approval, based on the Cleveland Clinic Consent Agreement.

**DR. TALMAGE MOVED TO APPROVE THE GROUP'S REQUEST FOR ITS P.A.S TO PERFORM THE FOLLOWING FUNCTIONS, SUBJECT TO THE CONSENT AGREEMENT ENTERED INTO WITH THE CLEVELAND CLINIC ORTHOPAEDIC DEPT. BE APPENDED TO THE APPROVAL: INJECTIONS OF STEROIDS AND ANALGESICS INTO THE KNEE JOINT, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 35 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 35 PROCEDURES TO DETERMINE COMPETENCY; INJECTIONS OF SYNVISIC INTO THE KNEE JOINT, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 35 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 35 PROCEDURES TO DETERMINE COMPETENCY; AND ASPIRATION OF THE KNEE JOINT, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 35 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 35 PROCEDURES TO DETERMINE COMPETENCY. DR. BUCHAN SECONDED THE MOTION. A vote was taken**

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

The motion carried.

Dr. Talmage stated that both the P.A. Policy Committee and the P.A. Committee recommend denial of the last two requests the group has made.

**DR. TALMAGE MOVED TO PROPOSE TO DENY APPROVAL OF THE FOLLOWING FUNCTIONS, BASED ON THE COMPLEXITY OF THE JOINT AND THE GREATER RISK OF COMPLICATION: HIP INJECTIONS AND HIP ASPIRATIONS. DR. STEINBERGH SECONDED THE MOTION. A vote was taken**

December 15, 2005

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VOTE:

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

The motion carried.

Community Health Partners

Dr. Talmage stated that there is precedent for the request that P.A.s perform vein and artery harvesting. He stated that the group did ask for an exemption to the observation requirement. The Committee recommends to approve the supplemental, but to deny the exemption of observation, because if the Board granted the exemption, the group could bring in any new P.A. and the exemption would still be in place. That would be inappropriate.

**DR. TALMAGE MOVED TO APPROVE COMMUNITY HEALTH PARTNERS' REQUEST FOR ITS P.A.S TO PERFORM VEIN AND ARTERY HARVESTING, USING OPEN OR ENDOSCOPIC TECHNIQUES, AND IN A HOSPITAL SETTING, UTILIZING 100% DIRECT SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY. DR. TALMAGE FURTHER MOVED TO DENY THE GROUP'S REQUEST TO WAIVE THE PROCEDURE OBSERVATION REQUIREMENT. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken

VOTE:

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

The motion carried.

#### SCOPE OF PRACTICE COMMITTEE

Dr. Steinbergh stated that the Committee reviewed a proposal to set up laser therapy centers for smoking cessation. She stated that the Committee members reviewed materials including the FDA definition, the statutory references, applicable rules and information on laser therapeutics. The discussion was on biostimulation lasers or low level lasers. They would be applied to acupuncture sites to reduce the desire to smoke by triggering the release of endorphins, which eliminates the symptoms of withdrawal and craving for nicotine. The inquiries posed to the Board include whether or not Ohio law permits individuals to practice low level laser therapy, and will the Board consider altering OAC 4731-18-02, the use of light based medical devices, to provide a distinction between high level, or hot lasers, and low level, or cold lasers.

Dr. Steinbergh stated that the Committee reviewed the material the previous day and did concur that Ohio law does not currently allow any individual not licensed as a physician to practice low-level laser therapy. These lasers fall within the electromagnetic radiation wavelengths, which is descriptive of lasers.

Dr. Steinbergh stated that the Committee's recommendation is to respond as follows:

Ohio law does not currently allow any individual not licensed as an allopathic physician, osteopathic physician, or podiatric physician and surgeon by the State Medical Board of Ohio to practice low level laser therapy (LLLT).

Pursuant to Ohio Revised Code Section 4731.41 no person shall practice medicine and surgery, or any of its branches, without a certificate from the State Medical Board; no person shall advertise or announce himself as a practitioner of medicine or surgery, or any of its branches, without a certificate from the Board.

Ohio Revised Code Section 4731.34 (A)(3)(b), broadly defines the practice of medicine as any person who "prescribes, advises, recommends, administers, or dispenses for compensation of any kind, direct or indirect, a drug or medicine, appliance, mold or cast, application, operation, or treatment, of whatever nature, for the cure or relief of a wound, fracture or bodily injury, infirmity, or disease.

Furthermore, according to Ohio Administrative Code 4731-18-02 (B), the "application of light based medical devices to the human body is the practice of medicine..." A light-based medical device is defined in Ohio Administrative Code 4731-18-02 (A), as "any device that can be made to produce or amplify electromagnetic radiation at wavelengths equal to or greater than one hundred eighty nm but less than or equal to  $1.0 \times 10^6$  nm and that is manufactured, designed, intended or promoted for in vivo irradiation of any part of the human body for the purpose of affecting the structure or function of the human body." Since the device in question emits electromagnetic radiation within the ranges

December 15, 2005

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outlined in this rule, and its application is claimed to affect the function of the human body by affecting and altering cellular response, its use fits within the rule and constitutes the practice of medicine. Moreover, low level laser therapy does not fall within the limited delegation authority provided in Ohio Administrative Code 4731-18-03, or the exceptions provided in Ohio Administrative Code 4731-18-04.

**DR. BUCHAN MOVED TO ACCEPT THE SCOPE OF PRACTICE COMMITTEE'S PROPOSED RESPONSE CONCERNING THE USE OF LOW LEVEL LASER THERAPY. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Prior to adjournment, Dr. Talmage advised that the Board has learned that its out-of-town members will no longer be charged a reduced rate at the Doubletree Guest Suites, where most of the out-of-town members have stayed for the last several years. Arrangements are being made to find other accommodations; however, Dr. Talmage proposed that a letter be sent to the Governor informing him of the change in the hotel's policy, and further expressing concern that the reimbursement rates for travel and lodging are ridiculously low, given the extant circumstances.

Board members agreed with Dr. Talmage that a letter to the Governor would be appropriate.

Dr. Davidson at this time asked for the Board's authorization for Dr. Steinbergh to represent the Board at the next meeting of the American Association of Osteopathic Examiners (A.A.O.E.), to be held on January 7 & 8, in Orlando, Florida.

**MR. ALBERT MOVED TO AUTHORIZE DR. STEINBERGH TO REPRESENT THE BOARD AT THE A.A.O.E. MEETING. DR. SAXENA SECONDED THE MOTION.** All members voted aye. The

December 15, 2005

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motion carried.

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

Thereupon at 11:00 a.m. on December 15, 2005, the December 14-15, 2005 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 January 14-15, 2005, as approved on January 11, 2006.



Patricia J. Davidson, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

