

March 8, 2006

MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Andrew F. Robbins, Jr., M.D., President, called the meeting to order at 1:04 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Deepak Kumar, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Nandlal Varyani, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Patricia J. Davidson, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Carol L. Egner, M.D.; and David S. Buchan, D.P.M. The following did not attend the meeting: Kamala Saxena, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Lori S. Gilbert, Assistant Executive Director; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, David P. Katko, Karen H. Mortland, Kathleen S. Peterson, William J. Schmidt, Angela Scott, Charles A. Woodbeck and Lynn Zondorak, Enforcement Attorneys; Sheryl L. Maxfield, Lawrence D. Pratt, Kyle C. Wilcox, Tara Berrien, Damion M. Clifford, and Barbara J. Pfeiffer, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant.

EXECUTIVE SESSION

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

VOTE:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

Dr. Egner and Dr. Buchan joined the meeting during the executive session.

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

MINUTES REVIEW

**MR. BROWNING MOVED TO APPROVE THE MINUTES OF FEBRUARY 8-9, 2006.
MS. SLOAN SECONDED THE MOTION.** A vote was taken

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Jabir Kamal Akhtar, M.D.; David Ta-Wei Huang, M.D.; Handel Jay Roberts, M.D.; and Marc H. Schwachter, M.D. A roll call was taken:

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

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Dr. Robbins - aye

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

Dr. Robbins 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. Robbins 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.

JABIR KAMAL AKHTAR, M.D.

Dr. Robbins directed the Board's attention to the matter of Jabir Kamal Akhtar, M.D. He advised that objections were filed by both the Office of the Attorney General and Dr. Akhtar to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Akhtar was accompanied by his attorney, Robert C. Angell. Mr. Angell stated that the resolution recommended in this case by the Hearing Examiner is reasonable, fair, appropriate, and in the best interest of Dr. Akhtar and the Board. Mr. Angell stated that Dr. Akhtar accepts and welcomes the education, monitoring and reporting requirements suggested by Mr. Porter; and Dr. Akhtar assures the Board that he

will comply strictly with each and every requirement.

Mr. Angell stated that, on Dr. Akhtar's behalf, he would request one modification to the recommended Order. Mr. Angell asked that the Board modify the Order to include a stay of the proposed suspension. Mr. Angell commented that there was quite a long delay between the hearing in October and this appearance, and conceded that some of that was his responsibility. He advised that Dr. Akhtar has already served a de facto suspension of at least 60 days. Mr. Angell stated that he knows that the 30-day deadline is aspirational and not mandatory, and that, if the Board were to grant such a stay, it would be purely a matter of grace on the Board's part. However, that is the one modification he would suggest. He stated that Dr. Akhtar has acknowledged his wrongdoing throughout this process. He's done everything he could possibly do to rectify the situation. He's strictly complied with all orders of the courts, and he has provided to the Board everything that has been requested of him.

Mr. Angell continued that the doctors who came in to testify for Dr. Akhtar at the hearing were doctors who knew him from his residency in Akron. These doctors had nothing to gain from coming in to testify for Dr. Akhtar, and they gave an accurate picture of who Dr. Akhtar is today. When the hearing was held in October, he began his opening statement with the simple statement that from the time this misconduct was committed ten to fourteen years ago, Dr. Akhtar has grown up. Mr. Angell at this time deferred to Dr. Akhtar for further comments.

Dr. Akhtar thanked the Board for the opportunity to make his address. He stated that "this thing" happened ten to fourteen years ago, and he's a totally different person now. He has finished medical school and residency. Dr. Akhtar stated that he agrees with the recommendation of the Hearing Examiner. He stated that he looks forward to completing the recommendation and after the two years are completed, he does not intend to see the Board again.

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

Mr. Clifford stated that most of his points were raised in the objections he filed with the Board. The Hearing Examiner didn't find any violations of Sections 4731.22(A) or 4731.22(B)(5), along with any violations of 4731.29 or 4731.08. With regard to the fraud, Dr. Akhtar failed to disclose in his application whether he was ever summoned to Court or a defendant in an action. Dr. Akhtar was a defendant and summoned to court in a credit card theft conviction. With regard to Dr. Akhtar's moral character, Dr. Akhtar has been convicted of credit card theft and conspiracy to defraud the United States. Mr. Clifford stated that that conspiracy charge stemmed from Dr. Akhtar's forging the signature of a medical school dean on a loan application. Mr. Clifford stated that the convictions and the underlying actions alone demonstrate a lack of good moral character.

Mr. Clifford stated that a final point demonstrating a lack of good moral character are the two stories regarding this forged loan document. At a deposition, Dr. Akhtar stated that he wanted to go to the Escuela Autonoma di Ciencias Medicas de Centro America in Costa Rica, which Dr. Akhtar knew teaches in Spanish, a language he didn't speak. At the hearing, Dr. Akhtar changed his story and stated that he wanted to go to medical school at Grace University, which didn't offer financial aid. Mr. Clifford stated

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that Dr. Akhtar had the ability to be consistent, clear and truthful at the hearing, yet he told different stories about this loan.

Mr. Clifford concluded his address by stating that the conspiracy conviction, along with the prior credit card theft conviction, demonstrate fraud and a lack of good moral character.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JABIR KAMAL AKHTAR, M.D. DR. DAVIDSON SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Steinbergh advised that, in regard to Dr. Akhtar's initial credit card difficulty in 1992, she does believe that Dr. Akhtar believed that the matter was expunged from his record. From the documentation the Board saw, she understands why he answered the way he did. He was young; he believed that that was going to be cleared. Dr. Steinbergh stated that she's not really concerned about that piece.

Dr. Steinbergh continued that the piece that really concerns her is the fact that Dr. Akhtar forged the signature of the dean of a medical school in his application for financial aid. That episode concerned her a great deal. She stated that Dr. Akhtar did inform the Board of that legal difficulty. Dr. Steinbergh stated that she is torn as to what to do in this case. She added that she agrees with the Conclusions of Law; she has concerns about his moral ability and his ethics in view of what he did in forging the application. She's torn about whether or not to license Dr. Akhtar. Is that something the Board can forgive? Can the Board license him and put him under probation, or does it say that Dr. Akhtar has been dishonest and doesn't meet Ohio's moral standard? She stated that that was a huge question for her.

Dr. Buchan stated that he concurs with Dr. Steinbergh. At the end of the day he has to ask the question as to whether or not it is reasonable to license this individual. Dr. Buchan stated that he has read enough of these reports and reviewed enough cases that sometimes he agrees to license people even though he's disappointed and even though he's mad. This case made him mad. He was angry that Dr. Akhtar would forge the name of the dean of the medical school. Dr. Buchan stated that he had a hard time getting over that; but he does believe that it was done at a time when grace should be granted. In that way, he would agree with the Report and Recommendation. Dr. Buchan stated that he doesn't like that Dr. Akhtar put himself in that position so that the Board has to make this call, but he's okay with the Report and Recommendation, as written.

Dr. Davidson disagreed with Dr. Steinbergh and Dr. Buchan, stating that she was more than angry. She was convinced that Dr. Akhtar showed a fairly consistent and longstanding pattern of stretching the truth and lying. She was totally stopped by the forging of the dean's name. She acknowledged that Dr. Akhtar was young and it was expeditious to do so, but later in the Board's application, when he responded to the question of whether or not he had pled guilty to or been found guilty of a violation of any law, his answer was that "I was indicted in Michigan for not using a student loan for purpose of education. I was given probation, which I have successfully completed." He did enclose the case in terms of probation, which

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included a fine of \$5,000.00, an order to pay restitution in the amount of \$37,000.00, and six months of electronic monitoring. Dr. Davidson stated that she thinks it is relevant to just dash it off as probation. She stated that she thought this response spoke to the pattern of trying to sweep things under the rug and not be truthful with the Board. She has serious questions as to whether the Board will really feel comfortable with this fellow holding an Ohio license.

Dr. Kumar stated that he leans more in favor with the Report and Recommendation because of the fact that Dr. Akhtar did not lie on his application for licensure, except for his original issue in 1992. Dr. Kumar stated that a person could reasonably think that the 1992 issue was expunged and that he didn't have to report it. Dr. Akhtar did report those things to the Board, and that tells Dr. Kumar that Dr. Akhtar has probably grown up and somewhat recognizes what he did. Under that scenario, as bad as it is, he's willing to grant Dr. Akhtar a license and monitor him.

Dr. Varyani stated that he understands that Dr. Akhtar was forthcoming in the application, but at this point he's just beginning to think that Dr. Akhtar knows that the Board would know this anyway. Somehow this information would come out. Being straightforward is okay, but he has a basic problem with Dr. Akhtar's forging the dean's signature for a loan. If you're an adult and are signing for a loan, and you forge someone else's signature, that is just not good moral character. Dr. Akhtar did it to get into the school he wanted to get into, and he manipulated the system. Dr. Varyani stated that that bothers him, so he's not in favor of the Report and Recommendation.

Dr. Steinbergh stated that Dr. Davidson's comments pointed something out that Dr. Steinbergh forgot in her earlier comments. It is true that, even when he did say that he'd had the misdemeanor conviction, the obvious thing that he didn't give the Board was the truth. Dr. Akhtar used this loan for inappropriate purposes, but he never said, "guess what I did." Dr. Steinbergh stated that that's big, but she doesn't know how she feels about the concept that you forge another person's signature. That's no different from forging a signature on a prescription. It's important.

Dr. Buchan stated that the question is whether or not it's a fatal flaw, and Dr. Buchan stated that he's weighed in on this.

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	- nay
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- nay
	Dr. Steinbergh	- nay

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Dr. Robbins - aye

The motion carried.

DAVID TA-WEI HUANG, M.D.

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

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

Dr. Huang was not present; however, his attorney, Eric Plinke, addressed the Board on Dr. Huang's behalf. Mr. Plinke stated that Dr. Huang has contracted the flu and was unable to make his travel arrangements to be here today. Mr. Plinke stated that Dr. Huang did e-mail a statement to be read to the Board. Mr. Plinke further stated that he filed his objections that identify his three legal and equitable reasons for taking the unusual step that they're requesting; i.e., to dismiss the case against Dr. Huang. Mr. Plinke stated that he would first read Dr. Huang's statement, and then he would further address the Board. Mr. Plinke read as follows:

Dear Honorable members of the State Medical Board of Ohio,

After practicing radiation therapy for six years at the Medical College of Virginia, where I was trained, I moved to Chillicothe, Ohio. I took this position, aspiring to bring the most advanced technology and treatment concepts to serve the people in that community and surrounding rural area so that cancer patients do not have to drive to Columbus for radiotherapy. With my sincerity to serve the local community, in 18 months we were able to raise \$100,000 and started a seed implant program for prostate cancer patients. I have fond memories of my two years practicing there, and left for family and personal reasons to take a position in Florida. I've kept in touch with a few friends there and believe that my service is still missed by a few citizens in Chillicothe.

Jackson Memorial Hospital in Miami, where this particular patient was treated, is a county hospital serving indigent patients. It has a tremendous patient load. When I saw the consultation request, which was signed by an attending urologist, stating that the patient had a PSA of 41 – less than 4 is the normal value – and a positive biopsy of adenocarcinoma to prostate, Gleason score of 6, which meant it was a moderate differentiated cancer, I was deeply concerned about the patient and the rapid progression of the disease. The fact that a high PSA indicated the high likelihood of regional lymphatics, which needed addressed immediately. If I were the patient, I would want to be treated right away.

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It was only later that it was discovered that the clinical report provided to me incorrectly documented the results of the biopsy and incorrectly diagnosed the patient. An after-the-fact review determined that this occurrence was a failure of the system. Policies were modified and enforced afterwards. Since I was the attending physician, I took full responsibility for the treatment I provided. To prevent such an incidence from occurring again, I also made a personal policy change that I would read and sign the pathology report before starting a treatment.

In resolution to review by the Florida Board of Medicine, I agreed to attend a risk management course, pay a fine, and perform 100 hours of community service. I elected to help the disadvantaged children and it may require more than the 100 hours that I agreed to do to truly benefit these kids.

I have read the Proposed Order. A reprimand by the State Medical Board of Ohio will make a permanent record of the matter in the National Practitioner Data Bank, something that did not occur because of the Florida review. That prospect is discouraging and disheartening for me and my family because of the consequence of my well intentioned care for the patient. At this time I happen to have caught the flu with laryngitis, mild fever, cough, and am unable to travel from Florida to attend this meeting. I sincerely ask the Board to reconsider this reprimand.

Mr. Plinke stated that he knows that this case doesn't rise to the level the Board often sees, where it has reams of medical records and expert testimony; but for Dr. Huang, it is an important testimony. Mr. Plinke stated that he knows that the Board members have read the record. However, in matters such as this, what he asks himself is why a physician would be disciplined, when the Board has low-level bootstrap actions from other states with no evidence or findings of clinical error, involving a board-certified physician who otherwise has a spotless record. For what exactly is the Board disciplining this physician? There isn't an identified error here. There was a regrettable circumstance that was a result of a system error that can't necessarily be pinpointed on one particular person, in this case, Dr. Huang. The fact that the Board can discipline or has the discretion to do so doesn't necessarily mean that the Board has to do it in every case; particularly in a case like this. Mr. Plinke stated that that's why he comes to the Board today to ask that the rare consideration be given and that the case be dismissed.

Mr. Plinke continued that the Board's job is to protect the public, and the Board has made a public record of this matter, whether the Board dismisses this case, reprimands, revokes or takes any action. The citation letter will always be a public record here. If anyone goes on line to check Dr. Huang's licensure status, they will see the citation letter and be able to download the documents. Part of that citation letter is actually the Florida agreement into which Dr. Huang entered. Mr. Plinke stated that he thinks that the Board is still serving the public, even if it dismisses this case.

Mr. Plinke stated that, as he mentioned in his objections to the Report and Recommendation, the proposed reprimand will be reported to the Data Bank, something in which the Florida Board agreement, because of its nature, did not result. That, of course, sets in motion a chain of dominoes with which Board members

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are familiar, that lead to credentialing problems and issues with third party payers that Dr. Huang has already resolved one time. He will now have to revisit that because this Board's discipline will be, essentially, of a higher magnitude than what Florida did. Mr. Plinke stated that he describes that in more detail in his objections.

Mr. Plinke concluded by saying that, based on these inequities, the record before the Board, and no finding of clinical error, he respectfully requests that in this case the Board exercise the discretion it has and dismiss this matter.

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

Mr. Clifford stated that this case is pursuant to a 4731.22 (B)(22), Ohio Revised Code, violation. It is not a standards case. The reason that this case is before the Board is because the Florida Board imposed a \$10,000 fine, a letter of concern, 100 hours of community service and five hours of CME in risk management. These actions by the Florida Board are a limitation of Dr. Huang's license. By statute, under 4731.22 (B)(22), the Ohio Board has the ability to impose discipline based upon the limitation by another state. The Ohio Board also has the ability to impose a more severe or stricter penalty or sanction than did the other state.

Mr. Clifford stated that the Hearing Examiner did an excellent job in providing appropriate analysis of this, looking at the limitation imposed upon Dr. Huang by the Florida Board, and a reprimand is proper in this instance.

DR. EGNER MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF DAVID TA-WEI HUANG, M.D. DR. KUMAR SECONDED THE MOTION.

Dr. Steinbergh stated that she's not quite sure how you can say that there was no clinical error in this case. The Florida Board has a consent agreement with Dr. Huang, and unless the record is totally wrong, Dr. Huang made an incorrect diagnosis of adenocarcinoma of this patient and therefore irradiated him. Dr. Steinbergh stated that that's a clinical error, and it is the Board's responsibility to make a decision about this case, regardless of the level of the action taken by Florida. By dismissing this case, the Board would say that it's just going to wash it away. Dr. Steinbergh stated that this is a clinical error. One might call it a systems error, and she's heard that argument before, but this is the physician who is responsible for the patient, and that's where it lies. Systems are one thing, but physician responsibility is another thing, and Dr. Huang did make a rather significant clinical error in this case. Dr. Steinbergh stated that she appreciates how he made the error, and Dr. Huang has corrected that in saying that he will now review and sign off on all pathology reports, but he did not review the pathology report on this patient and made his clinical decision without that. Dr. Steinbergh stated that she supports the Hearing Examiner's Report and Recommendation.

Dr. Egner also spoke in support of the Report and Recommendation, stating that part of this is a legal thing in that in the Florida Order Dr. Huang did not admit to certain findings of fact, but this Board's record

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shows those as factual. A patient was erroneously diagnosed with adenocarcinoma. Dr. Huang didn't check the final pathology report and allowed the patient to have radiation. Dr. Egner stated that there are far-reaching effects for a patient getting unnecessary radiation therapy for prostate cancer that he didn't have. Dr. Egner stated that although she agrees that Dr. Huang has a very good record and believes that he will never make this mistake again, it is not right to say that there was no wrongdoing. A reprimand by this Board is very minimal. She added that she doesn't believe that reporting this to the National Practitioners Data Bank will have far-reaching effects for this doctor's negotiations with his malpractice insurance, hospitals, or with any contractual insurance companies. There are a lot of physicians who are in the Data Bank and they have not had any repercussions from that. Dr. Egner again stated that a reprimand is really very minimal. She spoke against dismissing this case, adding that a surgeon should never take a patient to the operating room based on just a verbal diagnosis from someone else. It's that surgeon's responsibility to make sure that the cancer is really there before operating. Dr. Egner stated that a radiation oncologist should do the same. She added that she's sure that the patient feels that there definitely was harm done. Dr. Egner stated that a reprimand is appropriate in this case.

Dr. Buchan stated that he would agree with what has been said. He added that he would disagree with Mr. Plinke's description of this as not being an error. Dr. Buchan commented that he's disappointed in those words. Dr. Buchan continued that Dr. Huang has served a reasonable sentence for this bad judgment, and he doesn't know what benefit will be served in imposing a different order. He believes that Dr. Huang has earned a reprimand, but he wouldn't be disappointed if the Board dismissed this case based upon Dr. Huang's record. Dr. Buchan stated that Dr. Huang is a highly credentialed individual who simply made an error. Dr. Buchan stated that he believes Dr. Huang has paid the price and he would lean towards leniency in this case.

Dr. Kumar stated that what he is going to say in no way absolves Dr. Huang from the mistakes he made. The unfortunate part is that he can't retry the case and he can't go back and look at the whole record, and that is a problem. What bothers him is that a radiation oncologist would be asked to see a patient if the urologist, who first finds a hard prostate and finds a PSA level of 41.5, and presumes that it is cancer, and he could see how the whole flow of system and error occurred. Dr. Kumar stated that he was initially leaning towards dismissal, but was concerned by something that Dr. Huang said in his letter to the Board. In the letter, Dr. Huang tells the Board that the biopsy result was "Right prostate: benign hyperplasia chronic inflam. [inflammation]; Left prostate: well differentiated adenoca. [adenocarcinoma]." Dr. Kumar stated that Dr. Huang is still reporting in his letter to the Board that the biopsy report had shown carcinoma. Dr. Kumar stated that he's totally conflicted here. What is the fact? Was it truly adenocarcinoma or wasn't it? Dr. Kumar stated that he has to rely on the Florida investigation. He stated that he doesn't think that Dr. Huang gets it from what he says in his letter. Because of that, the least he would recommend is a reprimand in this case.

Mr. Browning stated that, from a consumer perspective, the reprimand seems to him to be a balanced and reasonable response to the facts of the case.

Dr. Varyani agreed with Mr. Browning.

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

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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

HANDEL JAY ROBERTS, M.D.

Dr. Robbins directed the Board's attention to the matter of Handel Jay Roberts, M.D. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation and were previously distributed to Board members.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF HANDEL JAY ROBERTS, M.D. MS. SLOAN SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that this is a case of a physician who has violated his Consent Agreement. She stated that there's documentation that Dr. Roberts had considerable difficulty with monitoring and with submitting screens. Dr. Steinbergh stated that the Conclusions of Law in the Report and Recommendation are appropriate in this case. She added, however, that she feels strongly that in this particular case, should Dr. Roberts decide that he wants to be monitored by this Board and find his way back to the practice of medicine, he should have that opportunity. She suggested changing the Proposed Order from a permanent revocation to a revocation.

Mr. Browning stated that he had the same reaction, commenting that Dr. Roberts just dropped off and disappeared. Dr. Roberts would have to bring a good case to get his license back, but the Board should give him the chance to do that. A straight revocation would let him do that.

Dr. Egner stated that Dr. Roberts is one of a minority of impaired individuals who really don't fit into the traditional recovery programs. She stated that one needs to buy into the A.A. method, the Caduceus method, etc. You need to buy into it for it to work for you. If you don't, it's impossible to comply. She commented that the Board doesn't have an alternative method to offer these people. She added that she's

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not suggesting that the Board should have such an alternative, but to think that everyone fits into the same recovery pattern is unrealistic.

Dr. Egner continued that she hadn't given thought to just revoking Dr. Roberts' license because, personally, she doesn't think he'll ever make it in the Board's system. She added that she's not opposed to the suggested amendment because, if Dr. Roberts can come around to some sort of reconciliation and abide by the system the Board has, he should be given the opportunity to do so.

Dr. Steinbergh agreed with Dr. Egner. She added that she doesn't see anything so horrific in this case that she would want to permanently revoke the physician's license. Dr. Steinbergh commented that she has difficulty permanently revoking in impairment cases.

MR. BROWNING MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF HANDEL JAY ROBERTS, M.D. TO DELETE THE WORD, "PERMANENTLY." MS. SLOAN 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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF HANDEL JAY ROBERTS, M.D. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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Dr. Steinbergh - aye

The motion carried.

At this Mr. Albert again invited Board members to attend office conferences held with probationers, to see what goes on in those meetings. He commented that 47 such conferences took place on Monday and Tuesday.

MARC H. SCHWACHTER, M.D.

Dr. Robbins directed the Board's attention to the matter of Marc H. Schwachter, M.D. He advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Schwachter was accompanied by his attorney, Elizabeth Y. Collis.

Ms. Collis stated that she made her position on this case clear in her written objections. She at this time deferred to Dr. Schwachter.

Dr. Schwachter stated that he appreciates the Board spending the time to listen to him today. He added that he's pretty nervous, and he can't remember everything, so he did write things down.

Dr. Schwachter stated that he has a serious problem with chemical dependency. He'd like to say that he went through his first treatment program and then never used drugs or alcohol again, but that's just not true. He would also like to say that he's always been truthful and forthright to the Board, but that's also not true. Dr. Schwachter stated that, as he testified at hearing, in the winter of 2005 he relapsed on cocaine. He has no one but himself to blame for that relapse. He let himself down, his family down, and everyone else who depended on him. After he relapsed he proceeded to lie to everyone: his doctors, his wife, the Board and certainly to himself.

Dr. Schwachter stated that although he would never want anyone to relapse and go through what he's gone through and is still going through, he's learned a great deal from this. He's changed a lot of things in his life and the way in which he approaches his addiction now, which he might never have done had he not relapsed. Dr. Schwachter stated that at the time of relapse, he was angry and depressed; he had low self-esteem, and he definitely had a poor recovery in place. Two years earlier he had completed all of his training and was working as an OB/GYN in a supportive practice in Dayton. He'd just married, and his life seemed to have fallen into place. However, within a few years he was drinking more, using drugs and he lost his job and his medical license. He also developed an ulnar neuropathy, which diminished his

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chances of returning to clinical medicine and surgery in his field.

Dr. Schwachter stated that he completed his first treatment at Parkside, and wasn't fully ready to embrace recovery. He was very frustrated about the fact that his arm wasn't healing and that he couldn't do surgery again. He walked the steps to recovery, but his heart wasn't in it. It wasn't as easy as he hoped, and when temptations presented themselves, he took them. He met a friend in recovery after treatment, whom he visited often. They had a lot to share and were supportive of each other. When he learned that his friend's daughter, who lived in his house, had access to cocaine and was using it, he should have run, but didn't; he should have called O.P.E.P., but he didn't; he should have talked to his sponsor, but he didn't; he should have told his wife, but he didn't, because he thought he could handle it on his own.

Dr. Schwachter stated that he tried to get around the urine screens, and he knows that that's one of the most alarming things about his case. He was lying to himself and everyone around him. He then went into a second recovery program, after he reported to the Board. This time he entered Glenbeigh in Cleveland. A lot of things are different now. His family treats him differently now. His wife has made it clear to him that he will have no more chances. His wife is supportive of his recovery, but that support is limited. If he relapses again, his wife would definitely call the Medical Board, which she failed to do the first time, even though she suspected.

Dr. Schwachter advised that he thinks that he's more honest with himself now, and he's definitely more honest with his sponsor and his monitor. He is clearly more honest with the Board, as is evident from his hearing. Dr. Schwachter stated that he thinks he revealed things at the hearing that the Board couldn't have found out about otherwise. He felt like a tremendous weight had been lifted because of that.

Dr. Schwachter stated that he's been clean and sober since June 6, which is almost nine months. He attends A.A. meetings and works closely with O.P.E.P. and his A.A. monitor. He recently has been offered a job in Cleveland, which would require a move from Dayton, but he would be teaching residents and medical students surgery at a skill center. It's a non-clinical position that wouldn't require him to hold a license. Dr. Schwachter stated that he wants the option to go back into clinical medicine. They're taking a chance on him, and he hopes that the Board will as well.

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

Mr. Wilcox advised that this is a sad case. Today the Board is debating whether or not to permanently revoke the license of a physician who just finished medical school in 1997. As sad as that may be, it's necessary, given the lack of trustworthiness that Dr. Schwachter has displayed with this Board. He thinks that these issues of trust will prevent this Board from ever being able to safely monitor this physician. Mr. Wilcox referred to the circumstances surrounding Dr. Schwachter's relapse on cocaine in February 2005, noting that not only are the circumstances of the relapse egregious in that he basically took advantage of the friendship of a fellow recovering addict, but he actively continued the reinstatement process and did not immediately report this relapse to the Board. That is extremely disconcerting. Mr. Wilcox stated that Dr. Schwachter went as far as not disclosing this relapse to Dr. Jones at Parkside when she was evaluating whether he could be reinstated. Dr. Jones even indicated in an affidavit that she

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would never have recommended that he was capable of practicing had she been aware of the relapse.

Mr. Wilcox stated that, at hearing, Dr. Schwachter explained how he was able to avoid detection for his cocaine use. He explained how he used the urine of another person, which he obtained and stored at home in his refrigerator. He would then take the clean urine to his drug test and submit that for testing.

Mr. Wilcox stated that this is not the first time that Dr. Schwachter did this. Dr. Schwachter indicated that when he was in a residency program, he used the same urine switch technique when the program identified him as being a potential drug abuser. He used that technique to avoid detection at that time. Mr. Wilcox stated that this pattern of deception that Dr. Schwachter has displayed is staggering. He not only admitted to tampering with his urine screens, he also admitted to: falsifying A.A. attendance logs; submitting declarations of compliance in which he certified that he was sober and in compliance with his probationary terms, when he knew that he had relapsed; and he attended a probationary conference in May 2005, at which time he advised that he was compliant and that his recovery was going well. Dr. Schwachter knew that he had relapsed, and continued to relapse on cocaine and alcohol.

Mr. Wilcox stated that the bottom line in this case is that Dr. Schwachter has demonstrated repeatedly that he cannot be trusted or monitored by this Board. His actions make it impossible for the Board to maintain him on any kind of probation. As such, his license should be permanently revoked, as recommended.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF MARC H. SCHWACHTER, M.D. DR. EGNER SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Egner stated that she's in total support of this Report and Recommendation. It is always very disturbing when it's such a young physician; but Dr. Schwachter has lied through every aspect of his life in regards to his impairment. She agreed with Mr. Wilcox that there is no way to monitor Dr. Schwachter.

Dr. Egner stated that another thing that is very disturbing to her is that even in his presentation today, in his attorney's objections, there is not responsibility taken for this relationship that he had with an 18-year old girl who was his friend's daughter. Even today he doesn't really fully disclose that to the Board. Not only was he using cocaine and drinking alcohol with her, he was also having a sexual relationship with her. Dr. Egner stated that, to her, this shows Dr. Schwachter's completely immoral lifestyle, and she cannot overlook that. The Board has no way to monitor him because she doesn't think that he's capable of being a truthful person. Unfortunately, she doesn't think he gets to practice medicine now. Dr. Egner stated that she is very supportive of permanent revocation in this case.

Dr. Kumar agreed with Dr. Egner, stating that he's disappointed that Dr. Schwachter did not accept the relationship. However, he's going to rely on Joseph R. Mastrandea, D.O., whom he knows, and who is Dr. Schwachter's O.P.E.P. monitor. Dr. Mastrandea advises that he has been monitoring Dr. Schwachter, himself, including witnessing the specimen collection. Dr. Kumar stated that he thinks that there is hope that Dr. Schwachter has learned a lesson. Dr. Kumar suggested that the Board should revoke

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Dr. Schwachter's license, make him come clean, do all the things he has to do, and then apply for reinstatement, at which time the Board will look at this case again.

Dr. Egner asked whether Dr. Mastrandea was monitoring Dr. Schwachter previously.

Dr. Kumar stated that he was not. Dr. Mastrandea became Dr. Schwachter's monitoring physician during the latter part of his recent recovery phase.

Dr. Egner stated that that she doesn't know how to respond to that, and added that it's not part of the record.

Dr. Kumar stated that it is part of the record.

Dr. Steinbergh referred Dr. Egner to page 10 of the Report and Recommendation.

Dr. Egner noted that the report by Dr. Croom, Dr. Schwachter's A.A. sponsor, is not glowing. In the objections it notes that Dr. Croom says that Dr. Schwachter is doing "a pretty good job." In the Report and Recommendation, Dr. Croom testified that Dr. Schwachter still has stumbling blocks and difficult times. This isn't like Dr. Croom has made a glowing report.

Dr. Kumar agreed. He stated that, had Dr. Croom's report been glowing, he would have argued for a stayed revocation. But because, at least for the last several months, Dr. Schwachter seems to be doing well, the Board should just revoke the license and let him demonstrate to the Board that he's been clean for a period of time and has changed his life. The Board could reconsider this case at that time. Dr. Kumar noted that earlier in the meeting the Board revoked, rather than permanently revoked, the license of a physician who was not even willing to comply.

Dr. Davidson stated that she agrees with Dr. Egner. She stated that it's rare that this Board permanently revokes the license of an impaired physician, but it's appropriate in this case. Perhaps Dr. Mastandrea feels good about Dr. Schwachter's recovery, but Dr. Schwachter had fooled at least one other monitor. She added that this case is hauntingly familiar to another case the Board permanently revoked. The Board gave that physician, as it has given Dr. Schwachter, its best effort at monitoring him, and the Board has failed.

Dr. Davidson stated that, although she tries to look at Dr. Schwachter as an individual, if you look at addiction in general terms and look at physicians and the data that shows which physicians are likely to succeed in recovery and which ones aren't, Dr. Schwachter fits the exact profile of the least likely to beat this impairment ultimately. He's a polydrug abuser with a dual diagnosis of bipolar disease. Dr. Davidson stated that she tried to determine whether this is three relapses versus actually never having been in recovery, but Dr. Schwachter has a 17-year history, if you go back to the first date of admitted drug use. He's used multiple dangerous and addictive drugs. Dr. Davidson stated that she is in favor of a permanent revocation in this case.

Dr. Steinbergh stated that what differentiates this case from Dr. Roberts' case is the egregiousness of the

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lying and the deceit. There's a difference between a physician who doesn't want to comply or can't comply with a consent agreement and relapses. Dr. Steinbergh stated that she agrees with Dr. Egner and Dr. Davidson in terms of the severity of this case, especially the fact that there is a dual diagnosis. The chances of recovery are very poor.

Dr. Steinbergh stated that the biggest thing for her is the ongoing lying and deceitfulness. When you have this in the character of a physician, her feeling is that this type of lying and deceit carries over into the practice of medicine. It's part of the character. Dr. Steinbergh stated that she doesn't believe that the Board ought to allow physicians with this type of character to care for patients. The Board's responsibility is to protect the public. The Board's responsibility is not to Dr. Schwachter as much as it is to the patients. Dr. Steinbergh stated that she is concerned by the dual diagnosis, the lying and deceit and the ability to maintain his sobriety. It's all of the issues that Drs. Egner and Davidson have discussed, including the relationship with the young woman. Dr. Steinbergh stated that she is in support of the Report and Recommendation, as written.

Dr. Varyani stated that 17 years is a long time. The question is, what do you do at this point. Yes, Dr. Schwachter has lied to the Board. He commented that most people who relapse do. Dr. Varyani stated that he doesn't believe that Dr. Schwachter has relapsed because he doesn't believe that Dr. Schwachter has ever given drugs up. The point is that, although permanent revocation seems like a good idea, the Board really hasn't given Dr. Schwachter more than two chances. He questioned whether the Board is ready to give up on Dr. Schwachter. Dr. Varyani stated that he's leaning towards Dr. Kumar's suggestion to revoke and reconsider at a later time. He stated that he doesn't want to get into monitoring Dr. Schwachter, but suggested that, if Dr. Schwachter can provide proof of continued sobriety, at some point he could be reinstated.

Dr. Egner stated that she thinks that there are two reasons to revoke the license of an impaired physician. One is because their likelihood to recover is so rare and their chance of patient harm in the face of relapse is great. Dr. Egner stated that the Board has had cases like this. The second reason is because the behavior that a physician has shown is egregious and it's not really about their chance of recovery and relapse. In Dr. Schwachter's case, her thinking is with the second reasoning. She noted what his behavior has been: The constant lying and being good at it; his being able to be reinstated; have an evaluation by and completely fool Dr. Jones, who has done many evaluations for this Board; submit someone else's urine and get away with it; and completely betraying another impaired man by having sex and using drugs with that friend's daughter. These are behaviors that cross the line to say that this is not a good person to be a physician in the State of Ohio. Dr. Egner stated that she agrees with Dr. Steinbergh that you don't just lie in one aspect of your life. This kind of moral defect will also show in his practice. It has to; it is part of his character.

Dr. Buchan stated that he's reminded now how costly this disease of addiction is. Today it may cost Dr. Schwachter his license. Tomorrow, if he doesn't embrace his recovery, it could cost him his marriage, his family and his life. Dr. Buchan urged Dr. Schwachter to embrace recovery and have a life, because it's certainly better than where he's been. Dr. Buchan stated that he agrees with the Proposed Order, as written. He wished Dr. Schwachter well.

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Dr. Robbins agreed with Dr. Buchan. He stated that Dr. Schwachter is very fortunate that his family at this stage, with everything the Board knows, has solidly stood behind him. Dr. Robbins stated that that is potentially a positive for the future.

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	- nay
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

FINDINGS, ORDERS AND JOURNAL ENTRIES

BETTY BROWN BIBBINS, M.D.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Dr. Bibbins on January 5, 2006. Acknowledgment of receipt was received on January 10, 2006. Dr. Bibbins did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 5, 2006 NOTICE AND TO ENTER AN ORDER APPROVING DR. BIBBINS' REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO HER PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF JANUARY 5, 2006, EFFECTIVE IMMEDIATELY. DR. KUMAR SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that Dr. Bibbins' application indicates that she has not practiced for greater than two years. The Order requiring her to pass the SPEX or specialty board recertification examination is appropriate.

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

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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. Davidson	- aye
Dr. Steinbergh	- aye

The motion carried.

MARIA E. MOUTINHO, M.D.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Dr. Moutinho on January 5, 2006. Acknowledgment of receipt was received on January 11, 2006. Dr. Moutinho did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 5, 2006 NOTICE AND TO ENTER AN ORDER APPROVING DR. MOUTINHO'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO HER PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF JANUARY 5, 2006, EFFECTIVE IMMEDIATELY. DR. VARYANI SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that Dr. Moutinho has not practiced medicine for over two years. Requiring the SPEX or specialty board recertification examination is appropriate.

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

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Dr. Davidson - aye
Dr. Steinbergh - aye

The motion carried.

ADEL HASSAN REGAILA, M.D.

Dr. Robbins advised that On January 11, 2006, the Medical Board issued a Notice of Opportunity for Hearing to Adel Hassan Regaila, M.D., based upon a prior action against Dr. Regaila's Florida license. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. However, no hearing request has been received from Dr. Regaila and more than 30 days have elapsed since the mailing of that notice. The matter was presented to the Board at this time for final disposition.

DR. KUMAR MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 11,2006 NOTICE AND TO ENTER AN ORDER OF PERMANENT REVOCATION, EFFECTIVE IMMEDIATELY. 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
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Egner left the meeting at this time.

VIJAYA VENKATARAMAN, M.D.

Dr. Robbins advised that by letter of January 5, 2006, the Board notified Dr. Venkataraman that it proposed to approve her application for a certificate to practice medicine and surgery, provided that she take and pass the Special Purpose Examination (SPEX) or specialty board recertification examination, due to the fact that Dr. Venkataraman has not engaged in the active practice of medicine for more than two (2) years and has not obtained a score of forty or more on the Test of Spoken English conducted by the Educational Testing Service, as required by Sections 473 1.29 and 473 1.142, Ohio Revised Code. No hearing request

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has been received from Dr. Venkataraman and more than 30 days have elapsed since the mailing of that notice. The matter was presented to the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 5, 2006 NOTICE AND TO ENTER AN ORDER APPROVING DR. VENKATARAMAN'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO HER PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF JANUARY 5, 2006, AND CONTINGENT UPON HER OBTAINING A SCORE OF FORTY OR MORE ON THE TEST OF SPOKEN ENGLISH. DR. VARYANI 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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSION

JAMES DANIEL CARPENTER, 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. CARPENTER. 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. Davidson	- aye
	Dr. Steinbergh	- aye

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The motion carried.

KEVIN JAMES CLEARY, M.T. APPLICANT - LETTER OF PROPOSED DENIAL

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

DR. KUMAR MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. CLEARY. DR. BUCHAN 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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

GARY CHARLES GELESH, 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. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. GELESH. MR. BROWNING 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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

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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. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. KING. 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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

WILLIAM W. NUCKLOS, 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. NUCKLOS. DR. DAVIDSON 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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

MARK ROBERT ROSENBERG, M.D. – CITATION LETTER

At this time the Board read and considered the proposed citation letter in the above matter, a copy of which

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shall be maintained in the exhibits section of this Journal.

**DR. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. ROSENBERG.
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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

ALBERT W. SMITH, III, M.D. – CITATION LETTER

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

**DR. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. SMITH. 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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

PAUL H. VOLKMAN, M.D. – CITATION LETTER

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

DR. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. VOLKMAN.

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MR. BROWNING 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. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Egner returned to the meeting at this time.

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.

ALAN M. GARDNER, M.D. – SURRENDER OF LICENSE

DR. STEINBERGH MOVED TO RATIFY DR. GARDNER'S'S SURRENDER OF HIS LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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STEVEN FRANKLIN GREER, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

GREGORY G. DUMA, M.D. – CONSENT AGREEMENT

DR. BUCHAN MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. DUMA. 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	- nay
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

DONALD C. MANN, M.D. – CONSENT AGREEMENT

DR. KUMAR MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. MANN. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

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Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Robbins at this time asked for a motion to table the topic of Ratification of Settlement Agreements until the Thursday session.

DR. STEINBERGH MOVED TO TABLE THE TOPIC OF RATIFICATION OF SETTLEMENT AGREEMENTS UNTIL THE THURSDAY SESSION. DR. KUMAR SECONDED THE MOTION.

All members voted aye. The motion carried.

At this time the Board took a brief break. When the meeting reconvened, Mr. Albert, Dr. Egner, Dr. Varyani and Dr. Buchan were absent.

PERSONAL APPEARANCES

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

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

In response to Board members' questions, Dr. Brandt stated that he's doing very well. He's currently not working, but he is working his program of recovery, attending at least six meetings a week. He also has more time to get in touch with his family. Dr. Brandt stated that he's changing friends, doing a lot of reading and self-reflecting, looking at the future, planning with his employers in terms of how he can change his practice in the future. Dr. Brandt stated that one of his downfalls has been being in solo practice, and he wants to change that. Dr. Brandt stated that he's pretty busy.

His problem with solo practice was in being out there out on his own and not having the same kinds of opportunities that other physicians with whom he works get in terms of quality care, quality management, oversight, those kinds of things. He was left on his own. He's been in solo practice since he started practice in 1983. He hopes to go into a group practice. Initially, he will continue with what he's doing with more support. He's looking to change his whole practice.

Dr. Brandt advised that, for his recovery, he attends at least six meetings a week. He attends two Caduceus meetings: one at Parkside and one in Dayton. His sponsor has 14 years of recovery, and they're working

on his fourth step.

Dr. Egner and Dr. Varyani returned to the meeting at this time.

Dr. Kumar commented that a recent article in the *Dayton Daily News* implied that Dr. Brandt's impairment was because of stress in treating HIV patients.

Dr. Brandt stated that the reporter was fishing with a lot of questions, and he just rattled off stuff that came off the top of his head in terms of what was going on in his life. He thinks that the pressures from solo practice and not getting a lot of outside support contributed to his problems, but his drinking was the main problem. He had been drinking every day for over two years. He doesn't attribute his impairment to taking care of patients, but to not dealing with life because he was drinking. That's the bottom line.

Dr. Brandt continued that his practice isn't the same as it used to be. There used to be more of the internal reward you get from saving HIV patients because people died so quick back then. These days, treating patients with HIV is more like chronic disease management, like hypertension or diabetes. It's become more mundane. Dr. Brandt stated that he sees his inability to change with that due to his drinking, not due to the disease management.

Mr. Browning noted that the information the Board has is that Dr. Brandt's solo practice is in both family and addiction medicine.

Dr. Brandt stated that he doesn't practice a lot of addiction medicine per se. That was more in the past. He's a family practitioner with a subspecialty in HIV and AIDS. As far as practicing addiction medicine, he was Medical Director of Greene Hall up through 1993 or 1994.

Dr. Brandt stated that he had been drinking on a regular basis for probably 15 years. He started practicing addiction medicine when he got out of residency, in 1983.

Dr. Steinbergh indicated that she didn't understand how someone who had a history of treating addiction could become addicted.

Dr. Brandt stated that that's the disease of alcoholism. He commented that it is baffling, cunning and it sneaks up on you. It's something that he probably had in the back of his mind. He felt very comfortable working with these people. And there were times that he thought that he had things in common with them, but he never thought he was an alcoholic. Dr. Brandt stated that he thinks that alcoholism creeps up on people more quietly than other conditions such as diabetes. He added that he worked in addiction medicine for ten years.

Continuing to respond to Board members' questions, Dr. Brandt stated that he also used Ecstasy and marijuana. He stated that neither was his drug of choice. He used Ecstasy twice, trying to experience what a lot of the patients he treated experience. It was kind of an experimental thing, but that's what got him into the system, and he's glad it did because he needed a little push.

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Dr. Brandt stated that he has been totally sober since November 12. He hasn't used any drugs other than alcohol since the investigator came to his office sometime in June. When the investigator first came to his office and told him that there was an anonymous complaint that he was using drugs, he told her that he didn't know what she meant. She indicated that the caller indicated that he was using Ecstasy. He then referred to the specific incident. That day he did quit, and he also quit drinking then. He went to his EAP representative at work, who referred him to Caduceus and A.A. He started going to Caduceus and A.A. meetings over the summer. Dr. Brandt stated that, had he been more knowledgeable at that time, he would have done more specific things. He was just under the assumption that he needed to wait to hear from the Board. During that summer he went to some Caduceus meetings and some A.A. meetings, and he drank on occasion, but he didn't use drugs. He didn't drink on a daily basis like he was doing before. Dr. Brandt stated that he didn't actually terminate his alcohol use completely until November 12. That's his sobriety date. That was the weekend before he went in for his evaluation. When he got there, he told them that he had an alcohol problem and then he went into treatment from there. He signed his agreement with the Board in December.

When asked where he would be were it not for the anonymous tip, Dr. Brandt stated that it's hard to say. He knew things weren't going well for him for the last year or so. He was tired every day; he was in pain, he was dealing with some chronic back pain. He was drinking to just chill out. He doesn't really know where he would be. He told himself every day that something had to give and that he needed to do something about it. Luckily, he got caught. At first he had a little bit of resentment about the whole issue, but after he quit drinking and felt better, and all the pain went away after that, he thought that this was great. If anything comes out of this, at least he doesn't have any more chronic pain and he doesn't wake up tired. Dr. Brandt stated that he's actually kind of glad it happened, and he's willing to do whatever he needs to do.

DR. STEINBERGH MOVED TO CONTINUE DR. BRANDT UNDER THE TERMS OF HIS DECEMBER 14, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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RYAN STEVEN FRYMAN, D.O.

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

In response to Board members' questions, Dr. Fryman stated that, until his license was suspended, he practiced internal medicine. He did a residency in Toledo, Ohio, and started a fellowship at Ohio State in oncology last July.

Dr. Fryman stated that recovery at the start was overwhelming. There was a lot of information to take in. The A.A. program in itself requires a lot of self-reflection and self-examination. Dr. Fryman stated that that was a good thing because he got to really evaluate himself in ways he hadn't in the past. He got to work with a sponsor and work with other people in the program and really focus on some symptoms that may have allowed him to use alcohol as a crutch or as a patch. As he got further and further away from his sobriety date it became more apparent that he was feeling better physically and mentally. He attends four meetings a week: three A.A. meetings and a Caduceus meeting, or two of each. He also spends time with his two children. His seven-year old is being home schooled this year, so he helps his wife with that. Dr. Fryman stated that it's been rough going from four years of residency and an internship right to a fellowship and having little kids. It was really difficult, he felt that he had a lot of time away from his children and it felt like he was missing them grow up. It's been healing to have family time and to reconnect with some quality people he's met in Caduceus and A.A., from all walks of life. Dr. Fryman stated that his sobriety date is November 22, 2005.

Dr. Fryman indicated that the only time he reported to work in an intoxicated state was the day that he was sent for an evaluation. Nothing like that had ever happened before. He stated that he thinks that what made him decide to go to work that day was a fear of calling in sick. Nobody ever calls in sick, and he was new at the job. All of his excuses were bad. The day before had been a rough day at home and at work, and it started a regrettable spiral that evening. He felt under the gun at work to perform at a high level. It makes no sense why he would drink until 3:00 in the morning and then try to go to work. He just felt that his absence would speak volumes. He wanted to make a good impression. He was obviously not fit to work.

Dr. Fryman advised that his fellowship program, as a whole, has been incredibly supportive. Both the hospital and the internal board have met with him; and he's met with the Director of GME and the Director of his fellowship. They have indicated that they will do anything they can to support his recovery, and they have given him the opportunity to step out of the fellowship if he wanted. He has taken time to think about it, and he has talked with a psychiatrist at OSU, his addiction physician, his family and some other fellows to evaluate what he does and doesn't like about oncology. Dr. Fryman stated that he would really like to go back. At this point, he's studying at home, brushing up on things, and trying to keep current on the medicine he's not practicing each day to keep his mind sharp. He's also reading articles. He still gets e-mail from OSU about what's going on.

DR. STEINBERGH MOVED TO CONTINUE DR. FRYMAN UNDER THE TERMS OF HIS

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DECEMBER 14, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

CHARLES CHRISTIAN RICKEY, P.A.

Mr. Rickey made his initial appearance before the Board, pursuant to the terms of the Board's Order of December 14, 2005.

In response to Board members' questions, Mr. Rickey stated that he is doing well. His contract with the U.S. Government ended in November 2005. He moved back to Jackson, Kentucky, where he continued employment with Melecio G. Abordo, Jr., M.D. His patients are doing well. He's very happy to be back, working at the nursing home and the clinic. He thinks he will be returning to U.S. Government service in April. It's mission-dependent right now.

Mr. Rickey stated that he has discussed the Board's Order with Ms. Bickers, who has clarified certain terms of the Board Order. He does understand how serious it is. He added that he's understood the seriousness of his charge for the past twelve years.

Mr. Rickey stated that the matter of the bank fraud occurred at a difficult time in his life. He'd gone through a divorce and had had some personal problems at home. His family lived away and abroad. Mr. Rickey commented that he really doesn't know why it happened, adding that it defies logic. He'd never been in trouble before in his life. He'd always been an honor student, and he'd done well at school. Unfortunately, he hung around with the wrong people. Mr. Rickey stated that he was brought up overseas, and he wasn't really familiar with some of the things that kids in the States did. When he came back he was 18, he went to college and made a friend there. He made a poor choice in friendship. It was one of those things that he really regrets, but he has taken steps to rectify it. He stated that he always felt guilty about it. The way it was presented to him was that he was helping a friend. Mr. Rickey stated that he had never really had a friend while growing up. Living overseas in military bases, you move around quite

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frequently and you never develop those friendships and those bonds. When he did develop a friendship and had a bond, he wanted to be a good friend. Mr. Rickey stated that he made some mistakes and he's responsible for those. He has no explanation for it, other than it was his own fault.

Mr. Rickey stated that he does admit guilt in this, but with the understanding that, basically, the court system puts together an idea of what they think happened with the crime. He does have proof that he had two car loans and a checking account in the banks in which the fraudulent accounts were opened. They knew him personally. When you work out a plea agreement, you agree to whatever has been presented by the courts. You have to admit guilt. Yes, he was with this man; and, yes, they did open accounts. He does admit guilt to those things. Some of the facts are straight and some aren't. The end results were that there were people hurt by his actions. That's the bottom line. Mr. Rickey stated that he has been working with his accountant to take care of the restitution amount that is owed. By his next conference, there will be a receipt to show that he's repaid the money.

DR. KUMAR MOVED TO CONTINUE MR. RICKEY UNDER THE TERMS OF THE BOARD'S ORDER OF DECEMBER 14, 2005, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

CHRISTOPHER S. SHAW, M.D.

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

In response to Board members' questions, Dr. Shaw acknowledged a serious addiction problem, as well as a dual diagnosis of addiction and depression. He stated that he is currently doing all right, attending lots of meetings and trying to get his life going again. He's been foundering a lot. He's been working construction, which is not good this time of year. It's been difficult for him. He's had a lot of financial difficulties because he lost his medical license. He filed bankruptcy, and he's receiving food stamps to help him make ends meet. Things are kind of tough right now.

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Dr. Shaw stated that the consequences he's faced have certainly driven home the serious nature of his addiction. He certainly never thought in his wildest dreams that he would ever be in the place he is now. It has reinforced to him the importance of doing everything he's told to do to try to ensure his sobriety.

Dr. Steinbergh commented that Dr. Shaw's relapse rate is very significant and it will take tremendous effort on his part to get through this.

Dr. Robbins asked Dr. Shaw whether he is using right now.

Dr. Shaw stated that he isn't.

In response to further Board questions, Dr. Shaw stated that his family situation is all right. His parents are doing well and his brother and sister are healthy. Her sister is opening a new veterinary practice. His relationship with them is a little strained. He's had to rely on his parents for a certain amount of financial help over the past few months, and he feels relations are strained. He added that that may not be so on their part, but it is on his. He's 32 years old and he feels like he should be able to take care of himself. He added that, so far, he's not done a very good job of that.

Dr. Shaw stated that he has completed 28 days of inpatient treatment. He entered treatment on December 28, 2005 and he graduated January 24, 2006.

Dr. Shaw stated that he has been sober since October 22, 2005. He's thought about what caused his relapse a lot, and he thinks that there are multiple factors. He started hanging around with the wrong people and maybe got too over-confident about sobriety. He put himself in unhealthy situations.

Mr. Albert asked how a urine screen on him right now would turn out.

Dr. Shaw stated that it would be fine.

Dr. Buchan noted that Dr. Shaw stated that his last relapse was in October. He asked what happened in December. The record suggests that Dr. Shaw relapsed on cocaine in December 2005.

Dr. Shaw stated that the relapse was in October.

Dr. Buchan asked what the cornerstone of Dr. Shaw's success today is.

Dr. Shaw stated that it's attending a lot of meetings, trying to remain humble, doing what he's told, talking to his sponsor, trying to give back to the program as much as he can. Since he doesn't have a lot of sobriety to offer, he just does his best to try to help get others to meetings.

Dr. Robbins stated that there is enough concern on the part of the Board today that he would like Dr. Shaw to submit a urine specimen for screening today.

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Ms. Bickers asked Dr. Shaw to remain until the end of the meeting.

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

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

The motion carried.

MATTHEW ALLAN SNYDER, L.M.T.

Mr. Snyder made his initial appearance before the Board, pursuant to the terms of his December 14, 2005 Consent Agreement. Dr. Snyder has also requested approval of a supervising physician.

In response to Board members' questions, Mr. Snyder stated that he got his second DUI on St. Patrick's Day in 2005. He acknowledged that that is not an excuse for anything. He advised that he's in school right now to be a physical therapist assistant. He works at an outpatient physical therapy clinic. Mr. Snyder indicated that he didn't take things seriously when the courts ordered him to attend two A.A. meetings a week and do jail time, and that kind of thing. He would go to his two meetings a week and he didn't want to be there. He added that he also drank on weekends. But in September, after he met with Board Investigator Yoakam, he decided to really deal with the situation and stop drinking. Mr. Snyder stated that drinking was never a daily thing for him. He would work all week and just look forward to Friday and Saturday so that he could let loose, which he always did. Mr. Snyder stated that it was the honesty that finally helped him. Initially he looked back and thought that he should have answered "no" to the question about whether he'd ever been convicted of a felony or misdemeanor. That honesty led to Mr. Yoakam coming to see him, and he was once again honest with Mr. Yoakam about how much he was drinking and that he was still drinking. It's a really good thing. The honesty ultimately led him to getting the help he needed and the diagnosis of being alcoholic.

Dr. Kumar stated that he's not convinced from Mr. Snyder's answer that he recognizes that he really does

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have a serious problem.

Mr. Snyder stated that he definitely knows that he is an alcoholic. The diagnosis was made when he went to Glenbeigh for an assessment. He'd been sober for about ten weeks before he went into Glenbeigh for his assessment, just on his own stubbornness. When he went to Glenbeigh, he didn't want to lie. He just wanted to be honest and say that he hadn't drank in ten and a half weeks and he expected a pat on the back from them. That wasn't the purpose of his going there. In his mind, he saw the ten and a half weeks of sobriety as temporary. He felt that after the assessment he could get back to this comfort zone. There was the diagnosis and he immediately entered into the 28-day inpatient treatment. That is where the acceptance had to come in. He realized he had to do something about this. For him, massage therapy, for one, and the whole realm of working to help heal people gives him the biggest sense of self-worth and purpose and satisfaction. That's his calling. It's what he wants to do more than anything with his life. He knows that if he drinks, there's no way that that can happen. Mr. Snyder stated that, for him, to drink is to die. It's not be able to live the life that he wants to live.

Mr. Snyder stated that the next step in the reinstatement process is that he has to get two assessments done. The focal point of those assessments is whether his alcoholism affects his ability to practice massage therapy. Mr. Snyder stated that he was talking about this with the person who was heading his aftercare program, and he was going to try to point him in the direction of some people who could do these assessments for him.

Dr. Kumar advised that Ms. Bickers will assist him in that.

Mr. Albert asked Mr. Snyder about his experience with Compass, his treatment provider.

Mr. Snyder stated that there was a lot of self-reflection. It wasn't as educative a program as that at Glenbeigh. There's a lot of group therapy and you have your reading for the day.

DR. KUMAR MOVED TO CONTINUE MR. SNYDER UNDER THE TERMS OF HIS DECEMBER 14, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. KUMAR FURTHER MOVED TO APPROVE SHALINI SAURABH SINGH, D.O., AS DR. SNYDER'S SUPERVISING PHYSICIAN. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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Dr. Steinbergh - aye
Dr. Robbins - aye

The motion carried.

JAMES F. ZIMMERMAN, D.P.M.

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

In response to Board members' questions, Dr. Zimmerman stated that he currently goes to aftercare at the Cleveland Clinic every Monday, he attends one or two Caduceus meetings a week, and three to five additional A.A. meetings. He's working the steps and has a sponsor with whom he speaks every day. Overall, he feels he's doing very well.

Dr. Zimmerman stated that this isn't the first time he's worked the program. He initially came into the program in 1991, and started out working the program. Over the years he never finished working the steps, which is critical. Dr. Zimmerman stated that you hear time and time again that when you stop going to the meetings and stop working the program, you go back to abusing drugs or alcohol. He did stop working the program and he did relapse. Since he's not practicing he's really working on his program. He attends a lot of meetings and is working with his sponsor. He's actually on step nine now. He's been looking for a job, and he's been doing a lot of thinking.

Dr. Zimmerman stated that you can never say that you're never going to pick up again. In A.A. they say that you only have today. But things are different this time because he's putting himself 100% into the program, and he is sincerely working the steps. They say that if you do work the steps, they effect a personality change and you will have a spiritual awakening and overall you become a different person. That's what he wants, aside from practice or anything else. Dr. Zimmerman stated that it was a living hell and he doesn't want to go back to it.

In response to further questions, Dr. Zimmerman stated that he used both alcohol and hydrocodone. His sobriety date is December 4, 2005.

DR. STEINBERGH MOVED TO CONTINUE DR. ZIMMERMAN UNDER THE TERMS OF HIS DECEMBER 14, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. VARYANI SECONDED THE MOTION.

Dr. Zimmerman stated that step nine is the amends step. He stated that he would like to apologize to the Board for not reporting his relapse and for lying on his renewal application.

Board members indicated acceptance of his apology.

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

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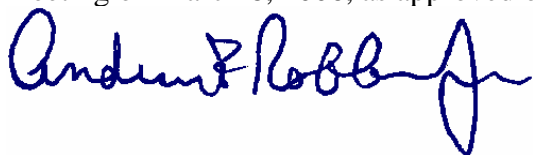
Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

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

Thereupon at 4:14 p.m. the March 8, 2006 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 March 8, 2006, as approved on April 12, 2006.



Andrew F. Robbins, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



March 9, 2006

MINUTES**THE STATE MEDICAL BOARD OF OHIO****March 9, 2006**

Andrew F. Robbins, Jr., M.D., President, called the meeting to order at 8:05 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Deepak Kumar, M.D., Vice-President; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; R. Gregory Browning, Ph.D.; Anquetette Sloan; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Lance A. Talmage, M.D., Secretary; The following did not attend the meeting: Kamala Saxena, M.D.; and Patricia J. Davidson, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Angela Scott, Enforcement Attorney; Barbara J. Pfeiffer, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Officer; Barbara Jacobs, Public Services Administrator; Kay L. Rieve, Administrative Officer; and Cathy Hacker, P.A. Program Administrator.

RATIFICATION OF SETTLEMENT AGREEMENTS

DR. STEINBERGH MOVED TO REMOVE THE TOPIC OF RATIFICATION OF SETTLEMENT AGREEMENTS FROM THE TABLE. MS. SLOAN SECONDED THE MOTION. All members voted aye. The motion carried.

DAVID E. ALLEN, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

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LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

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

Dr. Kumar asked to consider the probationary request of Jeffrey A. Briggs, M.D., separately.

Dr. Steinbergh asked to consider the probationary request of Andrew Schneider, M.D., separately.

DR. BUCHAN MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON FEBRUARY 6 & 7, 2006 WITH: MICHAEL TODD ADAMS, M.D.; CHARLES B. BERTANI, D.O.; VICTOR BYKOV, M.D.; PATRICK BRIAN CESTONE, JR., M.D.; L. JEAN COOPER, M.D.; STEVEN W. CRAWFORD, M.D.; ANTHONY E. DANACHEW, M.D.; RICHARD R. DELAFLOR, M.D.; MILES E. DRAKE, JR., M.D.; LESLIE R. (WOLF) DYE, M.D.; PETER FRAGATOS, M.D.; STEVEN F. GREER, M.D.; GEORGE V. HASSINK, M.D.; MARK S. HOPKIN, M.D.; JORDAN E. HOPKINS, M.D.; KANDHASAMY KANNAPIRAN, M.D.; ADAM S. MARTIN, M.D.; LOUISE DELYTE MORRIS, P.A.; PHILLIP THIELE NORTH, M.D.; PAUL E. PANCOAST, M.D.; DALE PRATT-HARRINGTON, D.O.; JAMES M. ROSSELIT, D.O.; JULIA RUFFIN, D.P.M.; JOSEPH S. SCHEIDLER, D.O.; JOHN W. SHAW, M.D.; TOBY JAMES TIPPIE, P.A.; MICHAEL CRAIG WARREN, D.O.; AND GREGORY S. ZINNI, M.D. DR. BUCHAN FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:

- **TO GRANT MOHAMMED A. ADAS, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY 3 MONTHS TO EVERY 6 MONTHS;**
- **TO APPROVE JAMES S. LITTMAN, M.D., TO REPLACE STEVEN AUBEL, M.D., AS WALTER L. GEORGE, JR., M.D.'S MONITORING PHYSICIAN;**
- **TO APPROVE AMITA R. PATEL, M.D., TO SERVE AS JOHN CLARK POWELL, M.D.'S TREATING PSYCHIATRIST, AND FREDERICK L. PETERSON, PSYD., TO SERVE AS DR. POWELL'S LICENSED MENTAL HEALTH PROFESSIONAL;**
- **TO APPROVE CYNTHIA S. CURL, D.O, TO SERVE AS JOHN H. ROCKWOOD, P.A.'S REPORTING PHYSICIAN;**
- **TO APPROVE THE TENNESSEE MEDICAL FOUNDATION'S PHYSICIAN'S HEALTH PROGRAM TO SERVE AS ALAN B. STORROW, M.D.'S SUPERVISING "PHYSICIAN;"**

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- **TO APPROVE FRANK C. SAILORS, D.O., TO SERVE AS RICHARD ALLAN ZINNI, D.O.'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH'**

DR. BUCHAN FURTHER MOVED:

- **TO APPROVE RONALD A. SACHS, M.D., TO SERVE AS L. JEAN COOPER, M.D.'S ASSESSOR FOR PURPOSES OF PERFORMING A PSYCHIATRIC ASSESSMENT, PURSUANT TO PARAGRAPH 10.b.iv OF DR. COOPER'S FEBRUARY 9, 2005 CONSENT AGREEMENT.**

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: CARL JACKSON, M.D., AND ON-SITE SAFETY SERVICES, LLC. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JEFFREY A. BRIGGS, M.D.

Dr. Kumar stated that his concern regarding Dr. Briggs' request pertains to the proposed monitoring physician. He noted that Dr. Briggs is nominating a physician who has been retired and is not in practice. How can this physician monitor Dr. Briggs' practice when she herself hasn't been in practice since 2003.

Ms. Bickers stated that Dr. Subler-Smyke hasn't been practicing due to surgeries she's undergone and medical problems she's had. She has a lot of time on her hands right now. She used to work with Dr. Briggs and may be coming back to practice if she can get her health problems straightened out.

Ms. Bickers added that Dr. Briggs will only be practicing gynecology; he will not be doing obstetrics.

Mr. Albert noted that if Dr. Subler-Smyke keeps up her C.M.E., she could return to practice tomorrow.

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Dr. Buchan noted that Dr. Subler-Smyke doesn't have malpractice coverage, and he questioned whether she would be putting herself at risk reviewing Dr. Briggs' charts.

Mr. Browning noted that Dr. Subler-Smyke has a tail policy.

Mr. Albert stated that he doesn't think that the Board would be sticking its neck out by approving Dr. Subler-Smyke.

Dr. Buchan questioned whether Dr. Subler-Smyke would be able to maintain her objectivity in monitoring Dr. Briggs.

Dr. Egner stated that she doesn't see where liability insurance would protect Dr. Subler-Smyke as a monitoring physician. She added that she doesn't have strong feelings about this request. She noted that Dr. Subler-Smyke has only been out of practice since 2004. She's a relatively young person who finished her residency in 1993. Dr. Egner stated that she believes that Dr. Subler-Smyke is qualified to review charts. She noted that Dr. Subler-Smyke does hold a current license to practice.

DR. BUCHAN MOVED TO GRANT JEFFREY A. BRIGGS, M.D.'S REQUEST TO CHANGE HIS MONITORING PHYSICIAN TO MARY KAY SUBLER-SMYKE, M.D.

Dr. Varyani stated that there are changes that Dr. Subler-Smyke may not be keeping up with.

Mr. Albert commented that there have only been about two cases where there has been a negative result due to chart review.

Dr. Varyani stated that the Board requires a monitor to ensure that a physician's practice is appropriate. He asked how a person who is not working can monitor a person who is. Dr. Varyani expressed concern about the Board setting a bad precedent.

Dr. Egner stated that a physician who is not practicing doesn't forget everything he or she has learned. She again stressed that Dr. Subler-Smyke has not been out of practice that long, nor has it been that long since she trained.

Dr. Varyani stated that there are changes she may not have kept up with in her absence from practice.

MR. ALBERT SECONDED THE MOTION. A vote was taken:

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

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Ms. Sloan	- aye
Dr. Davidson	- abstain
Dr. Steinbergh	- abstain

The motion carried.

ANDREW SCHNEIDER, M.D.

Dr. Steinbergh stated that her concern with this request is that Dr. Schneider's address of record is in Powell, Ohio, and his nominee for primary care physician is in Fremont, Ohio.

Ms. Bickers advised that Dr. Schneider works in the emergency department at Bellevue Hospital, which is not far from Fremont.

DR. STEINBERGH MOVED TO APPROVE CHARLES L. VALONE, JR., D.O., TO SERVE AS ANDREW SCHNEIDER, M.D.'S PRIMARY CARE PHYSICIAN. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

FEDERATION OF STATE MEDICAL BOARDS BYLAWS COMMITTEE REPORT

At this time Dr. Steinbergh referred Board members to the Report of the Federation Bylaws Committee's Report, outlining proposed revisions to the FSMB Bylaws. She asked that Board members who have suggestions or concerns about the proposed revisions contact her or Ms. Wehrle as soon as possible.

ADMINISTRATIVE REPORT

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

Mr. Whitehouse advised that four copies of the Attorney General's publication concerning Ohio's Sunshine Law have been obtained for the office. New editions are to be published shortly, and he will

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attempt to get copies for all Board members. He noted that only a small section deals with Ohio's open meetings law.

Dr. Talmage joined the meeting at this time.

Ms. Pfeiffer at this time outlined the factors that must be in place for the Board to meet in executive session. She noted that there are only seven criteria that allow for an executive session, and indicated that there are two which most often relate to Board business. Section 121.22(G)(1) and (G)(3). The first section allows the Board to hold executive session:

To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office.

Ms. Pfeiffer indicated that this particular section has been narrowly interpreted by the courts. If going into executive session under this section, the Board must be discussing a specific public employee, official, licensee or regulated individual; and the motion to go into executive session must:

...state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

Ms. Pfeiffer explained that the Board cannot use this section to go into executive session to speak about staff in general terms. A specific person must be the subject, although that person need not be named in the motion.

Ms. Pfeiffer also explained that the second section which the Board frequently uses to go into executive session, Section 121.22(G)(3), is an exemption to allow the Board to enter into executive session to discuss pending or imminent court action with representatives of the Office of the Attorney General.

Mr. Whitehouse reviewed the "Operations" portion of his written report, noting that work continues on the Board's new website, and a demonstration may be ready to give to the Board in April. Mr. Whitehouse also advised that the Controlling Board will consider the Board's request for additional staff on March 17.

Mr. Whitehouse asked that Board members contact him with suggestions for topics for the next Board retreat.

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PRESIDENT'S REPORT

Dr. Robbins stated that he doesn't have much to report this month. He advised that the next Board retreat will be on Thursday, September 14. He asked that Board members plan their schedules accordingly.

Dr. Robbins reminded Board members that, due to unavailability of a meeting room, the May meeting will be a one-day meeting, on Wednesday, May 10.

REPORTS BY ASSIGNED COMMITTEES

EDUCATION, PUBLIC RELATIONS & RISK MANAGEMENT COMMITTEE

Dr. Egner stated that, although scheduled, the Committee did not meet.

IMPAIRMENT COMMITTEE

Mr. Albert advised that the Committee reviewed draft changes to the Board's Impairment Rules. He stated that there weren't a lot of changes made. Most of the changes are clarifications. Mr. Albert asked that Board members read the proposed revisions and contact him with any suggested revisions.

LICENSURE COMMITTEE

Dr. Robbins stated that the Committee reviewed the application of Markus Holzhauser, M.D. for endorsement licensure. Dr. Holzhauser is a graduate of the University of Heidelberg in Heidelberg, Germany. Dr. Holzhauser's application indicates that he completed one year of a breast imaging fellowship at Duke University from July 2000 thru June of 2001. He also had the opportunity during his fourth year of medical school to attend the University of Kentucky as a "Heidelberg scholar" and do one year of research and 8 months of 4th year medical rotations. This latter training was accepted as medical school training at the University of Heidelberg. Dr. Holzhauser trained in Germany from June 1992 through December of 1999. He relocated to Duke University in July of 2000 and completed a Breast Imaging fellowship in June of 2001. Dr. Holzhauser has served as Assistant Professor at the University of Kentucky from July 1, 2001 to the present.

Dr. Robbins stated that Dr. Holzhauser is requesting that the Board deem his training and experience in Germany and the United States to be equivalent to the 24 months of graduate medical education through the second-year level of graduate medical education so that he may be granted a license. Dr. Robbins noted that Dr. Holzhauser just recently passed the American Radiology Board examination. The Committee recommends approval of Dr. Holzhauser's request.

DR. EGNER MOVED TO FIND THAT DR. HOLZHAUSER DOES HAVE THE EQUIVALENT OF 24 MONTHS OF APPROVED GRADUATE MEDICAL EDUCATION THROUGH THE SECOND YEAR LEVEL, AND TO GRANT DR. HOLZHAUSER A LICENSE TO PRACTICE MEDICINE AND SURGERY. MS. SLOAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MINIMAL STANDARDS OF CARE COMMITTEE

Dr. Kumar advised that the Committee reviewed drafts of proposed sexual misconduct rules. Dr. Kumar stated that these draft rules were sent to a number of interested parties, including all of the professional associations, for input, and the Committee reviewed their comments and did make some revisions to the initial draft rules. A new document will be distributed to Board members in April.

Dr. Steinbergh asked that the suggested revisions from the associations also be distributed to Board members.

Dr. Talmage suggested that the rules be taken to the Federation meeting to show what Ohio has done with the Federation guidelines.

LEGISLATIVE LIAISON & RULES REVIEW COMMITTEE

Mr. Browning referred to the Committee's written report, a copy of which shall be maintained in the exhibits section of this journal.

Dr. Steinbergh expressed concern about H.B. 524, which would allow pharmacists to administer immunizations. She is especially concerned about their administering immunizations to children.

Several Board members indicated that they shared Dr. Steinbergh's concern.

Mr. Browning referred to H.B. 516, which would require the Board to make a judgment as to what the Board needs to do on minimal standards cases within two years after the filing of the complaint.

Dr. Talmage stated that he, Mr. Albert and Mr. Whitehouse met with the bill's sponsor, and they thought that they had satisfied her with the issues at hand, but the bill was subsequently introduced. Dr. Talmage commented that you only have to look at the tort system and how long it takes for a malpractice case involving a death to actually come to court. It sometimes takes four to six years. It simply takes a lot

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longer to get experts to opine, particularly if it's a voluminous record. Two years means that cases will be put before the Board that are improperly prepared. Dr. Talmage stated that he doesn't believe that anyone wants cases to be prolonged, and they do the best they can. To put a limit on it is impractical because there will be poorly prepared cases put before the Board that will be reversed.

Dr. Kumar asked where the majority of delay is.

Dr. Talmage stated that each case is unique. He commented that the Board has had cases where there have been three or more expert witnesses because somebody just doesn't get to it. They're being paid a nominal fee, and the contract requires that the review be done by a certain date. Then the date comes up and they promise it the next week, and it could be two or three more months before it's done. Dr. Talmage advised that there are also cases where the investigated physician or his attorney will delay the case.

Dr. Talmage stated that with a hard and fast two-year law on this, the Board is going to get stung, and people will get away with things.

Mr. Albert stated that this bill is relatively narrow now; but if it gets legs, it will come out of committee an entirely different bill from what the Board sees now. The bill may cover a lot of other cases besides minimal standards cases. That could cause the Board some real problems.

Mr. Browning suggested that a document laying out the Board members' concerns be sent to the bill's sponsors. He asked whether Dr. Talmage would take the lead on that.

Dr. Talmage indicated that he believes that the case that inspired this bill is a rare case, and he believes the statistics will bear that out. He commented that Ms. Gilbert has been working on those statistics.

Ms. Pfeiffer noted that the bill also requires the Attorney General to take action against the Board if it goes beyond two years to settle such claims. She remarked that it seems wrong to having the Board's attorney sue the Board for compliance.

Mr. Whitehouse stated that this is a completely unworkable piece of legislation. It's nonsensical and doesn't help anybody.

Dr. Kumar left the meeting at this time.

Mr. Albert noted that the bill implies that once the Board cites the physician, the clock stops; but he doesn't think that that's the sponsors' intent.

Mr. Whitehouse stated that he and Mr. Miller will go to see the Chair of the House Health Committee to try to explain that this won't be a good piece of legislation. They will also try to show that the Board has taken steps to improve its processing times.

Mr. Miller also reviewed S.B. 246, allowing chiropractors to perform acupuncture.

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LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed the credentials of three schools and recommends approval of all three.

DR. BUCHAN MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO: OHIO COLLEGE OF MASSOTHERAPY; SANFORD BROWN INSTITUTE; AND FLORIDA COLLEGE OF NATURAL HEALTH. 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
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Steinbergh	- aye

The motion carried.

P.A. COMMITTEE

Dr. Talmage stated that the Committee reviewed supplemental requests from two physician groups.

Frederick C. Smith Clinic

Dr. Talmage advised that the Clinic's request for its P.A.s to perform excisional biopsy of skin lesions, in an office setting, utilizing 100% onsite 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 advised that the P.A. Policy Committee (PAPC) recommended denial of this request, as it is a surgical procedure.

DR. TALMAGE MOVED TO PROPOSE TO DENY APPROVAL OF FREDERICK C. SMITH CLINIC'S SUPPLEMENTAL PLAN FOR ITS P.A.S TO PERFORM EXCISIONAL BIOPSY OF SKIN LESIONS, AS IT IS A SURGICAL PROCEDURE AND MEDICAL JUDGMENT IS REQUIRED FOR MARGINS OF INCISION AND PROPER CLOSURE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

Dr. Talmage advised that the Committee also reviewed Smith Clinic's proposed supplemental plan for its P.A.s to perform insertion of radial arterial lines and removal of portacaths. The Committee recommends approval of both items.

DR. TALMAGE MOVED TO APPROVE THE CLINIC'S SUPPLEMENTAL PLANS FOR: INSERTION OF RADIAL ARTERIAL LINES IN A HOSPITAL SETTING, UTILIZING 100% DIRECT SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM NO LESS THAN 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM NO LESS THAN 25 PROCEDURES TO DETERMINE COMPETENCY; AND REMOVAL OF PORTACATHS IN A HOSPITAL SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 25 PROCEDURES TO DETERMINE COMPETENCY. 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
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Steinbergh	- aye

The motion carried.

MIPA Primary Care

Dr. Talmage advised that the Committee also reviewed MIPA Primary Care's supplemental plan for its P.A.s to perform cryotherapy.

DR. TALMAGE MOVED TO APPROVE MIPA PRIMARY CARE'S SUPPLEMENTAL PLAN FOR ITS P.A.S TO PERFORM CRYOTHERAPY IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM 40 PROCEDURES TO DETERMINE COMPETENCY, SUBJECT TO THE GROUPS AGREEING TO THE

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FOLLOWING MODIFICATIONS: THE CRYOTHERAPY EXCLUDE MALIGNANT LESIONS AND MUCOCUTANEOUS AREAS; AND THAT THE LESION BE IDENTIFIED AND DIAGNOSED BY A PHYSICIAN PRIOR TO THE CRYOTHERAPY BEING APPLIED. 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. Steinbergh	- aye

The motion carried.

Dr. Talmage advised that the P.A. Application is being minimally modified to account for new terminology since the P.A. bill has passed. He referred to the draft application in the agenda materials, a copy of which shall be maintained in the exhibits section of this journal. He noted that there were no substantive changes.

DR. TALMAGE MOVED TO APPROVE THE REVISED P.A. APPLICATION. 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
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Talmage stated that the Committee reviewed the P.A. Legislation, and there are many items that must be addressed. Dr. Talmage stated that the bill goes into effect on May 17. He added that there is a considerable number of hospital applications that have come in, appearing to try to get in prior to the effective date. The PAPC has recommended, and the P.A. Committee concurs, that the Board should send a notice from the Board to those submitting these applications informing them that the hospital or health care facility will be responsible for determining the services provided by P.A.s in the facility as of May 17, 2006. Only office-based applications will be presented to the Board before May 17. The Committee sees no rationale for the Board's debating those privileges when they will ultimately be decided by the hospitals' credential committees.

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Dr. Steinbergh commented that the Committee also noted that there were necessary revisions in the application's fee structure.

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

Thereupon at 9:44 a.m. on March 9, 2006, the March 8-9, 2006 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 March 8-9, 2006, as approved on April 12, 2006.



Andrew F. Robbins, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

