

April 11, 2007

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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

April 11, 2007

Deepak Kumar, 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: Nandlal Varyani, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; David S. Buchan, D.P.M.; Andrew F. Robbins, Jr., M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Jack C. Amato, M.D.; Dalsukh Madia, M.D.; and Anita M. Steinbergh, D.O.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; William J. Schmidt, Staff Attorney, Enforcement, Compliance & Investigations; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, David P. Katko, Karen H. Mortland, Kathleen S. Peterson, Angela Scott, Daniel S. Zinsmaster, and Lynn Zondorak, Enforcement Attorneys; Sheryl L. Maxfield; Damion M. Clifford, Steven C. McGann; Barbara J. Pfeiffer, and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Karry Thacker, Executive Staff Assistant; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant; Kay L. Rieve, Administrative Officer; Jan E. Sussex and Joseph M. DePolo, Investigators.

At this time Dr. Kumar introduced Jack C. Amato, M.D., the recent appointment to the Board.

Mr. Whitehouse introduced Mr. DePolo, an addition to the Board's investigative staff, and Ms. Thacker, an addition to the executive staff.

#### MINUTES REVIEW

Dr. Kumar tabled the topic of "Minutes Review" until the following morning, to allow more time for Board members to review the draft minutes.

#### EXECUTIVE SESSION

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

April 11, 2007

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

The motion carried.

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

The following joined the meeting after the executive session: Patricia A. Davidson, Acting Chief Hearing Examiner; R. Gregory Porter and Gretchen Petrucci, Hearing Examiners.

#### REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its 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: Irina Aleksandrovna Gendler, M.D.; Eileen C. Golden, M.D.; Paul Evan Kelner, M.D.; Alla Mikhli, D.P.M.; and David Herbert Procter, 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. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

Dr. Kumar 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:

April 11, 2007

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

Dr. Kumar 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. They may, however, participate in the matter of Dr. Gendler, as that case is not disciplinary in nature and concerns only the doctor's qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

IRINA ALEKSANDROVNA GENDLER, M.D.

Dr. Kumar directed the Board's attention to the matter of Irina Aleksandrovna Gendler, M.D. He advised that no objections were filed to Hearing Examiner Petrucci's Report and Recommendation.

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

Dr. Gendler was accompanied by her attorney, Terry-Lynne B. Smiles. Ms. Smiles stated that they do not have any objections to the Hearing Examiner's Report and Recommendation. She noted that Dr. Gendler is very well qualified, and will hopefully join the practice of medicine in Ohio.

Dr. Gendler thanked the Board for the opportunity to address it. She stated that she appreciates the Board's consideration of her application for a medical license in the State of Ohio. She stated that she has been through a lot in passing all three steps of the U.S.M.L.E. She had numerous health problems and traumatic events in her life. Unfortunately, these problems made it difficult for her to pass Step III. Between passing Step II and taking Step III, she went through a difficult pregnancy, was put on medical leave and bed rest. After the birth of her daughter, she experienced some medical problems during the long post-partum period.

Dr. Gendler stated that about a month before taking Step III the first time, she was diagnosed with a colorectal polyp, which was suspicious for cancer. She had colorectal surgery to remove the polyp, which,

April 11, 2007

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fortunately, was found to be benign. Dr. Gendler continued that she was her father's care provider during the last three and a half months of his battle with cancer. She stated that the possibility of her own cancer diagnosis made it very difficult for her to concentrate. Also, the surgery made it physically difficult for her to sit for the examination. Despite that, she missed passing by only one point.

Dr. Gendler stated that a few weeks before the second time she took Step III, she was in a serious car accident. She struggled with some injuries for several weeks. Nevertheless, she decided to take Step III just to be able to fall into the Board's seven-year rule. Unfortunately, on her way to the exam, she witnessed a fatal car crash and experienced immediate emotional stress, and some flashback of her own recent car accident. She was unable to concentrate during the examination. That time she missed passing by two points.

Dr. Gendler stated that she next scheduled to take Step III in April 2006, which was approximately six months after the seven-year deadline. That time she passed the exam with a score of 86. Later, in December 2006, she took her board exam and passed it easily and became a board certified family physician. She also has a California license, but she wants to practice in Ohio. She considers Ohio her home. She likes the people and the healthcare system here. Dr. Gendler stated that she has a lot of support in the Dayton and Troy, Ohio area from the hospital and physicians who want to work with her, and from patients she met during her residency who want her to become part of the medical community.

Dr. Gendler stated that she cannot say how much she appreciates the support these people have given her through this process. She thanked Hearing Examiner Petrucci for her recommendation to the Board. She asked that, given the medical issues she encountered, the Board follow Ms. Petrucci's recommendation and grant her an Ohio medical license.

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

Mr. Clifford stated that this is simply a seven-year rule case that deals with two exceptions being sought: one being a significant health condition, and the other being good cause. Dr. Gendler missed the seven-year rule by about five and a half months. Mr. Clifford stated that, under the Board's statutes, it can make the determination it feels appropriate.

**DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF IRINA ALEKSANDROVNA GENDLER, M.D. DR. STEINBERGH SECONDED THE MOTION.**

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

Dr. Buchan stated that Dr. Gendler did pass all three steps, in what he calculated as eight and a half years. However, she did pass it within ten years, and she did have significant health issues. Dr. Buchan stated that he does think that Dr. Gendler would be an asset to the citizens in the state, and he feels the license should be granted.

Dr. Steinbergh concurred, stating that she thinks that the Hearing Examiner made an appropriate record and

April 11, 2007

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concluded that Dr. Gendler did satisfy the significant health condition and good cause exceptions to the seven-year rule. Dr. Steinbergh agreed that Dr. Gendler's license should be granted.

Dr. Robbins indicated that he also agrees. He added that, in addition to the health issues, the fact that Dr. Gendler was board certified the previous month is a positive in this case.

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

EILEEN C. GOLDEN, M.D.

Dr. Kumar directed the Board's attention to the matter of Eileen C. Golden, M.D. He advised that no objections were filed to Hearing Examiner Petrucci's Report and Recommendation. Dr. Kumar asked for a motion to approve and confirm the Hearing Examiner's Finding of Fact, Conclusion of Law, and Proposed Order.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDING OF FACT, CONCLUSION OF LAW, AND PROPOSED ORDER IN THE MATTER OF EILEEN C. GOLDEN, M.D. MS. SLOAN SECONDED THE MOTION.**

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

Dr. Steinbergh stated that she thought that Dr. Golden might be here. She indicated that she wanted to know what the outcome of the baby at issue was. Dr. Steinbergh noted that the record indicates an APGAR rating of one, but it doesn't indicate the final outcome.

Dr. Egner advised that that information wasn't in the record.

Dr. Steinbergh referred to the Conclusion of Law, which states that Dr. Golden was put on probation by the New Hampshire Board. The Proposed Order reprimands Dr. Golden, places her on probation for three years with a monitoring physician, and requires her to complete her probation with New Hampshire.

April 11, 2007

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Dr. Steinbergh stated that she felt that that was appropriate. The Proposed Order also requires personal appearances every six months, with quarterly monitoring physician's reports. Dr. Steinbergh stated that Dr. Golden did present letters of support and Dr. Golden neither denied nor admitted to the allegations in New Hampshire. Dr. Steinbergh stated that she felt the Board should be consistent with the New Hampshire Board, whose action was in 2006.

Dr. Buchan asked what the probationary time in New Hampshire is.

Dr. Egner stated that she doesn't believe that Dr. Golden is on probation in New Hampshire.

Dr. Buchan stated that he also believed that there was no probation, but Dr. Steinbergh has suggested that there is.

Dr. Steinbergh stated that she thought that the Proposed Order was consistent with New Hampshire's settlement agreement, and that there was probation.

Dr. Egner stated that her understanding is that the New Hampshire Board reprimanded Dr. Golden and required her to take a fetal monitoring course. That is it. The Proposed Order before the Board is to reprimand, place her on probation for three years, and then there's a suggestion in the Report and Recommendation that Dr. Golden could come back after a year to request a lesser probation. Dr. Egner stated that she has real issues with some of this. First, Dr. Golden was very forthcoming with the information. It stems from a malpractice case. Dr. Egner stated that she doesn't see what anything further than a reprimand would do. There's nothing in this case that makes her feel that Dr. Golden needs to have a harsher Board Order from Ohio than she got from the state in which she then resided and worked. Dr. Golden has abided by New Hampshire's rules. Dr. Egner stated that she thinks a three-year probationary period is onerous. Secondly, she doesn't like giving a probationary period and then saying that the physician can come back and ask for less. If the Board thinks a lesser probationary period is appropriate, that's what she should get from the beginning. Dr. Egner stated that she doesn't feel that that is appropriate in a Report and Recommendation.

Dr. Egner stated that her feeling on this case is that Dr. Golden should be reprimanded, and that's it.

Dr. Buchan stated that that's how he feels, as well. He thinks that a reprimand is appropriate. At this point, it's an isolated incident. New Hampshire has spoken to the matter, and Ohio will speak to the matter by way of reprimand. Dr. Golden has had some additional training, and a reprimand would be appropriate. Dr. Buchan stated that he doesn't see the need to put this person on probation.

**DR. BUCHAN MOVED TO MODIFY THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF REPRIMAND ONLY. DR. EGNER SECONDED THE MOTION.**

Dr. Kumar stated that he would now entertain discussion on the motion to amend.

Dr. Steinbergh stated that the outcome of the infant in this case was of great concern to her. Dr. Steinbergh stated that she thinks that the public expects the Board to monitor these physicians. She stated that her

April 11, 2007

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concern was that this was either a demise or possibly CP, and she wasn't sure. That was a concern. It's not such a simple case that the Board should reprimand the physician and say that she shouldn't have done that. There is a bad outcome in this case – no question. What does the Board do about that?

Concerning the long-term outcome of the infant, Dr. Egner advised that there are so many factors that could go into that. All physicians have been in situations where they've looked at an incredibly bad-looking strip, and came out with the healthiest crying baby that is wonderful. And there are situations where you get a baby that's not healthy without showing signs. The ultimate outcome of the baby doesn't really determine for her whether the physician acted appropriately in that labor and delivery situation.

Dr. Steinbergh noted the timeline.

Dr. Egner commented that the patient had an extremely fast labor.

Dr. Steinbergh stated that the timeline indicates that at 4:10 a.m., the external monitor documented a clear change in the fetal heart rate, baseline, compared to 3:53 a.m. At 5:41 the patient delivered.

Dr. Steinbergh asked whether the baby should have been delivered earlier, and if there was a problem with the internal versus the external monitoring. Dr. Steinbergh stated that she's thinking that there was problem there. Dr. Steinbergh stated that she doesn't disagree that there could be many things that could lead to the bad outcome; but, from the record that the Board has, her feeling is that there was a bad outcome because of the decision-making. This baby was not delivered fast enough.

Dr. Egner stated that she doesn't think that Dr. Golden acted totally appropriately. For that reason, Dr. Golden needs to be reprimanded. Dr. Egner doesn't feel that the Board has enough information about this physician to indicate that she needs to be placed on probation.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- nay

The motion carried.

**DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDING OF FACT, CONCLUSION OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF**

April 11, 2007

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**EILEEN C. GOLDEN, M.D. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- nay

The motion carried.

PAUL EVAN KELNER, M.D.

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

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

Dr. Kelner was accompanied by his attorney, Eric J. Plinke. Mr. Plinke stated that the record before the Board contains his objections, which were targeted at the issue presented by both expert witnesses. This is an emergency medicine case. Mr. Plinke stated that he thinks that Mr. Porter was accurate in describing both Dr. Janiak and Dr. Brinkman as highly qualified individuals, who were competent to serve as expert witnesses in this case. They're both board certified in emergency medicine and both well respected. Mr. Plinke stated that he thinks that the upshot of their testimony that is relevant today in consideration of the Proposed Order is that, when you look at their testimony, the spectrum of minimal standards of care in how you treat a patient like this is broad. There are different approaches that can be taken, and they are all within minimal standards of care. Dr. Kelner stated that he would submit that Dr. Kelner's actions were consistent with that broad spectrum of treatment options. Mr. Plinke stated that the upshot of that is that permanent revocation, based on that case, the record, and reasonable minds that differ in regard to the treatment approach in this case, is beyond what is appropriate.

Mr. Plinke stated that in the broader spectrum, the Board has Dr. Kelner before it. He stated that many Board members may recall Dr. Kelner from his previous Board orders. Mr. Plinke stated that Dr. Kelner is compliant with those Board orders. Mr. Plinke stated that Dr. Kelner would like to make a statement to the Board that addresses this case and what his career plans and objectives are.

Dr. Kelner thanked the Board for the opportunity to speak. He stated that he realizes when he comes

April 11, 2007

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before the Board, many of its members may look at his history and say, “not him again.” He stated that, unfortunately, over the years, his name has been an agenda item too many times. As the Board is aware, the reason he is before it today is not due to a new incident, but due to a case that occurred in 2002.

Dr. Kelner stated that during the winter of 2002 he cared for a patient, who was pregnant, in the emergency department. The patient was presented to him by the triage nurse who advised that the patient was in the emergency department one week prior for similar symptoms. She also stated that the labor and delivery floor was extremely busy and that she did not want the patient to wait in triage much longer. Dr. Kelner stated that she asked him to see the patient in the emergency department to expedite her care and to decrease her wait time. She had been worked up during her previous visit, and at that time constipation was determined to be the etiology of her discomfort. She was treated for this disorder and did well for a few days, but then developed similar symptomatology. She stated that she felt, “exactly like (she) did a week ago.” Dr. Kelner stated that he set out to relieve her discomfort. Unfortunately, as the Board is aware, the patient delivered precipitously in the emergency department. The 24-week old newborn was resuscitated by him and survived for three days before succumbing to the prematurity. Dr. Kelner stated that, looking back at this case in retrospect provides a perspective that he did not have at the time. He indicated that, knowing what he knows now, he would do things differently. At the time, with the data he had available, he acted in a manner that he thought was in the best interest of the patient.

Dr. Kelner stated that during the hearing both experts, who are board certified emergency physicians, disagreed about whether the minimal standard of care was breached. He stated that his opinion is consistent with Dr. Bruce Janiak’s review of the case. Dr. Kelner stated that it is his hope and his prayer that the Board view this case as an isolated incident and not a pattern. Never before has the quality of medical care that he delivered been questioned. He commented that the emergency department nurses always handed him the difficult cases because of his ability to make the difficult diagnosis or perform the complicated procedure.

Dr. Kelner stated that he realizes that it is difficult for the Board to separate this incident from his history of chemical dependency, but the fact is that he has been clean and sober for almost five years. He works a solid recovery program and his life now is completely changed from the life that he had in 2002. At that time he was recently divorced from a woman who turned out to be a lesbian, and he was under significant financial duress. Since then he has been married to a wonderful Christian woman, who is a dentist who has been practicing for 26 years without incident. They are raising five boys together, and currently his oldest son is pursuing the study of engineering at Northwestern University. Together they live a wholesome life and are devoted to giving back to a God who has given so much to them.

Dr. Kelner stated that this leads him to where he is today and to what he would like to contribute in the future. He advised that he is currently an associate professor at the MedCentral College of Nursing in Mansfield, Ohio. He teaches pathology, pharmacology and physiology. He is also involved in the college administration as the director of the accelerated RN/BSN program. It is their hope to open a clinic within the next year to train nurse practitioners and to provide care to the underserved population. Dr. Kelner stated that his desire is to be medical director of that clinic. It is not in his plans to work in an emergency department or to open his own office. He does not desire to have prescriptive privileges for controlled substances.

April 11, 2007

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Dr. Kumar advised Dr. Kelner that he has one minute to conclude his statement.

Dr. Kelner stated that he would simply like to train future nurses and to treat the economically challenged population. He would also like to become involved in his Church's medical mission work throughout the world. Dr. Kelner stated that he was holding letters of support from his college dean and president who provide support for these personal and professional aspirations. They have worked with him for three years and can attest to his character and potential. Dr. Kelner stated that it is hope, his prayer and his desire that the Board would see him as the changed individual that he is and allow him to return to the profession for which he is trained. He stated that he will not let the Board or his Creator down.

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

Ms. Pfeiffer stated that this is a minimal standards of care case. This is not an impairment case. There was no allegation of impairment and no evidence of impairment. The standard of care case for this was in an emergency medicine setting. The testimony that came from the State's expert is that one of the overriding principles for emergency medicine is that, when you are working in an emergency room, and a patient comes in, you want to rule out the worst case scenario presenting from that patient, based upon her symptoms that she presents and whatever examination reveals.

Ms. Pfeiffer advised that the patient in this case was a female, 22 years old, married, working at Denny's. She came into the emergency room six months' pregnant, complained of lower abdominal pain, lower back pain and difficulty having a bowel movement in the previous week. She indicated that the pain had started about three hours before then. Dr. Kelner made the determination that the patient was suffering from constipation and treated her accordingly. Ms. Pfeiffer stated that the State's expert testified that, based on the presenting conditions, Dr. Kelner should have suspected labor or a problem with the pregnancy. What a physician wants to do, first and foremost, is rule out that the patient is in labor. You do that by conducting a pelvic exam, using a sterile speculum. What should have been done in this case, and was not, was that exam.

At this time Ms. Pfeiffer showed the Board State's Exhibit 8, a sterile speculum. For the benefit of non-medical members of the Board, she explained how the speculum is used in an examination. Ms. Pfeiffer stated that the examination performed with the speculum is safe and takes a very short time to do. When the exam is performed, the emergency room physician is looking for signs of labor: is the cervical opening dilated? Are the membranes protruding, are they swollen? Do you see a baby? If you see those, the woman is probably in labor and needs to be treated accordingly. This simple test was not done in the ER, and this is what should have been done. Instead, Dr. Kelner prescribed pain medication and a soapsuds enema. The patient was administered the medication for pain she rated as being ten out of ten. The patient was given an enema, a commode was set up by the patient's bed, the patient went to the commode, presumably to expel the enema, she gave birth and the baby was born on the floor.

Ms. Pfeiffer noted that Kristopher R. Brickman, M.D., the state's expert, testified extensively. She read the following excerpt from his testimony:

April 11, 2007

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It's pure and simple. It comes down to a straight fact that when a woman comes in, you know, with abdominal pain and back pain, your job is to determine whether or not they're either in labor or a complication of the pregnancy. You know, those -- that's your job. And so the appropriate exams -- should have done whatever was necessary to make that determination...Sterile speculum exam should have been done and ... as I stated in my letter (his expert report), I clearly feel we would have made the diagnosis with a sterile speculum examination in lieu of the fact that within a hour to an hour-and-a-half later, she actually made this delivery. I clearly feel there would have been some findings that would have been recognizable at that point.

Ms. Pfeiffer stated that Dr. Brickman's ultimate opinion was that at the time Patient 1 came into the ER, she was in labor.

Ms. Pfeiffer stated that she thinks that the Board has before it a clear case of a failure to conform to minimal standards of care. The next the thing the Board needs to decide is what, if anything, the Board is going to do with respect to Dr. Kelner. Ms. Pfeiffer stated that there are two aggravating factors the Board needs to consider in its deliberations.

Dr. Kumar advised Ms. Pfeiffer that she has one minute left for her address.

Ms. Pfeiffer stated that the aggravating factors include four prior disciplinary actions against Dr. Kelner, one each in 1991, 1996, 2002 and the current action from October 2003. Ms. Pfeiffer stated that, just as important, is the adverse impact of misconduct on others. This baby girl that was born lived only a few days before she died. She asked that the Board remember Patient 1, the prospective mother in this case. The progress notes from the day after Patient 1 delivered this baby read as follows: "Patient has multiple questions relating to emergency room care. Patient is still upset regarding the sequence of events and the fact that 'people did not seem to be listening to her.' I encouraged her to ask for an inquiry. She wants to be discharged to see her baby."

Ms. Pfeiffer stated that the ultimate decision is the Board's. Currently, the Board Order against Dr. Kelner permanently revoked his license, stayed the revocation and placed him on an indefinite suspension for a minimum of five years. There's not much more the Board can do to Dr. Kelner but affirm the Hearing Examiner's recommendation of permanent revocation.

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

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

Dr. Egner stated that, unlike her comments on the previous case, she thinks that this case presents a very different scenario. The Board has a lot of information here about what happened to the case, and it can reach quite a few conclusions. First of all, the patient had a completely inadequate exam. As the expert pointed out, she not only had an inadequate exam in terms of an obstetrical diagnosis, she had a completely

April 11, 2007

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inadequate exam in terms of whether she was constipated or not. Dr. Egner expressed concern over Dr. Kelner's not even doing a rectal exam on this patient.

Dr. Egner stated that a light bulb should have gone off in Dr. Kelner's head when the nurse said that the patient was just there last week for the same thing. In Dr. Kelner's testimony, his defense is that the nurse told him that the patient had just been there the prior week for the same thing. She stated that it should have occurred to Dr. Kelner that maybe something's going on, for a patient to come to the emergency room twice within a short period of time, pregnant, complaining of constipation, and rate her pain a ten out of ten. That's when the light bulb should have gone off for Dr. Kelner to say, "we need to look into this person's pain more thoroughly."

Dr. Egner stated that Dr. Kelner makes the statement that this patient was going to deliver, no matter what he did, and would have had this bad outcome. Dr. Egner stated that the Board doesn't know that at all. The Board has no idea what that patient's cervix was when she presented to the emergency room. It has no idea whether the patient's labor could have been stopped. The Board certainly knows that delivering the baby on the floor gave this child far less chance of survival than a safe delivery in a bed. Even better would have been having the patient transferred to labor and delivery. The excuse that labor and delivery was very busy in a 24-week complicated pregnancy just doesn't cut it.

Dr. Egner stated that the other thing that disturbs her is that Dr. Kelner doesn't look back on this case and say, "there were multiple places I could have done things differently." He hasn't learned from this case, and this disturbs her tremendously. Dr. Egner noted that Dr. Kelner is regretful of the outcome and he knows that it was a tragic outcome, but he doesn't take any ownership for his role in not making a diagnosis and not treating the patient appropriately. She commented that Dr. Kelner testified that it was extremely precipitous and they don't know at what point the labor process began. He indicated that, had he done the sterile speculum exam, and there was no fluid and no dilatation, he would have proceeded with the same process. The patient could have gone into labor immediately after that. As long as he didn't see fluid in the vaginal vault, he wouldn't have done anything differently. Dr. Egner stated that Dr. Kelner has no self-reflection, no medical judgment on what should have been done, what could have been done differently, and that he was the person who should have done it.

Dr. Egner referred to Mr. Porter's statement in the paragraphs following the five stars at the end of the Conclusions of Law: "Although the Board's previous disciplinary actions were related to Dr. Kelner's chemical impairment, the Board may consider his previous disciplinary history as an aggravating factor." Dr. Egner stated that this is Dr. Kelner's fifth disciplinary action before this Board. He has been under stayed permanent revocation on two prior occasions. Although it isn't the sole reason that she agrees with permanent revocation, these other reasons are more compelling, but it is a factor. Dr. Egner stated that this was an extremely well documented case, and Mr. Porter did a very good job in making the issue very clear. Dr. Egner stated that she agrees with the proposed permanent revocation.

Dr. Steinbergh agreed with Dr. Egner's comments, stating that the hearing report was very well put together. It was very clear what occurred. She was surprised to find that Dr. Kelner's expert, who is board certified in emergency medicine, would support this type of examination as being appropriate. The first thing that happens when a pregnant woman comes into the emergency room – first she should have been

April 11, 2007

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taken to labor and delivery and been examined by an obstetrician. If that was an impossibility, at the very least Dr. Kelner should have done a sterile speculum examination. When a woman who is pregnant comes in with knifelike pain to the abdomen and lower back, this is not constipation, period. Dr. Steinbergh expressed concern that Dr. Kelner defends himself by saying that the patient said she was constipated, had the same thing last week, and she said it was the same thing. Dr. Steinbergh asked how many times a patient comes in and complains of something and then gives his or her opinion as to what it is. Once a patient comes in to see her for a problem, she's the professional and she has to make a decision as to what is causing the problem. Dr. Steinbergh stated that she has to properly examine the patient; she can't just say in her record, "patient has a headache and said that she thinks she needs new eyeglasses," and then send her off with a pain reliever. That's not appropriate, nor was what Dr. Kelner did in this emergency room appropriate.

Dr. Steinbergh stated that the patient was not properly evaluated. As far as whether or not a rectal examination should have been done for constipation, she does believe that it should have been done. However, the big issue in this case is that he never did a sterile speculum examination. He never did an ultrasound, and she would presume that in 2002 the use of an ultrasound would have been appropriate as well. There were a variety of ways he could have properly diagnosed this patient, and he didn't. She added that giving this patient a soapsuds enema will deliver the baby.

Dr. Steinbergh stated that there's no question in her mind that this was a significant minimal standards of care case.

Dr. Varyani stated that he would very strongly agree with what has been said. He added that he believes that he did read that this patient had a history of miscarriage a couple of years ago, so even her history was not completely taken, let alone an examination done. If someone comes in and defends this, he has a very hard time with that.

Dr. Buchan stated that he would like to breathe a little life into this license, if he can. Dr. Buchan stated that he doesn't think that there's any question about the standards of care issue today. He thinks that it warrants more than a reprimand, which the Board just did; but his conflict is that, on its own, it doesn't pronounce to him a death sentence on a license. He stated that he understands the aggravating factors, noting that the Board has seen Dr. Kelner many, many times, but he would take more middle ground in this matter. As much as he appreciates the extraordinary minimal standards issue at hand, what is suggested in the Order is a death sentence to Dr. Kelner's medical career. Dr. Buchan indicated that he would like to see how the rest of the Board members feel.

Ms. Sloan stated that she doesn't need to be a physician on this one; she's a woman who's had three children. She's a woman who walks into emergency rooms and her physician's office, and who knows that there are certain questions that are going to be asked. In this case, things were not asked and an examination was not done. Ms. Sloan stated that she has a hard time reading this case and thinking that the Board can put a little bit of life into Dr. Kelner's license; she stated that she cannot agree with that. She just doesn't see it.

Dr. Steinbergh stated that there are a couple of issues she would like to address. First, she came today with

April 11, 2007

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an alternative order, if the Board's discussion indicates that it wants to go in a different direction. Second, she knows that this is not a chemical dependence issue at this moment, and her decision about whether she would permanently revoke this license is not based on that, except for his history, as the Board knows his history, and as is in the record.

Dr. Steinbergh noted that Dr. Kelner has had four actions against his license. She added that the interesting piece in this case is the timeline. Dr. Kelner was released from probation in August 2001. He relapsed in November 2001. This case happened January 25, 2002. He self-reported his November 2001 relapse on February 26, 2002 and went into treatment on February 27, 2002. She stated that she would like to put that out for the Board's consideration and thought.

Dr. Steinbergh indicated that if Board discussion supports an alternative, she had thought that the Board could conceivably stay the permanent revocation, although he's been under three stayed revocations before, and continue to suspend his license. When she looks at the case in total, she was very much opposed to his inability to defend himself and the words that he used to defend himself. She noted his statement that the patient told him that "she'd been constipated before, and this is what it feels like." She also noted Dr. Kelner's statement in the hearing record that the patient miscarried once before and she would know what that feels like. Dr. Steinbergh noted that the patient miscarried in her first trimester the first time. She would have no concept of what a miscarriage at this stage would feel like. Dr. Steinbergh stated that the onus is on the physician to make the diagnosis. The diagnosis comes from an appropriate history, which he did not get, an appropriate physical examination, which he did not do. His assessment was wrong and the problem ensued.

Dr. Robbins stated that he will admit that he's going a little back and forth on the penalty in this case. His sense before he came here was to breathe a little life into this license, too, but there are a couple of things that disturb him a lot here. First was when it was said that labor and delivery was very busy. Dr. Robbins asked who isn't busy. He stated that that was a ridiculous thing to say. Second, it seems that the diagnosis was made before Dr. Kelner ever saw the patient. The nurse went to him and said, "we have a pregnant female here that was here a week ago, was diagnosed with constipation, they're really busy, they can't see her in labor and delivery, would you help expedite this, she's only constipated." Dr. Robbins stated that it seems to him that that's how the treatment proceeded. He clearly didn't do an exam. Dr. Robbins stated that what's stunning to him is that an expert in emergency medicine would think that this is the normal standard. A first-year medical student, he would think, would ask whether the patient was in labor, whether someone looked. Dr. Robbins stated that he would think that that's the first thing any physician would ask in a situation like this. Then if you look and you don't see it, that's a different story. Dr. Robbins stated that he was deeply concerned that the experts in labor and delivery, who he is certain would have checked this, were too busy to examine her so Dr. Kelner was asked to take over because the patient is just constipated. Dr. Robbins stated that his sense, initially, was that permanent revocation was harsher than he was willing to go, but he'll continue to listen to others.

Dr. Kumar stated that he thinks that Dr. Robbins brings up a very good point in that some of the issues involved here were system issues, starting from the triage person. That doesn't absolve Dr. Kelner of his responsibilities, but there are some issues.

April 11, 2007

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Dr. Kumar stated that, if the Board only had this particular case, with some of the things that have occurred recently in his own institution, he would not be in favor of permanent revocation himself. He noted the following example of how quickly these things can occur. His hospital had a patient come into the emergency room, full term with severe pain. She was examined by the emergency room physician, examined by internal medicine, and examined by an OB/GYN. Everything was done and the patient was asked to be discharged by the OB/GYN. Somehow or other, the resident sent the patient out for an ultrasound. The patient was being transported, and during the process of transportation, when ten minutes before her cervix was completely closed, she has a precipitous delivery. Things can happen. Dr. Kumar agreed that there were a lot of mistakes made in this case. There should have been a much better pelvic examination; there should have been a rectal examination as far as the issue of constipation was concerned; but taking into account on the basis of one case, even as tragic as it is, he doesn't think permanent revocation is appropriate.

Dr. Varyani stated that he did think about it. This is a very striking case for him. Dr. Varyani indicated that, initially, he was leaning toward being more lenient; however, the thing that bothered him the most was that the patient was six-months pregnant, came into the emergency room. It doesn't matter whether she was there the previous week or not, he, personally, would still be very careful. Dr. Varyani stated that he personally would be really scared of ordering the treatment Dr. Kelner ordered for a patient he didn't examine, without making sure that there is constipation. Just the treatment itself can precipitate labor. Dr. Varyani stated that in the scenario before the Board, it is most likely that the treatment precipitated the labor, and there's not even enough courtesy being given to the patient for a real history. Dr. Varyani stated that he would be very careful to get the history before ordering this treatment. Dr. Kelner admitted that someone told him that the patient had an incompetent cervix a year or two ago. Dr. Varyani stated that he doesn't think that a medical student would do this treatment at this time. Dr. Varyani added that a year or so ago the Federation reported that most of the physicians who have problems in minimal standards cases are physicians with drug dependency issues. Dr. Varyani stated that he's not looking at this one incident only. He is looking at the entire picture. This physician has visited the State Medical Board four times previous to this. Everything is related.

Dr. Madia stated that he agrees with what others have said. He has a problem when any physician, no matter what specialty or what condition, orders a treatment without a proper history or examination. Dr. Madia stated that he's known Dr. Kelner for quite a while, so he's not going to discuss what kind of action the Board should take.

Dr. Kumar suggested that Dr. Madia abstain from discussing or voting on this case.

Mr. Browning stated that he thinks consequences matter, and the consequence of this was a tragedy, and possibly a death. The Board understands that there was a death; but whether or not other, proper services to this woman would have resulted in the child living, the Board doesn't know. Therefore, the consequence could be the ultimate tragedy. That matters to him. Mr. Browning added that Dr. Steinbergh's comments about the relapse issue as a potential fact for consideration doesn't help the case from his point of view.

Dr. Steinbergh stated that she would disagree with Dr. Kumar a little bit on the systems error argument.

April 11, 2007

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This was not a systems error. This woman came into the emergency room. The doctor was in charge. He made the wrong decision. She repeated that this was not a systems error. In a case where you have multiple qualified physicians evaluating your patient, as in Dr. Kumar's example, and something tragic happens, it is a tragedy. You can go back and say, "where did we go wrong in this." You can go back and assess the ultrasound. It will become an educational piece. This was not a systems error; to her this was very simple. The patient was pregnant and should have been evaluated for her pregnancy. She was not. She was treated for constipation. Dr. Steinbergh stated that this patient had acute abdominal pain and knife-like back pain. This is not constipation. Dr. Steinbergh stated that this is a minimal standards of care issue. This doctor made a very large mistake. Dr. Steinbergh stated that she disregards what the triage nurse told Dr. Kelner. He was the doctor in charge. Regardless of what the patient says or what the nurse said, the nurse does not have the responsibility for making the diagnosis.

Ms. Sloan stated that this was a decision that this physician needed to make, and he made no clear decision. He did the least amount of any work on this case, and there was a tragic end. The simplest things could have been done, and they weren't. Ms. Sloan stated that she always waits to hear what someone says at the end of the table when they come to address the Board, and she did not hear this physician say that he made a mistake, that there were some bad decisions made. Ms. Sloan stated that she would have wanted to hear that, at least, in order for her to consider another order. She stated that she just cannot do it.

Dr. Buchan stated that he doesn't disagree with any of the permanent revocation discussion. He just needs to say where he stands on the matter, and then the Board should probably come close to voting on the order, as discussed. On its own, he doesn't think this merits permanent revocation. He suggested that the Board think about this act being five years ago. Several weeks after the incident he self-reported. He's been, by the Board's monitoring processes, clean and sober for five years. This is a different man today than he was five years ago. Dr. Buchan stated that he doesn't minimize any of the consequence and the outcome. What he's suggesting is that this case, on its own, doesn't merit permanent revocation. If this were a relapse and impairment issue, the Board has spoken to that. He's under a stayed revocation. Dr. Buchan again stated that this is a minimal standards case, horrendous as it is, but it's been five years, and he would consider that the Board would amend the Order. He stated that he would take the responsibility of developing an alternative order.

Dr. Egner stated that she really respects Dr. Buchan, and she hears what he's saying, but her take on this is that this is a single act, but it is so egregious, she believes it does deserve permanent revocation. In terms of the timing of this incident with Dr. Kelner's relapse, that certainly doesn't help the situation. In fact, when Dr. Buchan says that this is a different man today, she doesn't know that. Statistically, an impaired physician who has had as many relapses as this physician has had is more likely to relapse again than to not relapse again. Dr. Egner stated that the Board might be putting this same scenario into action down the road, and she's not willing to do that. Dr. Egner stated that Dr. Kelner's impairment history and prior Board actions did not make her feel that permanent revocation is in order, but this incident makes her feel that way. She added that his impairment history is an aggravating factor. His judgment is so impaired.

Dr. Egner added that she agrees completely with Ms. Sloan. Nowhere in the hearing record and nowhere here today did the Board hear Dr. Kelner say that he made a grave error, that he did not examine that patient the way he should have, that he has learned from this and he would never treat this patient the same

April 11, 2007

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today as he did then. Dr. Egner stated that she is appalled that Dr. Kelner did not say those words.

Dr. Kumar stated that there is no motion for amendment on the floor. He asked whether there were any final comments or discussion points for anybody. There were none.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- nay
	Dr. Madia	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

ALLA MIKHLI, D.P.M.

Dr. Kumar directed the Board's attention to the matter of Alla Mikhli, D.P.M. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

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

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

Mr. Plinke stated that they filed objections, which were really directed at the Proposed Order's recognition of the mitigating circumstances. The summation of the evidence and the testimony that was presented is not objectionable; everything is perfectly fine. It's an excellent Report and Recommendation in that respect. Even the recognition of mitigating circumstances that Dr. Mikhli presented is consistent with what the record shows. From that point, though, the proposed permanent revocation is what they are targeting in the objections.

Mr. Plinke advised that the case before the Board is a plea agreement resulting in a felony conviction. The Board sees these every month, and oftentimes the Board has a record that doesn't have a lot of substantive information regarding the offense at issue or the practitioner. In this case, they presented the Board with as much information as was available regarding Dr. Mikhli in connection to this offense. There are samples of clinical records, samples of billing documentation, and substantial information and attestations from

April 11, 2007

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members of her community, and professional colleagues, one of whom actually came to the hearing to testify on her behalf as to her excellent reputation in the community and her commitment to her patients.

Mr. Plinke stated that, as he mentioned in his objections, Dr. Mikhli is a solo practitioner. In this day and age, solo practitioners are at risk of developing bad billing practices, more than physicians in groups or physicians in solo practices who have compliance plans or use outside auditors to evaluate their billing. Mr. Plinke stated that he thinks that Dr. Mikhli's testimony speaks to this. She started utilizing a code and stuck with it. It was inappropriate. When Medicare is serving as your compliance office five years after you started that billing practice, that is not a good situation to be in because they have five years of repeated use of this code. If you have a misunderstanding of the code, even if your motivations are not for greed or personal benefit, as was this case, you are in a circumstance from which it is very difficult to extract yourself. Mr. Plinke stated that he's not saying this to suggest that Dr. Mikhli is free of wrongdoing or that she didn't plead guilty. This is an area of intense scrutiny in medicine. For a solo practitioner, particularly in podiatry, it can lead to these types of situations.

Mr. Plinke stated that Dr. Mikhli would like to address the Board briefly. Before she does, he would like to add one last point that is reflected in the record. Dr. Mikhli was excluded from the Medicare/Medicaid rolls, which essentially prevents her from practicing. Typically, the exclusion for this type of offense is a five-year minimum exclusion. Mr. Plinke stated that, if the aggrieved party in this case, which is Medicare/Medicaid, is going to set up a system that will allow Dr. Mikhli to some day again become a participating provider, he would request that the Board give the same consideration.

Dr. Mikhli thanked the Board for permitting her to speak. She stated that, most importantly, her intentions were not to defraud the government. If she were to have set out to defraud the government, she probably would not have used a single code. There are so many varieties. Her priority was to take care of the patients and do the best she can do. Dr. Mikhli stated that she has been one of the busiest podiatrists in Cleveland, and her salary was below the average in Ohio. So, she did not go for the money.

Dr. Mikhli stated that she now realizes that the code she was using was inappropriate. The CPT code that she used, 10060, was for a simple abscess. Medicare describes that as a single sterile #15 blade to drain the abscess. Dr. Mikhli stated that she thinks that she provided more care than Medicare described. She advised that when she knew that they were questioning whether she was doing appropriate things, she told them to go ahead and check. She thought she was doing the right things, but now she knows that, sometimes, for paronychia, because she has patients who are mostly diabetic and over 70 to 80 years old, she didn't think that she had any other option to do a higher code, which would have so much more grave complications.

Dr. Mikhli stated that her patients were always happy. They were always taken care of. She thought she did it for the least amount of money. Dr. Mikhli stated did not do this through greed. She did it because she did not know that she was using the wrong code.

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

Mr. Wilcox stated that, while he thinks it is very sad that Dr. Mikhli has put herself in this position, he

April 11, 2007

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agrees with the Hearing Examiner Petrucci's recommendation that the Board permanently revoke Dr. Mikhli's license. The conduct to which Dr. Mikhli admitted is spelled out in her plea agreement specifically. She admitted that, from a period of March 2001 through January 2005, she knowingly and willfully claimed payment from Medicare and Ohio Medicaid for surgical podiatry services known as "incision and drainage procedures," and represented falsely that she had performed those procedures when, in fact, she had performed lesser procedures or routine foot care that was reimbursable, if at all, at lesser rates. As a result, Medicare and Ohio Medicaid suffered a loss of \$120,000.

Mr. Wilcox stated that today he's again hearing from Dr. Mikhli that there was no intention to defraud. In this case, unlike many similar cases the Board sees, he thinks that there is evidence in the record that specifically addresses this point. At her sentencing hearing, Dr. Mikhli tried to tell the federal judge in this case that it was a billing mistake. If you look at the sentencing hearing transcript, the judge took Dr. Mikhli to task for trying to explain her way out of the events. Regarding her statement that it was a mistake, the judge stated, "(i)f this was simply a mistake, then you should not have entered a plea of guilty...you were not charged with a mistake; you were charged with an intentional defrauding."

Mr. Wilcox stated that he would also like to point out what the federal prosecutor said in her statement during the sentencing hearing on June 12, 2006 before Federal Judge Patricia A. Gaughn, in Cleveland. The prosecutor responded to the sentencing memorandum filed by Dr. Mikhli's criminal attorney and his statement that Dr. Mikhli's behavior in this case was aberrant. The prosecutor disagreed with that characterization, stating: "according to the factual basis of the plea agreement, this was conduct that took place on a regular basis for almost a four-year period. This was not some slip of a hand on a billing form. This was a sophisticated scheme to defraud, and the victims are vulnerable." The prosecutor went on to talk about those victims, stating: "they are not only the Medicare/Medicaid programs, which are strapped for cash and cover the elderly and poor in our state, but those beneficiaries who might have had other medical care and gone to other doctors if they knew their insurance was going to be billed this way. She is a defendant who has been here for 30 years in this country and knows how the system works."

Mr. Wilcox stated that he thinks the record in this matter is perfectly clear that Dr. Mikhli knew what she was doing when she committed the felony offense that brought her before this Board. This behavior, defrauding Medicare and Medicaid, shows that she cannot be trusted with licensure in this state. Mr. Wilcox again stated that he agrees with the Proposed Order of permanent revocation.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF ALLA MIKHLI, D.P.M. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Egnor stated that, when she first read this case, she was in agreement with the Report and Recommendation. Then she read it again, because her gut feeling on felony convictions generally is that this is not someone who should be allowed to practice medicine in Ohio. In looking at this case further, though, she tends to think that there may be more to this than just fraud and a felony conviction. One thing is that this did occur over a four-year period of time, resulting in a loss to Medicare and Medicaid of

April 11, 2007

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\$120,000. Dr. Egner stated that, generally speaking, that means that Dr. Mikhli made \$30,000 a year from this bad code. Her logic says to her that, if you're going to defraud Medicare and Medicaid and you're going to do it knowingly, wouldn't you be more profitable? The Board has seen that time and time again. The Board has seen cases where physicians who have come before the Board knowingly defrauded the system out of greed, and they didn't make \$120,000 in four years, they made \$1.2 million in four years. Dr. Egner stated that she does not believe that Dr. Mikhli did this out of greed.

Dr. Egner stated that she also agrees with Mr. Plinke. A solo practitioner today, running a practice and doing his or her own billing, is very difficult. That billing and coding system is not as straight forward as everyone would like it to be. She stated that she's not saying that she's not holding Dr. Mikhli responsible, but not to the point of a permanent revocation. Dr. Egner commented that the record indicates that Dr. Mikhli no longer does her own billing. If she is allowed to keep her license and to practice, requiring her to use a billing service should be part of the Board Order. She added that she doesn't believe the Board has ever done that before, but she thinks it would be a good thing for Dr. Mikhli. Dr. Egner stated that there is still a role for a solo practitioner today. She added that it's hard for her to believe that many of Dr. Mikhli's patients were from her community. From Dr. Mikhli's testimony today, Dr. Egner stated that she is empathetic to her; she believes that Dr. Mikhli does try to take care of her community and its needs.

Dr. Egner stated that she's not in favor of a permanent revocation, and added that she would be interested to hear what Dr. Buchan has to say. She added that Dr. Mikhli should be allowed to keep her license, and she should be on probationary status.

Dr. Buchan stated that he agrees with the Findings of Fact. Clearly, Dr. Mikhli pled guilty to this one felony count. Dr. Buchan stated that he understands Dr. Mikhli's type of practice; i.e., private, solo practice. He stated that he doesn't buy into the fact that billing and coding are necessarily confusing, but it's difficult. Where he thinks that Dr. Mikhli failed is in not just simply asking questions and getting help. It is difficult when you are on an island and you are left to those responsibilities strictly on your own. She had good background and training. She had a residency, but it was not in a highly surgical residency. It was a program that allowed her to become a good general practitioner, and she sees patients who need good general practice care.

Dr. Buchan stated that, in reading the hearing record, he would agree that it's not necessary to permanently revoke this license. He added that he would be open to some discussion on that matter. Dr. Buchan stated that the courts have spoken, Dr. Mikhli has complied, and she understands. Dr. Buchan stated that he's afraid that early in her first ten years of practice Dr. Mikhli wasn't mentored appropriately. Somehow she got hold of codes that were wholly inappropriate. Dr. Buchan stated that, that having been said, Dr. Mikhli has paid the price and he would be interested in getting her back into practice.

Dr. Steinbergh stated that she agrees with all of the comments that have been made. She does feel that Dr. Mikhli made a tragic error in the sense that she continued coding in this way. The Board holds physicians responsible for the coding. She stated that she understands Dr. Buchan's comments in regards to Dr. Mikhli's perhaps not having appropriate mentoring and went out on her own. Dr. Steinbergh stated that Dr. Mikhli knew what she was doing, she made a decision to do it, and she was convicted. Dr. Steinbergh noted that Dr. Mikhli has served her term, although she is not sure where Dr. Mikhli is as

April 11, 2007

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far as restitution goes. Dr. Steinbergh stated that, after reviewing this case, she also felt that permanent revocation was not appropriate, and she developed an alternative Proposed Order.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF ALLA MIKHLI, D.P.M., BY SUBSTITUTING THE FOLLOWING:**

**PROPOSED ORDER**

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Alla Mikhli, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Mikhli's certificate shall be SUSPENDED for an indefinite period of time, but not less than one year.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Mikhli's certificate to practice podiatric medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Mikhli shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
  2. **Obey the Terms of Criminal Probation:** At the time she submits her application for reinstatement or restoration, Dr. Mikhli shall provide acceptable documentation certifying that she has maintained full compliance with all terms imposed by the United States District Court, Northern District of Ohio, Eastern Division, in *United States v. Alla Mikhli*, Case No. 1:06CR0104.
  3. **Coding/Billing Course:** At the time she submits her application for reinstatement or restoration, Dr. Mikhli shall provide acceptable documentation of successful completion of a course or courses dealing with podiatric medicine coding and billing. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful completion of the course or courses dealing with coding and billing, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

April 11, 2007

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4. **Personal Ethics Course:** At the time she submits her application for reinstatement or restoration, Dr. Mikhli shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful completion of the course or courses dealing with personal ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

5. **Professional Ethics Course:** At the time she submits her application for reinstatement or restoration, Dr. Mikhli shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Mikhli submits the documentation of successful completion of the course or courses dealing with professional ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of podiatric medicine in the future.

6. **Practice Plan:** Dr. Mikhli shall submit to the Board and receive its approval for a plan of practice in Ohio. In addition to describing the type of practice, the practice plan shall specifically address the billing procedures, documentation and responsibilities in the practice. Dr. Mikhli shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Mikhli submits her practice plan, she shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Mikhli and who is engaged in the same or similar practice specialty.

April 11, 2007

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7. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Mikhli has not been engaged in the active practice of podiatric medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of her fitness to resume practice.
- C. **PROBATION:** Upon reinstatement or restoration, Dr. Mikhli's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
1. **Obey the Law and Terms of Criminal Probation:** Dr. Mikhli shall obey all federal, state and local laws, and all rules governing the practice of podiatric medicine and surgery in Ohio, and all terms imposed by the United States District Court, Northern District of Ohio, Eastern Division, in *United States v. Alla Mikhli*, Case No. 1:06CR0104.
  2. **Declarations of Compliance:** Dr. Mikhli shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Mikhli's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  3. **Personal Appearances:** Dr. Mikhli shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Mikhli's certificate is restored or reinstated, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
  4. **Monitoring Physician:** The monitoring physician approved pursuant to Paragraph B.6., above, shall monitor Dr. Mikhli and her medical practice, and shall review Dr. Mikhli's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Mikhli and her medical practice, and on the review of Dr. Mikhli's patient charts. Dr. Mikhli shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's

April 11, 2007

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offices no later than the due date for Dr. Mikhli's quarterly declaration.

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

5. **Absence from Ohio:** Dr. Mikhli shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
6. **Violation of Terms of Probation:** If Dr. Mikhli violates probation in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.

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

E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Mikhli shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Mikhli shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.

F. **REQUIRED REPORTING TO OTHER STATE LICENSING**

**AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Mikhli shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Mikhli

April 11, 2007

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shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Mikhli shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board.

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

**DR. BUCHAN SECONDED THE MOTION.**

Dr. Kumar stated that he would now entertain discussion on the motion to amend.

Dr. Robbins stated that he takes a little different slant on this. He stated that, as Assistant Attorney General Wilcox said, Dr. Mikhli was charged with intentional defrauding over a four-year period, and she pled guilty. Dr. Robbins stated that, as he tells residents and people who ask him in Cincinnati, when you're dealt with codes and you're not sure, if you don't want to ask, down code. Just use the lowest code and you'll never get into trouble. If you want to use the higher code, then ask someone, get some counsel. Dr. Mikhli did not do that.

Dr. Robbins continued that he doesn't buy the solo practitioner argument at all. He thinks it is as much a part of the practice of medicine today as everything else within medicine. A physician has the responsibility and the obligation to know how they are coding for their services, and they must do it. In his mind, there is no excuse. Because of that, he, personally, favors the Proposed Order, as written.

Dr. Madia agreed with Dr. Robbins, stating that it is hard for him to believe somebody did a code for four years without knowing that she was doing something wrong. If you're in a private practice, it is your responsibility, as a physician, to be educated. Dr. Madia acknowledged that coding is difficult, he understands. It is difficult to keep up to date. But to go with the same code over and over and over for four years, it is hard for him to believe that it was just simply overlooking things.

Dr. Buchan stated that he doesn't disagree with the Findings of Fact. He noted that Dr. Mikhli made the same mistake over and over again. To make the mistake once is ignorance or poor mentoring. When you do one thing all of the time, it becomes the new norm. This is an individual practitioner who did not have a great diverse practice. She saw a specific set of people, mostly geriatric and mostly routine foot care. She saw the same thing, every day, 20 to 30 times. She had a nursing home practice, doing the same thing every day of the week. Once the error is made, it's easy to imagine pushing a button. He suggested that she would probably still be using the same code today had the FBI not asked for those records.

Dr. Buchan added that Michael William Foreman, D.P.M., one of Dr. Mikhli's professors at the Ohio College of Podiatric Medicine and director of the Mt. Sinai podiatric residency program in which Dr. Mikhli took part, spoke on her behalf. Dr. Buchan stated that Dr. Foreman is a most respected individual in this state. He stated that people in his profession all know Dr. Foreman. Dr. Buchan stated

April 11, 2007

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that it meant a lot to him that Dr. Foreman testified to her skill set, character and integrity.

Dr. Buchan continued that he doesn't suggest that what Dr. Mikhli did was not wrong; it was. She's paid a price for that. Dr. Buchan stated that he is in favor of the proposed amendment because he thinks that Dr. Mikhli is rehabilitatable. She needs to practice, and she could be a good practitioner with proper guidance. Dr. Buchan stated that he doesn't think that she ever had proper guidance.

Dr. Varyani stated that he's in total agreement with Dr. Robbins about the coding part, but it has happened, it's done, and in this case he really feels that the state shouldn't lose a good practitioner. It seems that she's a good practitioner, and she's sorry for it. Dr. Varyani spoke in support of the proposed amendment.

Dr. Egner stated that her only comment was that Dr. Mikhli used the same code over a four-year period. She stated that, if you think you're using the appropriate code, then you would use it four years. You'd use it for your career. You wouldn't change it over a four-year period of time until they came in and said that you're using the wrong code. Dr. Egner stated that she doesn't think that the length of time Dr. Mikhli used the code makes her look at Dr. Mikhli and find her more guilty. She thinks that's a sign of her using codes she didn't understand. Dr. Egner stated that she feels that way because of the lack of money involved. She thinks it was more ignorance than it was malicious.

Dr. Steinbergh stated that she developed the alternative order because she felt that leniency was in order for the reasons discussed. She stated that she took a look back over the years the Board has discussed Medicare/Medicaid fraud and Bureau of Workers Compensation fraud, and she asked Ms. Thompson to pull some of the cases in which the Board has been lenient in the past. She stated that the Board has been lenient in cases she felt were more egregious. This is not something that is defensible. The Board knows it's wrong. Dr. Mikhli admitted that it's wrong. This was a real bad coding area, and she's not defending Dr. Mikhli at all, but she does feel that, at this particular point in her career, it's time to allow Dr. Mikhli to get back into practice. By proposing the amendment, it is consistent with previous orders, the most recent of which was in July 2006, where a podiatrist did the very same thing, and made about the same amount of money and also accepted responsibility.

Dr. Steinbergh stated that the proposed alternative allows that the Board considered what Dr. Mikhli did. She agreed with Mr. Plinke that Medicare has offered her the opportunity to come back; it didn't say that she could never bill Medicare again. She's serving her term with the court, and the Board ought to just move forward and let her go back at some point.

Mr. Browning stated that he understands the interest in being reasonable and balanced, but he can't help but say that people defrauding the government is a huge problem. In Medicare and Medicaid it's a multi billion-dollar problem. If someone walked in and robbed a bank and took \$120,000, he or she wouldn't get five months in jail and house arrest. Mr. Browning stated that he may be wrong, but his hunch is that that person would be in jail for years.

Mr. Browning stated that he's willing to be reasonable. He thinks that what other Board members are saying about her ability to come back and the reasons she made mistakes, etc., are legitimate; but he also thinks that the problem is a huge problem. The courts are trying to send a message about their intolerance

April 11, 2007

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for that, and he thinks the Board should send the same message. The Board shouldn't expect people convicted of felonies to come in here and have a year out and everything would be fine. Mr. Browning stated that he would like a longer suspension period than a year. He added that he feels a year is an arbitrary number; he realizes that it's at least a year's suspension, and that's helpful. In the end, he's in agreement with the proposed amendment, assuming no one wants a longer suspension. He would be open to that conversation.

Dr. Steinbergh suggested an 18-month suspension.

Dr. Amato stated that he will abstain from voting on all issues today, but he feels he must speak up in this case. He stated that those around this table who are in OB/GYN practices use limited codes. There aren't a lot of them. Anytime he looks in the coding book, occasionally, when he's had to do a procedure that he might not do that often, he's glad he does employ people to make sure it's done correctly. Dr. Amato stated that he has a little concern in this case if the Board suspends Dr. Mikhli's license for much longer than a year because this is a practitioner who is also doing some degree of surgery. If the Board stops her for much longer than a year, would the Board also impose some retraining aspects, as her surgical skills could get rusty? If the Board suspends Dr. Mikhli's license much beyond a year, would the Board be hindering this practitioner's ability to get back into practice at the same level of care that she was giving prior to the suspension? He noted that she's involved in a somewhat surgical aspect of medicine, and if you don't do something for a while, you get rusty.

Dr. Amato stated that he agrees with the Medicare/Medicaid fraud issue, adding that it's rampant. He added that, in his heart, he cannot accept \$30,000 a year as deliberate, rampant Medicare/Medicaid fraud. If it was \$125,000 a quarter, that would be intended Medicare/Medicaid fraud.

Dr. Robbins stated that he thinks that most of the cases the Board has seen have been for much more than that. Dr. Robbins stated that it would seem to him, thinking of \$30,000 a year, that the way to defraud is just doing it that way. That will keep you under the radar screen. That's why it went on for four years. If this was \$120,000 a year, he doubts very seriously whether it would have gone on for four years. If it was \$500,000 a year, it probably wouldn't go on for four months. But if you are intentionally defrauding, as Dr. Mikhli pled, that's exactly how you intentionally defraud. Over a long period of time, nipping, nipping, nipping, and then taking a look at it. It's not a major up-code, but it is an up-code. It's not, "I did a level 2 and I'm going to charge a level 5 on everybody." That's going to raise all the eyebrows. It's the up-coding that's a small amount that, maybe in the bureaucracy of things, will never get picked up.

Dr. Buchan stated that he does respect that; however, the presentation he sees today is not from a person who is deliberately trying to scam the system.

Dr. Robbins stated that he doesn't disagree, but he thinks it's important to say again that the Board is not here to retry the case. Dr. Mikhli pled guilty to intentionally defrauding, and that weighs heavily for him.

Dr. Varyani stated that he understands that coding is very difficult but, if you can practice medicine, podiatry, and you're good enough to do procedures, take care of patients and sometimes save their lives, and if those same people come to me and say, "oh my God, I have a big problem with the coding," he

April 11, 2007

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really has a problem with that statement. Dr. Varyani stated that he's a private practitioner and, by law, they sent a notice five years ago, stating it will not be excusable that you did not know. Physicians were given the rules three times. They are supposed to recheck themselves at least twice a year. He stated that he's not going for that excuse. He doesn't like the idea of someone saying, "I did not know." You have to know, otherwise, don't be in the business. It's very simple.

Dr. Robbins agreed, stating, if you do not know, do not bill.

Dr. Varyani agreed with Dr. Robbins. Find out the proper code before you bill. It's very simple.

Dr. Kumar asked whether there is any further discussion on Dr. Steinbergh's amendment. No one offered further discussion, and Dr. Kumar asked for a vote on Dr. Steinbergh's motion to amend.

Mr. Albert and Dr. Talmage left the room during the previous discussion.

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- nay
	Dr. Steinbergh	- aye

The motion carried.

**DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF ALLA MIKHLI, D.P.M. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- nay
	Dr. Steinbergh	- aye

The motion carried.

April 11, 2007

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Dr. Talmage returned to the meeting at this time.

DAVID HERBERT PROCTER, M.D.

Dr. Kumar directed the Board's attention to the matter of David Herbert Procter, M.D. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF DAVID HERBERT PROCTER, M.D. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Steinbergh noted that page two of the Report and Recommendation states that Dr. Procter appeared on his own behalf. She stated that it is her understanding that Dr. Procter didn't appear at hearing.

Dr. Kumar stated that he had the same question, but was told that the statement in the Report and Recommendation is a legal term of art. Dr. Procter "appeared" through his written testimony.

Mr. Whitehouse advised that he has spoken with the Hearing Examiners, and that term will not be used in future hearing reports.

Dr. Steinbergh stated that she assumes that Dr. Procter's license is currently suspended. She noted that he argues in his written objections that he doesn't have a license to revoke. Dr. Steinbergh stated that it is her understanding that a suspended license is still revocable. Dr. Steinbergh stated that, in this case, she agrees with permanent revocation.

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

April 11, 2007

FINDINGS, ORDERS AND JOURNAL ENTRIESRECONSTRUCTIVE ORTHOPAEDICS, INC.

Dr. Kumar noted that, by letter of January 9, 2007, the Board issued a Notice of Opportunity for Hearing to Reconstructive Orthopaedics, Inc., based upon allegations contained in the letter. The Notice was mailed via certified mail, return receipt requested, to Reconstructive Orthopaedics, Inc.'s address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. A hearing request was received from Reconstructive Orthopaedics, Inc., but it was not filed in a timely manner. The matter was before the Board for final disposition.

**DR. VARYANI MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 9, 2007 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING RECONSTRUCTIVE ORTHOPAEDICS, INC.'S SPECIAL SERVICES PLAN FOR A PHYSICIAN ASSISTANT TO PERFORM INTRA-ARTICULAR ANKLE INJECTIONS; TRIGGER FINGER INJECTIONS; MP AND IP FINGER JOINT CORTICOSTEROID INJECTIONS; CMC THUMB JOINT INJECTIONS, MORTON'S NEUOROMA FOOT INJECTIONS; OLECRANON BURSA ELBOW ASPIRATIONS/INJECTIONS; ACROMIOCLAVICULAR SHOULDER JOINT INJECTIONS; MEDIAL/LATERAL/EPI-CONDYLITIS ELBOW INJECTIONS; GREATER TROCHANTERIC BURSITIS HIP INJECTIONS; FOOT INJECTIONS FOR PLANTAR FASCIITIS; DE QUEVAIN'S TENOSYNOVITIS WRIST INJECTIONS; WRIST ASPIRATIONS AND INJECTIONS; AND CERVICAL/THORACIC/LUMBAR/PERESPINA1 TRIGGER-POINT INJECTIONS. MS. SLOAN SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

Mr. Albert returned to the meeting at this time.

TERI POLLOCK SAVEANU, M.D.

Dr. Kumar noted that, by letter of February 27, 2007, the Board issued a Notice of Opportunity for Hearing

April 11, 2007

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to Teri Pollock Saveanu, M.D.. The Notice was mailed via certified mail, return receipt requested, to Dr. Saveanu' address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. No hearing request has been received from Dr. Saveanu and more than thirty days have elapsed since the mailing of that notice. The matter was 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 FEBRUARY 27, 2007 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. SAVEANU'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO HER PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF FEBRUARY 27, 2007. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

VIVEK VIJAY TIRMAL, M.D.

Dr. Kumar noted that, by letter of February 8, 2007, the Board issued a Notice of Opportunity for Hearing to Vivek Vijay Tirmal, M.D., based upon allegations contained in the letter. The Notice was mailed via certified mail, return receipt requested, to Dr. Tirmal's address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. No hearing request has been received from Dr. Tirmal and more than thirty days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

**MR. BROWNING MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE FEBRUARY 8, 2007 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. TIRMAL'S APPLICATION FOR LICENSURE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye

April 11, 2007

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Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

SONIA E. VARNER, M.T.

Dr. Kumar noted that, by letter of February 27, 2007, the Board issued a Notice of Opportunity for Hearing to Sonia E. Varner, M.T. The Notice was mailed via certified mail, return receipt requested, to Ms. Varner's address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. No hearing request has been received from Ms. Varner and more than thirty days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

**DR. MADIA MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE OCTOBER 25, 2006 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING MS. VARNER'S REQUEST FOR RESTORATION OF HER LICENSE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF FEBRUARY 27, 2007. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

Ms. Sloan left the meeting at this time.

April 11, 2007

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RATIFICATION OF SETTLEMENT AGREEMENTS

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

FRED ANDREW BRINDLE, M.D. – PERMANENT AND VOLUNTARY RETIREMENT

**DR. EGNER MOVED TO RATIFY DR. BRINDLE'S PERMANENT AND VOLUNTARY RETIREMENT FROM THE PRACTICE OF MEDICINE AND SURGERY IN OHIO. DR. VARYANI SECONDED THE MOTION.**

Dr. Steinbergh stated that she doesn't want to set a precedent that a permanent surrender is anything but a permanent surrender. She stated that she understands the reasons for the Board accepting a voluntary retirement in this case, rather than a permanent surrender.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

JESSICA LYNNE CIMO, M.T. APPLICANT – WITHDRAWAL OF APPLICATION

**DR. STEINBERGH MOVED TO RATIFY THE WITHDRAWAL OF MS. CIMO'S APPLICATION TO PRACTICE MASSAGE THERAPY. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye

April 11, 2007

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Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

Ms. Sloan returned to the meeting at this time.

JING XUAN CHEN, M.D. – CONSENT AGREEMENT

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

MARTIN ESCOBAR, M.D. – CONSENT AGREEMENT

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

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

April 11, 2007

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Dr. Robbins - aye  
Dr. Steinbergh - aye

The motion carried.

SUSAN K. STRICKLAND, M.D. – CONSENT AGREEMENT

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

DAVID B. AXELSON, M.D. – CONSENT AGREEMENT

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

April 11, 2007

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

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. MANN. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

JOSEPH MICHAEL METZ, M.D. – CONSENT AGREEMENT

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

TERESA J. PFAFF-AMESSE, M.D. – CONSENT AGREEMENT

**DR. ROBBINS MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. PFAFF-AMESSE. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
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April 11, 2007

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Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

JONATHAN L. HAIMES, M.D. – CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. HAIMES. DR. MADIA SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

**MR. BROWNING MOVED TO TABLE THE TOPIC OF RATIFICATION OF CONSENT AGREEMENTS UNTIL THE THURSDAY SESSION. DR. STEINBERGH SECONDED THE MOTION.** All members voted aye. The motion carried.

PERSONAL APPEARANCES

MICHAEL S. MCINTOSH, M.D.

Dr. McIntosh appeared before the Board pursuant to his request for release from the terms of his May 8, 2002 Consent Agreement. If approved, release from probation would become effective May 7, 2007.

In response to Board members' questions, Dr. McIntosh stated that up until August 2005 he was going

April 11, 2007

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through the conventional program for monitoring and attending AA in his community. Dr. McIntosh stated that he's been a member of the National Guard for a number of years and he was called to active duty. That imposed some complication in the program. Dr. McIntosh stated that he worked out a program where, while he was on active duty, he was monitored by the military. Subsequently, he spent two tours in Iraq and worked in the AA program in Iraq. He stated that there was a good recovery program there with other soldiers. Dr. McIntosh stated that his recovery has gone well.

Dr. McIntosh stated that, after release from his consent agreement, he will maintain his recovery by continuing to use the tools he was given at Shepherd Hill and through the 12-step program. He's scheduled to return to Iraq for a year in May, and he'll continue using those tools there to effect his recovery.

Dr. McIntosh stated that his family support is good. He lost his wife five years ago and all of his children have either completed college and are on their own or are still in college. He's still very close to his children and he stays in contact with them. The military also has a very strong support group. He has a lot of friends there, and he has very strong support.

Mr. Albert stated that Dr. McIntosh has been an excellent probationer. He advised that when he started probation, he had just lost his wife, and it was very hard on him.

**DR. VARYANI MOVED TO RELEASE DR. MCINTOSH FROM THE TERMS OF HIS MAY 8, 2002 CONSENT AGREEMENT, EFFECTIVE MAY 7, 2007. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

LAWRENCE B. ROTHSTEIN, M.D.

Dr. Rothstein appeared before the Board pursuant to his request for release from the terms of his February 13, 2002 Consent Agreement. If approved, release from probation would become effective March 31, 2007.

In response to Board members' questions, Dr. Rothstein stated that during his probation, he has learned,

April 11, 2007

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basically, gratitude and humility. He learned that he was sick, and he learned that it's okay to ask for help. He's learned how to be happy instead of just learning how to be successful. He's learned how to be a better person, family man, doctor, and better help to others in the practice of medicine.

Dr. Rothstein stated that he's given a tremendous amount of thought to what he will do when he's released from probation, and he thinks he will actually step up his program. He'll step up meetings and rework the steps, starting coincident with his release. His morning program keeps growing as he finds new literature to read. He's sponsoring, and he's just trying to give back to both the program and medically, as much as he can.

Dr. Steinbergh commented that she's hoping that Dr. Rothstein will do a little education for young physicians. She asked whether he'd ever thought about speaking at his hospital, addressing the issues of chemical dependency and what that means to a young person such as himself.

Dr. Rothstein stated that, not only has the thought occurred to him, he's tried to pursue that. He started with just teen counseling because his sponsor was involved in it. Because of his unique situation of being certified in pain medicine along with his chemical dependency issues, he's offered his services at Shepherd Hill, at hospitals where he's worked, and even with the ASAM, as well. Dr. Rothstein stated that, to be honest, his efforts haven't gone past sending e-mails and offering his services, but he really feels that he'll try to keep up on both because it's actually pathetic how little education physicians get about this in medical school. Dr. Rothstein stated that a huge topic right now in pain medicine is how to discern the difference between addiction and pain, both with physicians and patients. Dr. Rothstein stated that it would be great to be able to give back any way that he could.

In response to Dr. Kumar's questions, Dr. Rothstein stated that he works and lives in Dayton. He added that his children live in Columbus. He works at a Dayton Hospital called Riverview Health Institute.

Dr. Kumar noted that Dr. Rothstein is in pain management, and he asked what minimal invasive spine surgery Dr. Rothstein is doing.

Dr. Rothstein stated that he actually only does minimal invasive spine surgery as a part of pain management now. The current trend in spine care, as in any other form of medicine, is to do as little tissue damage as possible. He stated that he actually pioneered some techniques where he can enter the spine with a tiny flexible endoscope through the sacral canal and diagnose disc problems and spinal stenosis even better than MRI. He can then use a laser or other micro-instruments to take care of them, and get the people back to rehabilitation, back to work, back to their quality of lives as quickly as possible. So, he's been fortunate to get to teach that all around the world, actually.

Continuing to answer Board member questions, Dr. Rothstein advised that he currently works about 50 hours a week at work, but also spends time doing research and reading at home. He stated that, luckily, that will change a little bit because his wife is due to deliver at the end of May.

Dr. Rothstein stated that his drug of choice was cocaine. He did not have any relapses. He stated that it's fair to say that he got in trouble with cocaine, but alcohol is just as much of an issue, he's learned. He just

April 11, 2007

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didn't know that until he got into Shepherd Hill. The key to his success is embracing the twelve step program the minute he learned about it and the Higher Power as being distinctly different from specific religious things. It's as if he found what he was looking for. Dr. Rothstein stated that he was brought up with a religious background, and he didn't believe some of the stories growing up. When he realized that all he needed to do at this point is believe in the Higher Power and the religious things would come later, he was fortunate that the whole 12-step program fell into place for him. He felt it was what he needed.

**DR. STEINBERGH MOVED TO RELEASE DR. ROTHSTEIN FROM THE TERMS OF HIS FEBRUARY 13, 2002 CONSENT AGREEMENT. DR. BUCHAN SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

VIRGINIA C. WOODROW, M.D.

Dr. Woodrow appeared before the Board pursuant to her request for release from the terms of her April 10, 2002 Consent Agreement. If approved, release from probation would become effective April 9, 2007.

In response to Board members' questions, Dr. Woodrow stated that she's a psychiatrist, practicing for Tri-County Mental Health Board in Shelby, Darke and Miami counties. The practice is going well. She stated that her issue is not chemical dependence. She advised that she went through a depression when she was going through her divorce, and she took a leave of absence from work because of that. Dr. Maureen Stark is still her psychiatrist. Her recovery is going well. Her depression has been in remission for years.

Dr. Woodrow continued that she was on antidepressants before she went through her divorce. She had depression in her 20s, but it was in remission and did not interfere with her work at all. She went through the divorce, and it was a very bad one. It got to the point where she couldn't focus at work. She was too distracted by all this stuff going around. The psychiatrist she had been seeing closed his practice. She saw another psychiatrist briefly who overmedicated her, so she could not focus at work. She had some cognitive impairment plus a lot of anxieties, so she took a leave of absence. During that leave of absence she began seeing Dr. Stark, who got her medications straightened out. She saw Dr. Stark for therapy until her divorce was final, and since then she's been fine. She's back to baseline.

April 11, 2007

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Dr. Woodrow stated that, as to how this affects her practice, it has an enormous effect. When she was in training, one of her professors told her that the thing that all of her patients would have in common is poor self-esteem, and if she does nothing else, she must treat them respectfully. Dr. Woodrow stated that she thinks her history reinforced that. She has a lot more empathy for her patients than she would have otherwise.

Dr. Steinbergh asked whether Dr. Woodrow still suffers from headaches.

Dr. Woodrow responded that her headaches ended with her divorce. She commented that there's an old analytic theory that migraines are repressed anger.

**DR. BUCHAN MOVED TO RELEASE DR. WOODROW FROM THE TERMS OF HIS APRIL 10, 2007 CONSENT AGREEMENT. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

JOSEPH CLAUDE CARVER, M.D.

Dr. Carver made his initial appearance before the Board, pursuant to the terms of his January 10, 2007 Consent Agreement.

In response to Board members' questions, Dr. Carver advised that the Professional Boundaries Course he attended was actually a very good course, and he's glad that he was asked that question. He stated that he knows that the Board sometimes likes to get feedback on those courses, and he did a lot of research when he looked into where he would go. He didn't want to go someplace that's fluffy, but someplace where he would really get something out of it. What's unique about the course he took, and in which he continues to participate, is that they have a weekly prevention and accountability group that is generally comprised of members who have attended that course. It was literally a 24-hour course. They spent almost ten hours reviewing what everyone had been through, how it had affected their lives and abilities to function as physicians, and, most importantly, recognizing all that, what they can do to keep it from ever happening to them again, and how they can help to educate their colleagues.

April 11, 2007

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Dr. Carver stated that one of the things that they do in the program is that they have a weekly prevention and accountability group. All the members get together and review. Everyone is at a different stage in the recovery process. Some have just gone through the boundary violations, some have been through them and have re-established themselves in practice and some are somewhere in between. It was great for him. It gave him hope, support and a lot of strength at a time when he probably needed it more than anyone. Dr. Carver stated that he continues to participate in that group and he finds it to be just wonderful. He would very much recommend it should the Board have any similar issues with other practitioners.

Dr. Steinbergh asked whether Dr. Carver recognizes that it was his error.

Dr. Carver stated that he's always recognized that this was his error. You really have to be accountable for yourself. You have to own your mistakes. Until you own them, you can never move forward.

In response to questions about CPEP, Dr. Carver stated that he finished his evaluation. They officially started his program on March 1, although he didn't begin practicing until later in March, following the Board's and CPEP's approval of his preceptor. In addition to fulfilling the initial requirements of the Board, he has spent a lot of time with his family, with whom he didn't previously spend much time, and he's spent a lot of time trying to educate himself and bone up on his journals, articles and things.

Dr. Kumar asked Dr. Carver to tell the Board about the CPEP process and how it functioned for him.

Dr. Carver stated that CPEP is a pleasant organization to work with. Their attitude was that they're there to help physicians. They were not condescending, they were not judgmental. They were very objective. Dr. Carver stated that he spent two full days with them and the evaluation comprised several different aspects. They looked at his skills with respect to his specialty. They specifically looked at fetal heart monitor tracings. That was one of the big parts of the evaluation. He went through strips and wrote a narrative with respect to the diagnosis and what management he would entertain on the particular cases. That was reviewed by a physician and then he got the report back. In addition to that, they had mock patients who came in with constructed problems and diagnoses. Dr. Carver stated that he believes that he had three patient encounters, and he was observed directly by someone in their organization. They identified whether the questions he asked were appropriate, whether he documented appropriately and satisfactorily, and how he related to patients. Dr. Carver stated that he thought that that was very good as that is often difficult to assess. Dr. Carver stated that he thinks that that's a very good part of the program. Dr. Carver stated that they had three physicians who were board certified in OB/GYN go through hypothetical cases with him. Those interviews lasted up to one and a half hours per interview. They completed all of that within two days and he received a report from them afterwards. What was nice is that he was given an opportunity to respond to their identified areas of concern, which he felt was good.

Dr. Carver stated that he found that the program did more than just evaluate his skills and abilities. It also evaluates one's ability to interact with patients, and that's as important a part of what physicians do as just the nuts and bolts of making a diagnosis. Dr. Carver stated that he was very fortunate that the Board sent him to this evaluation. He stated that the program was expensive, costing him \$8,000 for the two days, plus the expense of the hotel, which was minimal relative to that. He continues to pay a monthly

April 11, 2007

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monitoring fee for their medical director to receive his education logs, which he provides to them on a monthly basis. They did set up a specific plan which he's following. Dr. Carver stated that the best thing about this program is that it opened his eyes to the things that he doesn't do, or to things that he needs to change. Some of those things go way beyond the things that even CPEP recommended to him. As an example of this, he began looking at various aspects of his practice, making changes in the way he'd been doing things for fourteen years. Also, CPEP and the Professional Boundaries group helped him to realize that he's working too much, doing up to 350 deliveries a year by himself. He has since moved to a different community where he won't be forced to do this kind of volume. He will have a smaller, manageable practice that will allow him to function as a good, quality physician.

Dr. Kumar advised that one problem Dr. Carver had was in taking a specimen and not sending it to the lab. He asked whether the institution in which he worked didn't have a requirement that every specimen must be sent out for testing.

Dr. Carver stated that they did. He stated that he made a grave error in that situation. He stated that there were a lot of things going on at the time. One thing, he wasn't wearing his glasses, and he does wear them now. That crippled him in some way. He made a mistake and it's one he won't make again.

**DR. MADIA MOVED TO CONTINUE DR. CARVER UNDER THE TERMS OF HIS JANUARY 10, 2007 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

DAVID R. GOTHAM, JR., D.O.

Dr. Gotham made his initial appearance before the Board, pursuant to the terms of his January 10, 2007 Consent Agreement.

In response to Board members' questions, Dr. Gotham stated that he got a DUI in 2002, as a resident. When he applied for his fellowship in California at U.C. Davis Medical Center, he misinterpreted a question concerning traffic violations with court fines greater than \$250.00. He answered, "no," to that

April 11, 2007

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question, understanding in his heart that a DUI is a very serious offense and a very serious traffic violation. The California Osteopathic State Medical Board issued him a letter of public reprimand. Before he had received final notification of that, he reapplied for his Ohio medical license, having done his internship and residency in Ohio. Even though he knew action was going to be taken, at the time his feelings of shame and self-anger clouded his judgment and he did not inform Ohio of the action that was taking place in California. He stated that it was determined that he was deceitful on his Ohio renewal application.

Dr. Gotham stated that he sincerely regrets his decisions. He did not mean to be intentionally deceitful, but he feels a lot of shame and sorrow from the terrible mistake he made in his personal life and now transferring that into his professional life and potentially taking away his ability to practice medicine and to do what he loves to do to provide for his family. He commented this Ohio action may affect California's decision in terms of their action that has yet to be tendered.

Dr. Kumar asked whether Dr. Gotham feels that he has an alcohol problem.

Dr. Gotham stated that he doesn't believe that at all. He added that it was an isolated incident. In terms of how it's changed his personal life, since then he's had two children, married. Now when he's making the decision to drink alcohol socially, he chooses not to. He would never choose to drink and drive again.

Dr. Robbins asked whether it had never come to Dr. Gotham's mind to include a letter of explanation with his applications.

Dr. Gotham stated that he realizes that he should have now. That has become a part of it now because he will always have to answer the way he should have answered from the beginning on every application from now on. Dr. Gotham stated that he thinks that emotional crippling that occurred clouded his judgment. He hoped that this wouldn't come into play in his professional life. That's why he decided not to actively defend this. He realizes now that he made a terrible mistake and he extrapolated that to a bigger problem by making a terrible mistake in terms of his medical applications.

Dr. Gotham advised that he does understand that he will have to send copies of his consent agreement to all of his employers, and he has done so, receiving positive responses from two of the trauma centers where he works. He's done all that, but is still waiting to hear from the California State Medical Board.

Dr. Gotham stated that he acknowledges and doesn't downplay his penalty in Ohio, but he hopes that the same penalty does not occur in California. He hopes that he will be able to continue to practice and provide for his family.

**DR. BUCHAN MOVED TO CONTINUE DR. GOTHAM UNDER THE TERMS OF HIS JANUARY 10, 2007 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye

April 11, 2007

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Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

ROBERT FRANKLIN SHORT, M.D.

Dr. Short made his initial appearance before the Board, pursuant to the terms of the Board's Order of December 13, 2006.

In response to Board members' questions, Dr. Short stated that he has a practice in Virginia. He is back in practice, and he is being monitored by the Virginia Health Practitioner Intervention program. He is currently a PGY-2. He did his internship at Riverside Hospital, and now he's in a radiology residency at the University of Virginia.

Dr. Short stated that he last had a glass of wine in October 2006. His last intoxication was probably match day in March 2005. Dr. Short stated that he had a record of abuse that involved both marijuana and alcohol. In terms of his sobriety, he feels he is doing very well. Dr. Short stated that he became involved with the Board based on his having come clean on his application for his training certificate, which was filed in April 2005. He went for an assessment at Glenbeigh in November. Based on the clear pattern of substance abuse, which obviously is the first step into chemical dependency, Glenbeigh recommended treatment. He completed a 28-day inpatient treatment program at Parkside. Dr. Short commented that Dr. Jones indicated that she wasn't completely sure that she agreed with the diagnosis of chemical dependency, but the early stages of the disease were there.

Dr. Short stated that he has never had a problem with drugs or alcohol in the course of having come to clinical medicine. As a teenager, and in his early 20s he was rather foolish in that he tended to try to define himself by the company he kept. He was trying to be the "cool kid." He had a couple of citations for obstructing official business and possession of marijuana. He immediately took a drug test afterward because he hadn't smoked the marijuana. Dr. Short stated that, had he just been a little more cooperative with the police officer and a little less "rebel without a cause" attitude, he probably wouldn't have been given the citations. Dr. Short stated that in the 28-day evaluation he came to understand that there are things that you have in common with contempt for or problems with authority that that disease reinforces.

Dr. Short stated that, in terms of recovery, he didn't have much to recover from. If he hit a bottom, it was a very high bottom. The roughest part for him was the internship. He was already into his internship and he was asked to atone for things that happened in 1998. Dr. Short stated that Dr. Jones' medical record

April 11, 2007

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reflects that, having met certain criteria in 1998, had she seen him then, she would have given him a diagnosis of chemical dependence then, so she felt it was appropriate to give him the diagnosis in 2006.

Dr. Short stated that he met his wife in the second year of medical school, and he grew up quite a bit. Being cool, to him, in the course of his M.D./Ph.D. program, meant trying to submit an abstract or publish a paper. It didn't mean smarting off to an officer after having a few drinks or trying to protect a friend. Dr. Short stated that those decisions were his, and he came to understand that he needs to own those decisions. What he's learned from being in the program is, "there but for the grace of God go I." Had he picked that behavior back up, he could very easily be in a much worse situation, and possibly a patient could have gotten hurt. Dr. Short stated that, for him, it's not really a program of recovery, per se, it's a program of living. That's his take on the twelve steps and he tries to keep a positive attitude towards it. For him, it's a way to just stay balanced. He was probably the happiest intern you'd ever meet because every day, when he lay down in his call room bed, he wondered whether he was going to keep doing this. He really respected the fact that medicine is a privilege and that because of poor decisions he made in the past, he may not be entitled to that privilege. That's how he continues to see it. Dr. Short advised that that carries over into a lot of different areas in his life. There are a lot of disgruntled radiology residents where he is, but he still sees it as a privilege. He acknowledged that they work hard, but added that that's something they "get" to do, it's not something that they have to do.

Dr. Steinbergh noted that Dr. Short advised that he had a glass of wine in October 2006. She asked whether he is going to be able to drink.

Dr. Short stated that he has no need or desire to drink. He added that he doesn't think that he'll be able to.

Dr. Steinbergh stated that she hopes that Dr. Short recognizes that. She added that she appreciates Dr. Short's personal insight, and that this twelve-step program is a way of living and part of his life, but he does have to understand that he has a chemical dependency disease, and this will be with him forever, so he can't have another drink.

Dr. Short indicates that he understands that.

Dr. Buchan asked Dr. Short whether he's an alcoholic.

Dr. Short stated that he's a person who can never drink again, and added that he is an alcoholic.

Ms. Bickers advised that, under the terms of the Board Order, unless the Board determines otherwise, Dr. Short will not appear before the Board again until he requests release from probation.

**DR. BUCHAN MOVED TO CONTINUE DR. SHORT UNDER THE TERMS OF THE BOARD'S ORDER OF DECEMBER 13, 2006. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye

April 11, 2007

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Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

HARRY M. CONDOLEON, D.O.

Dr. Condoleon made his initial appearance before the Board, pursuant to the terms of the Board's Order of December 13, 2006.

In response to Board members' questions, Dr. Condoleon stated that the CPEP process is going well for him. He's completed everything they've asked him to do, and he's waiting for CPEP to tell him that he's good to go. It will be up to the Iowa Board, at that point, to decide how long his probation will be. He again stated that he's done all that they've asked him to do so far.

Dr. Condoleon stated that he is actively practicing; there has never been a break in his practice. The practice is going well. There are no problems. He's in general surgery/surgical oncology. He's in a small town now, so he's primarily doing general surgery. He's not doing a lot of the bigger procedures he was doing before, he's mainly doing "bread and butter" stuff now.

Dr. Kumar asked what the issue was pertaining to his minimal standards finding. He asked whether Dr. Condoleon thinks he made errors.

Dr. Condoleon stated that that's a great question, and added that he wishes he knew the answer to it. In Iowa, the only way he can find out who brought the allegations against him, what they were, what cases were reviewed, would be if he were to sue the Iowa Medical Board. Dr. Condoleon stated that he doesn't even know what cases were reviewed. He added that he thought about suing them. Dr. Condoleon added that he never got the opportunity to sit like this before the Iowa Medical Board. He asked them on a monthly basis to allow him to come before them and discuss the cases, to give his side of the story, but he never got the opportunity. His attorney told him that he could sue them and get the information; but if he does sue them, the judge and jury is the Board and nobody has ever sued that Board and won. Given that ultimatum, he signed the settlement agreement with them, which placed him on probation.

Dr. Condoleon stated that he doesn't feel that he failed to meet the standard of care on any of his patients. He knows that he provides good care to his patients. He has guidelines for surgical site infections, DVT prophylaxis, you name it, and he follows them.

April 11, 2007

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Dr. Steinbergh asked about the CPEP evaluation.

Dr. Condoleon stated that, concerning the CPEP evaluation, he met with three surgeons for an hour and a half each. Two of them were university-based surgeons, the third was a private practice surgeon. The university-based surgeons grilled him for an hour and a half. One of them gives board exams and he told Dr. Condoleon that not only would he have passed him, he would have high passed him. He said that in front of the director of CPEP. The other one told him to his face that he did fine and had nothing to worry about. The third gentleman found some fault in some of his responses. Dr. Condoleon stated that he felt that that individual's responses were based on his opinion and not, necessarily, the literature. He wrote a 15-page rebuttal to CPEP when he got their report, quoting the literature and backing up his responses, but they did not amend their report. He stated that now he finds out why. They're involved in his education process and are making \$700 a month from him until this is done. Dr. Condoleon stated that this whole thing has been very, very frustrating for him.

Dr. Steinbergh asked what deficiencies CPEP pointed out that would allow them to put him in a program for monitoring purposes.

Dr. Condoleon stated that it was based on his responses to that one doctor's questions. Dr. Condoleon stated that one question concerned how to properly package an amputated limb to send to a surgery center. He told the examiner that he doesn't do a lot of trauma and that he never has. If this happened and it came in, he'd pick up the phone and call the trauma center and ask what he needs to do, what the proper packaging of the limb is. Dr. Condoleon stated that he thinks that the examiner thought that that was a fine answer, but the CPEP director who was taking note felt that he didn't know anything about traumatic amputations. That's the kind of evaluation it was. Dr. Condoleon stated that he didn't feel that the final report was accurate. He backed his feelings up with his response to them. Dr. Condoleon again stated that this is the organization who is now in charge of his training. Dr. Condoleon stated that after the report came out, he called CPEP and told them that two of the three examiners told him to his face that everything went well, and that he felt the third guy was using opinion, and that's okay. He was an older surgeon, probably in his 50s or 60s and had been around a long time, and Dr. Condoleon felt that his responses and suggestions were based on his opinion and not necessarily the facts. He tried to back that up in his report.

Dr. Kumar asked for an example.

Dr. Condoleon stated that he was grilled on clear margin on a lumpectomy for breast cancer. Dr. Condoleon stated that the jury is still out on this. It used to be you have to have a 1 cm margin. Now people are using 5 mm margins, even 1 and 2 mm margins. The jury is still out on what the best margin is. There are various factors that depends on, especially cosmesis of the woman's breast. His response to the question was, ideally a 1 cm margin, but if it's less than that, he'd probably be happy with 3 to 5 mm. He'd have to talk to the radiation oncologist. The examiner thought that you have to have 1 cm and that Dr. Condoleon was wrong. Dr. Condoleon stated that there's controversy to that. It's still open for discussion. Dr. Condoleon stated that he asked for another examiner, and they wouldn't give him one and this is what he has to live with. They then issued their report to the Iowa Medical Board, who put him on probation, required a preceptor and that he do whatever CPEP asked. That's what he's done. He's cooperated fully.

April 11, 2007

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Dr. Kumar asked whether Dr. Condoleon has any inkling in his mind what cases he did which led to the Iowa Board's belief that he violated minimal standards.

Dr. Condoleon stated that there were five cases sent to the Iowa Medical Board. He doesn't know who sent them or what the cases were. Dr. Condoleon stated that when he was in practice in Des Moines, he was in a 900 bed institution. He was doing primarily surgical oncology day in and day out. Dr. Condoleon stated that physicians know that, even if you do everything right, the outcome isn't always perfect. Some people don't get well. Has he had to take somebody back to surgery for a pancreatic leak? Yes. Has he had to take somebody back to surgery for bleeding in the chest after an esophagectomy? Yes. Dr. Condoleon asked to be shown a surgical oncologist who hasn't. Dr. Condoleon stated that complications occur. Recognizing them and dealing with them properly are what matters.

Dr. Condoleon stated that he personally thinks that this is a political vendetta against him by a former partner and his former employer. He was threatened before he left that group. He was told literally to watch his back. He heard nothing about this when he moved out of state to practice, but the moving truck was, literally, in his driveway when he returned to Iowa and he was given a notice from the hospital that they were suing him for breaching their non-compete clause, because he was within 60 miles of Des Moines. After that, in about three months, he got a letter from the Board saying that five cases were sent to them for review. Dr. Condoleon stated that partners are obviously going to know which cases went bad or which cases had complications. If he picked those five cases and sent them to the Board or sent them to three colleagues, they might think that that is your practice and that you have problems. However, he feels it is unfair that the Board didn't randomly go grab five other cases, or ten other cases to determine if this is a pattern.

Dr. Steinbergh asked why Dr. Condoleon didn't go to hearing. She noted that he had that opportunity, but he voluntarily went into a consent agreement.

Dr. Condoleon stated that he took the advice of his counsel who had experience and has dealt with the Board on many occasions. His counsel advised that if went to hearing he could find that information out but then he's still back to square one. Either you sue the Board and proceed, or you sign a settlement agreement.

Dr. Steinbergh stated that, in Ohio, once the Board cites a physician for a problem, that physician has a right to a hearing. When you go to hearing, the cases are laid out, the physician can respond, and then that report comes before the Board and the Board, as physicians and consumer members, make a decision about those cases.

Dr. Condoleon stated that, the way it was explained to him, he didn't have that option in Iowa. Dr. Condoleon stated that for eleven months he and his attorney called the Board each month and asked to be present at their meeting for that very reason. The way it was explained to him by his attorney, he didn't have the option to have a hearing. It was either sue the Board and then go to hearing, or sign a settlement agreement and move on. He stated that the way Dr. Steinbergh is describing it seems very fair. It would give the physician a chance for the Board to hear his story. He stated that he would have loved that

April 11, 2007

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opportunity, but the way it was explained to him and the way it's done there is that you don't have that opportunity unless you file charges against the Board. His attorney told him he'd go through two or three years of litigation, run up the bills and probably still have the same options he has now.

Dr. Steinbergh stated that once he signed the settlement agreement, he agreed to what happened. So, regardless of how he feels about it personally, he's agreed. He should take his punishment, complete it and quit justifying.

Dr. Condoleon stated that that's hard to do.

Board members encouraged Dr. Condoleon to get past this experience, and come to terms with what happened to him. Dr. Steinbergh suggested that some counseling may be necessary. She stated that he has to learn how to deal with this and make himself well or it will continue to eat at him.

Dr. Condoleon stated that he is. He stated that his release is getting away with his kids or going to the gym for an hour every day. He has his ways to relax. He commented that this is the first opportunity that he's had to talk about it, so he seems way more upset than he is.

Dr. Egner advised Dr. Condoleon that he will still have complications in his cases. He'll still have bad outcomes. She stated that he could react to that by covering things up because he doesn't want anyone to know. He has to be very careful not to do that.

Dr. Kumar stated that, also, a natural tendency might be that he would stop doing tougher cases. Dr. Kumar stated that the Board doesn't want him to get into that mindset either.

Dr. Condoleon stated that he's trying not to, but it's hard.

Dr. Madia asked why Dr. Condoleon stopped doing oncology cases.

Dr. Condoleon stated that his wife's family is from Iowa. When they moved back there, he was just looking and a friend's father-in-law was a retired surgeon in the town. This physician recommended that he come to that town, stating that people would treat him well and that he'd be busy. That's why. It's just a demographic. They don't have a cardiologist or pulmonologist on staff. Their ICU is just not equipped to handle some oncology surgeries. He's not afraid to do it.

Dr. Steinbergh asked whether Dr. Condoleon has a mentor, someone who will help him with his personal confidence, someone who can look objectively and say that he's a good doctor, a good surgeon, and upon whom he could rely to give him positive feedback.

Dr. Condoleon stated that he has known his preceptor, Dr. Fitzgibbons, for a few years. They meet twice monthly to review cases. They review 16 charts a month, but, starting in April, they don't have to do that any longer because CPEP is now comfortable with his charting. They just get together now to talk over various cases.

April 11, 2007

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In response to further questions, Dr. Condoleon stated that when he was in practice in Des Moines he had four malpractice claims in eight years. One went to trial, the other three were settled. The biggest judgment was \$400,000. The other three were \$20,000, \$70,000 and \$200,000.

Dr. Varyani stated that the record indicates that the Des Moines hospital board peer committee reported him to the Iowa Medical Board.

Dr. Condoleon stated that there are doctors there who had much bigger payouts and more malpractice than he did.

Dr. Condoleon stated that he's had a friend in Las Vegas ask Dr. Condoleon to join his practice there. He stated that he does have a Nevada license. Nevada has looked at this and has not placed him on probation. Were he to choose to move there, he believes that the Iowa Board would put his probation on hold. He asked what the Ohio Board would do.

Ms. Bickers advised that he would continue under the terms of the Board's Order. She noted that the only things he has to do under that Order are to submit declarations of compliance and to make another appearance at the time of his release. She stated that he could toll his Order here.

Dr. Steinbergh stated that he'll want to get done with his probation here, and suggested that he would want to finish his probation in Iowa, as well.

Dr. Condoleon noted that he was born and raised in Ohio, and he asked what would happen if he chose to move back next month or five years from now. What would he have to do, as far as the Board is concerned?

Dr. Steinbergh asked whether he has an active Ohio license.

Dr. Condoleon stated that he does.

Dr. Steinbergh stated that he could return to work tomorrow in Ohio. His license is not suspended, he has an active license and could practice under the same terms he's under.

Ms. Bickers stated that the Board's Order does require additional terms be put in place should he come to Ohio. He would have to get a practice plan approved, for one. There would be a couple of additional things. She stated that Dr. Condoleon should contact her should that ever occur.

Board members urged him to read his Board Order more closely himself. If he still has questions, he should call Ms. Bickers.

**DR. STEINBERGH MOVED TO CONTINUE DR. CONDOLEON UNDER THE TERMS OF THE BOARD'S ORDER OF DECEMBER 13, 2006, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

April 11, 2007

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ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

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

Thereupon at 5:01 p.m. the April 11, 2007 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 April 11, 2007, as approved on May 9, 2007.



Deepak Kumar, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



April 12, 2007

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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**April 12, 2007**

Deepak Kumar, 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: Nandlal Varyani, M.D., Vice-President; Raymond J. Albert, Supervising Member; David S. Buchan, D.P.M.; Andrew F. Robbins, Jr., M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Jack C. Amato, M.D.; Dalsukh Madia, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Lance A. Talmage, M.D., Secretary; Carol L. Egner, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; William J. Schmidt, Staff Attorney, Enforcement, Compliance & Investigations; Rebecca J. Marshall, Chief Enforcement Attorney; Damion M. Clifford, Barbara J. Pfeiffer, and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; and Kay L. Rieve, Administrative Officer.

MINUTES REVIEW

**MR. ALBERT MOVED TO APPROVE THE MINUTES OF MARCH 14-15, 2007.**

**MR. BROWNING SECONDED THE MOTION.** A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Robbins	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

April 12, 2007

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CITATIONS AND PROPOSED DENIALSEDWARD DOUGLAS DEHAAS, 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. DEHAAS.  
DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

MICHAEL SHANE GAINEY, 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. GAINEY.  
DR. ROBBINS ROLL2 SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

April 12, 2007

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CYNTHIA JOAN JOHNSON, P.A. – 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 MS. JOHNSON.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

ALI KHAN, 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. KHAN. DR. MADIA  
SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

KOLLI MOHAN PRASAD, 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.

April 12, 2007

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

RAMIN RAFIE, M.D. - LETTER OF PROPOSED DENIAL

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

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

April 12, 2007

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ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

WALTER S. SHONKWILER, D.P.M. – 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. SHONKWILER.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

KRISTOPHER NICHOLAS WANKEWYCZ, M.T. – CITATION LETTER

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

**DR. VARYANI MOVED TO SEND THE CITATION LETTER TO MR. WANKEWYCZ.  
DR. MADIA SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye

April 12, 2007

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Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

#### LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

Dr. Kumar 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. Kumar 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. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON MARCH 12-13, 2007, WITH: ROBERT L. BELLUSO, D.O.; DAVID C. BLOCKER, M.D.; GREGORY X. BOEHM, M.D.; ROBERT L. BRANDT, JR., M.D.; TODD S. CARRAN, M.D.; ALLAN W. CLARK, M.D.; GREGORY G. DUMA, M.D.; MARY JO FOOTE, P.A.; RYAN STEVEN FRYMAN, D.O.; WALTER L. GEORGE, JR., M.D.; LYON L. GLEICH, M.D.; TAMMY M. HABERBERGER, D.O.; ADAM P. HALL, D.O.; WILLIAM L. HOPPE, M.D.; ROBERT L. HUBLEY, D.O.; DONALD C. MANN, M.D.; WILLIAM O. MURTAGH, JR., M.D.; CARLA M. MYERS, D.O.; THOMAS A. NGUYEN, M.D.; NATHAN THOMAS PENNEY, D.P.M. KOLLI M. PRASAD, M.D.; JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.; CHRISTOPHER S. SHAW, M.D.; JOHN W. SHAW, M.D.; RICHARD S. SKOBLAR, M.D.; MATTHEW ALLAN SNYDER, L.M.T.; BRIAN D. SOUTHERN, M.D.; WILLIAM C. STEVENSON, M.D.; ROBERT R. SUMMERS, D.O.; TOBY JAMES TIPPIE, P.A.; MICHAEL J. VJECHA, M.D.; JOSEPH G. WERNER, M.D.; BRUCE S. WORRELL, D.O.; AND JAMES F. ZIMMERMANN, D.P.M. DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS FOR BOTH PROBATIONARY REQUESTS AND REINSTATEMENT REQUESTS:**

- **TO APPROVE MOHAMMAD A. ADAS, M.D.'S REQUEST TO CHANGE HIS SUPERVISING PHYSICIAN FROM OPHP TO RAMALINGAREDDY POLAMREDDY, M.D.;**
- **TO APPROVE DAVID E. ALLEN, M.D.'S REQUEST TO CHANGE HIS MONITORING PHYSICAL FROM JAY M. WALLIN, M.D. TO LEWIS WILLIAM COPPEL, JR. M.D.;**
- **TO GRANT JASON V. CHURCH, M.D.'S REQUESTS: TO CHANGE HIS SUPERVISING PHYSICIAN FROM JOHN D. MAHAN, M.D., TO THE MONITORING CONDUCTED BY THE UTAH DEPARTMENT OF PROFESSIONAL LICENSING [DOPL], TO INCLUDE THE FREQUENCY IN DRUG SCREENS; FOR A REDUCTION IN APPEARANCES FROM**

April 12, 2007

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**EVERY THREE TO EVERY SIX MONTHS; FOR A REDUCTION IN HIS ALCOHOL AND DRUG REHABILITATION MEETING REQUIREMENT FROM THREE PER WEEK TO TWICE A WEEK, WITH A MINIMUM OF TEN PER MONTH; FOR A REDUCTION IN DRUG SCREENS FROM 52 TIMES A YEAR TO 20 TIMES PER YEAR; A REDUCTION IN COUNSELING FROM EVERY SIX WEEKS TO EVERY 12 WEEKS; AND FOR APPROVAL TO CHANGE THE MONITORING PHYSICIAN FROM JOHN D. MAHAN, M.D., TO BRIAN ZEHNDER, M.D., WITH TEN CHARTS REVIEWED PER MONTH;**

- **TO APPROVE APPROVAL OF ARTHUR T. OLLENDORFF, M.D. TO SERVE AS CAREY K. GROSS, D.O.'S SUPERVISING AND MONITORING PHYSICIAN, WITH ALL CHARTS TO BE REVIEWED DURING DR. GROSS' RESIDENCY; AND TO APPROVE MICHAEL A. GUREASKO, M.D. TO SERVE AS DR. GROSS' TREATING PSYCHIATRIST;**
- **TO APPROVE GREGORY B. COLLINS, M.D., TO PERFORM ONE OF THE PSYCHIATRIC EVALUATIONS REQUIRED FOR ARLAN MARCUS GUSTILO-ASHBY, M.D.'S REINSTATEMENT, AND TO APPROVE THE ETHICS COURSE, *MEDICAL ETHICS, BOUNDARIES AND PROFESSIONALISM*, OFFERED BY CASE WESTERN RESERVE UNIVERSITY IN FULFILLMENT OF PARAGRAPH 7.C. OF HIS CONSENT AGREEMENT;**
- **TO APPROVE KEVIN F. SUNSHEIN, D.P.M., TO SERVE AS RONALD C. HETMAN, D.P.M.'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO GRANT KYLE HOWARD, M.D.'S REQUEST FOR APPROVAL OF THE ETHICS COURSE TAILORED BY IDA CRITELLI SCHICK, PH.D., M.S, FACHE, AS FULFILLING PARAGRAPH C. 3, OF THE BOARD'S ORDER OF AUGUST 10, 2005;**
- **TO GRANT KENT ROBINSON, M.D.'S REQUESTS FOR: APPROVAL OF A MODIFIED PRACTICE PLAN; REDUCTION IN DRUG SCREENS FROM ONCE A WEEK TO TWICE PER MONTH; AND A REDUCTION IN APPEARANCES FROM EVERY THREE MONTHS TO EVERY SIX MONTHS;**
- **TO APPROVE CHRISTINA M. DELOS REYES, M.D., TO PERFORM ONE OF THE CHEMICAL DEPENDENCY EVALUATION REQUIRED FOR CHRISTOPHER S. SHAW, M.D.' S REINSTATEMENT;**
- **TO APPROVE RICHARD R. FOY, M.D. TO SERVE AS JOHN KEVIN WHALEN, M.D.'S MONITORING PHYSICIAN WITH 10 CHARTS REVIEWED PER MONTH;**

**DR. STEINBERGH 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**

April 12, 2007

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**ACUPUNCTURIST APPLICANTS LISTED IN EXHIBIT “C.” DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

**Dr. Egner** joined the meeting at this time.

**ADMINISTRATIVE REPORT**

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

Concerning the Assistant Executive Director, Investigations, Compliance & Enforcement position, Mr. Whitehouse advised that the posting for the position will close on Friday, April 13. He stated that he has received about 28 résumés, and there are a lot of good, qualified people vying for that spot. He stated that his plan is to have an offer extended by the end of May. Mr. Whitehouse stated that he will keep Board members apprised as to that process.

Mr. Whitehouse advised that the Board has had some success in working with the new Administration. The Administration seems very supportive of the direction in which the Board is headed. Mr. Whitehouse stated that he's had a subsequent meeting with the Legislative Director at the Governor's office, and he expressed the Board's interest to pursue its legislative agenda. He gave the Legislative Director a number of initiatives that the Board would like to attach to the budget bill, not really expecting them to do that; but within about 90 minutes they responded back to the Board with a positive response.

Ms. Wehrle advised that the previous day there was a Federation roundtable to give the Board a heads up about the Federation's annual numbers. The Board will get a pre-release copy on April 13. The Federation will send their press release out on April 18. The Citizen Action report is usually released pretty close to the release of the Federation's report.

Mr. Whitehouse commented that the Board's numbers are pretty close to where they were last year. Where the Board ends up on that list depends on what others have done. The Board did well on the report last year and expects to do the same this year. It's important to note that the information that the Federation

April 12, 2007

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will release will include initiatives the various Boards have put in place, such as education.

Dr. Kumar asked whether the Federation report includes initiatives such as the QIP program.

Ms. Wehrle stated that the QIP is an Ohio program that is rather unique. That type of information won't be included in the Federation package. It's report will emphasize other aspects of medical regulation, such as probationary monitoring, how Boards increase the visibility of Board actions, and information about licensees on websites.

Dr. Kumar stated that he thinks that the Board's efforts to mediate, to keep people from getting into deeper problems, is an important part of the Board's work. He stated that he feels that the FSMB publication should include that somewhere.

Ms. Wehrle stated that that's part of the Ohio story. If the Board is contacted by media about where Ohio plays in the national picture, the QIP program is something the Board can talk about. She again noted that that program is unique to Ohio.

Mr. Whitehouse stated that it's important to note that the Federation is highlighting other aspects of what regulatory bodies do, rather than just counting scalps.

Dr. Varyani suggested that, rather than wait for the newspapers to come to the Board, the Board tell its story the way it wants. He feels the Board should be proactive. He stated that one thing that could be addressed by the Board is Ms. Thompson's work on the internet application system, for which Ohio is the pilot program. He thinks the Board should beat a little drum on that. Dr. Varyani stated that he recently attended the Second Conference on Medical Education, discussing how alternative pathways will be recognized, and Ms. Thompson's name again was mentioned as someone who is very knowledgeable about how things are done. She's recognized nationally, and that's very good.

Mr. Albert asked whether copies of *Your Report* are sent to all of the state legislators.

Ms. Wehrle stated that they are.

Mr. Albert stated that he thinks that the Board should prepare a report of all the things it does to circulate among the legislators. He stated that he doesn't think that there's another state that spends the money and the time that this Board does, working with impaired physicians. He added that much of what this Board does in open session is done in executive session by other boards. Mr. Albert stated that he thinks that it's important that the Board is right in the open. Also, the QIP program is unique. He stated that he's been told that Ohio is the gold standard, and he really thinks that it is.

Dr. Steinbergh stated that one of the reasons that the Board has been so fortunate to be a leader in many areas is because Ohio is an autonomous board. The fact that the Governor's office continues to support that effort is huge for the Board. The Board has more money to spend to focus on education and a variety of things that other Boards simply can't do because they're umbrella boards and don't have the financial support to do that.

April 12, 2007

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Mr. Albert stated that this Board has a story to tell about some of its advances.

Mr. Whitehouse stated that shortly the Board will be at full staff, and it will be able to do more of that pro-active type work. The Board, for a while, has been playing "keep up."

Mr. Albert recommended sending out little newsclips to the various county medical organizations. Doctors sometime pay more attention to them than to OSMA.

Mr. Whitehouse stated that the move is looming large, but there's not a lot new to report. The Civil Rights Commission has to move first because their current lease expires and they have to be out of their current offices by a certain date. The Board will move right after the Commission moves. Construction on the Board offices is close to being finished. Mr. Whitehouse stated that it will be a very nice place for the Board to work. He's looking forward to getting over there.

Mr. Whitehouse stated that the Board is working with OU College of Osteopathic Medicine to develop an educational curriculum. This will start in August with some students coming to observe the Board meeting. After some conversation with them, a curriculum will be developed. The plan is for all students in the medical school to attend at least one Board meeting. There are other things that will be worked into a curriculum so that the Board is part of their education. Mr. Whitehouse stated that he would like to see this program extended to all of the medical schools.

Dr. Robbins stated that it would be important for these students to see the probationers so that they can see the types of problems physicians can get into and get a better sense about substance abuse and things like that.

Dr. Talmage joined the meeting at this time.

Ms. Sloan suggested that a survey needs to be a piece of this program also.

Mr. Whitehouse suggested that the Board might also meet briefly with the students at the time they attend.

Dr. Amato stated that the meeting with the students would probably be more beneficial than their just attending a meeting. He stated that his only thoughts about the Board before his appointment was that they have control of his career. Yesterday he learned that the Board does have control of careers, but it also puts the human element, the doctor element, the people element back in. If the Board can get that idea across to medical students, perhaps there would be more who come forward when there is a problem.

Dr. Kumar agreed with Dr. Amato.

Ms. Sloan advised that the Pharmacy Board meets at the different pharmacy colleges throughout the state from time to time.

Dr. Robbins stated that that would be a good idea for the Medical Board.

April 12, 2007

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Dr. Steinbergh stated that that would be very difficult from an administrative support perspective, but suggested holding an interactive meeting between the Board and a hospital system by electronic means.

Dr. Kumar stated that some of the larger state boards do go to various parts of the state instead of holding the meeting at a central location.

#### PRESIDENT'S REPORT / EXECUTIVE COMMITTEE REPORT

Dr. Kumar asked that Board members stay for a few minutes after the adjournment of this meeting, as Dr. Steinbergh wants to discuss a dinner in honor of Dr. Davidson, to be held following the Wednesday session of the May meeting.

Dr. Kumar advised that the Board has extended an invitation to Governor Strickland to attend the Board's inaugural meeting at its new offices, and to have his picture taken with the Board. The Board is currently awaiting the Governor's response.

Dr. Kumar announced that, with Dr. Davidson's term expiration and Dr. Amato's inability to attend, there is a slot open for a Board member to attend the Federation's annual meeting. He asked that if any Board member is interested in attending, he or she should make his or her interest known as soon as possible.

Ms. Wehrle advised that the information is needed immediately in order to get a hotel room at the site.

Dr. Kumar stated that there are about five or six resolutions to be discussed at the Federation meeting. Also, the Ohio Board has nominated Dr. Talmage to the Federation Board of Directors. He urged Board members who are attending to promote Dr. Talmage's election. There will also be a poster display concerning the Board's rules on sexual boundaries, physician/patient relationship termination rules, and the Board's interaction with various organized medicine concepts.

Dr. Kumar stated that there are three or four resolutions for bylaws changes. One that he thinks everyone is in favor of is to allow associate members, such as Mr. Whitehouse, to vote.

Dr. Kumar reviewed the five resolutions, copies of which shall be maintained in the exhibits journal, to be considered by the Federation this year. He stated that the first resolution, from Oregon, asks to allow resolutions to be submitted up to the last minute. The philosophy is that things can happen between the current deadline and the meeting. Dr. Kumar stated that the Executive Committee discussed this resolution, and they have a problem with the open-endedness. Dr. Kumar stated that he has asked that that be modified in such a way that there is still a deadline to submit resolutions, but that creates a mechanism to submit emergency resolutions, which could be defined. There were no objections to Dr. Kumar's recommendations.

Dr. Kumar stated that resolution # 2 from Iowa pertains to telemedicine. Dr. Kumar noted that "telemedicine" is defined differently by different boards, with different rules and regulations. This basically asks the Federation to create a standard definition. Dr. Kumar stated that he feels that this is a

good concept. There were no objections to this resolution.

Dr. Kumar stated that resolution # 3 from Nebraska asks that boards recognize only the specialties approved by the ABMS. Somehow in their discussions, they forgot to include the osteopathic boards. This would have to be modified to include the osteopathic physicians. The concept is good. The American Board of Physician Specialties has been trying to get recognition. The resolution essentially tells them, "thanks, but no thanks." There were no objections to this resolution, with the suggested modifications to include osteopathic physicians.

Dr. Kumar stated that resolution # 4 from Minnesota, talks about the need to redefine what a complete medical record or chart is in this day of electronic charting and dual charting (electric and paper), and asks the Federation to come up with such a definition for vote in 2008. Dr. Kumar stated that this will have far more implications than the Federation or the State Medical Boards, because eventually that will get into the malpractice arena.

Dr. Madia stated that the Smith Clinic's Board had a big discussion on this issue. The solution they reached is that those physicians who prefer paper charts can use them, but that chart will then be scanned for the official electronic record.

Dr. Steinbergh asked Dr. Madia whether they are doing electronic prescriptions.

Dr. Madia replied that they are.

She asked how they comply with the Pharmacy Board rules in regard to controlled substances.

Dr. Madia stated that the clinic has its own pharmacy, and they only use electronic prescriptions in their own pharmacy, not outside pharmacies. If the patient wants to fill prescriptions elsewhere, the physician will have to write the prescription.

Dr. Kumar referred to Resolution # 5 from Virginia, which requests that the Federation of State Medical Boards incorporate the topics of the identification of substance use disorders, brief intervention and proper prescribing into the Workgroup with high priority for the development of methods and/or modules of information to be used to educate medical students, residents and practicing physicians. He notes that this ties in with the Board's own plans for the future. He thinks that this is a good concept for the Federation to take over. There were no objections to this resolution.

Dr. Steinbergh asked whether the Board has been requested to sign on to any of these resolutions. Ms. Wehlre stated that it hasn't been.

Dr. Kumar stated that the Midwest Regional Boards (MRB) will also meet at the Federation meeting. Dr. Kumar stated that that would be a good time to discuss whether the MRB wishes to continue to meet. He noted that recent meetings have not been well attended.

Dr. Steinbergh stated that her intent is to send a questionnaire to the other state boards to elicit that

April 12, 2007

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information. She stated that she doesn't find that there's reason for Ohio to continue to support this if it's not well attended.

Ms. Wehrle commented that those who attend the meeting at the Federation level are different from those who attend the regular meetings. She felt that continuation of the meetings should be discussed outside of that venue.

Dr. Steinbergh agreed.

Mr. Whitehouse at this time announced that Dale Austin, Senior Vice President, is leaving the Federation after twelve years. He is resigning, effective June 1.

#### LICENSURE COMMITTEE

Dr. Robbins stated that the Committee reviewed a draft revised rule 4731-6-14, the eligibility for licensure by examination rule, a copy of which shall be maintained in the exhibits section of this journal.

Dr. Robbins stated that the proposed rule continues the Board's discretion in determining "good cause" for going beyond seven years to complete the U.S.M.L.E. sequence, rather than trying to eliminate that discretion and having strict rules. The proposed rule keeps it at seven years for non-Ph.D. candidates, but it ties up a little better the concept of health issues. The health issues should be specifically for the applicant involved or for immediate family. The Committee recommends approval for filing the rule.

#### **DR. ROBBINS MOVED TO FILE THE RULE AND TO PROCEED TO RULES HEARING ON THE PROPOSED RULE. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Kumar stated that there are schools, even in Ohio, that have M.D./M.P.H. programs. They do take one or two years more. They're starting their residencies a year or two after the four year cycle. He stated that the Board hasn't included that in its discussion, and he thinks that somewhere along the line that loophole should be closed.

Dr. Steinbergh stated that the language defines the appropriateness of the degree.

Ms. Thompson stated that these are examples. The basic rule says that you can get an extension for "good cause," but you have to show that you're current in your medical knowledge at the time of application. Examples of types of things that might be considered as "good cause" are contained in the rule, but it's not a limit on what the Board might find as constituting "good cause." If someone came to the Board with an M.P.H., and is using that as his or her "good cause," the Board would have to look at whether or not it explains the length of time taken to pass all three steps.

Dr. Steinbergh stated that the rule says, "based on an applicant having participated in graduate medical education, as defined in Ohio Revised Code section 4731.091 for a period of time greater than that required by statute for initial licensure in Ohio." She stated that that concept is there.

Ms. Thompson stated that it is, if the M.P.H. is considered graduate medical education.

April 12, 2007

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Dr. Kumar stated that that question will come up.

Dr. Steinbergh asked whether the Board feels that getting an M.P.H. is graduate medical education. She stated that, as long as the intent of the Board is that, it's recorded in the minutes and any Boards that go on will continue to honor that.

Dr. Buchan stated that the rule requires that the graduate education be directly related to biological sciences. He stated that he doesn't think that M.P.H. is directly related to biological sciences.

Dr. Steinbergh stated that any form of epidemiology in regards to diseases, which is really the basis of the M.P.H., is directly related to biological sciences.

Dr. Varyani stated that this still gives the Board the discretion to decide.

Dr. Kumar stated that many times you can go into the M.P.H. without going through any medical sciences.

Dr. Varyani stated that usually that's the route taken. If their MCAT scores are not good, they just go into their M.P.H. In some schools it takes one year, and then they take their MCATs again and start their medical cycle. That's the route usually taken.

Dr. Kumar stated that he understands, but added that there are schools that give you joint admission for M.D./M.P.H. together.

Dr. Varyani stated that that should be done within a year extra rather than anything more. If the person is really interested in public health, it takes one year. It will be up to the Licensure Committee to decide whether it is good enough. He stated that he thinks that it will work out. Dr. Varyani commented that there are going to be a lot of scenarios, and the Board can't write a rule to cover every scenario. As long as the Board has a little leeway, the Board should be okay.

A vote was taken on Dr. Robbins' motion:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

April 12, 2007

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The motion carried.

Dr. Egner asked whether, if the applicant wants to give health reasons, there's a way to require that the health reasons be significant. She stated that a case the Board saw the previous day, included in the health reasons was breastfeeding. The excuse was that she had difficulty feeding her infant, and Dr. Egner stated that she would assume that was difficulty breastfeeding. The other excuse was a rectal polyp. She stated that she assumed that the applicant had a colonoscopy and a polyp removed. Dr. Egner stated that that is not a serious health problem. Dr. Egner stated that she thinks what happens is applicants sit down and go through every health problem they've had.

Dr. Robbins stated that that's where discretion comes in.

Dr. Steinbergh stated that, as a cumulative thing for that particular physician, there were significant difficulties. She had to list everything to make her case. Dr. Steinbergh noted the motor vehicle accident times two, and then witnessing one on her way to the exam.

Dr. Egner stated that her comment to that was that maybe she shouldn't be a physician. She's going to be faced with so many challenges in life, and if these things hindered her from taking a test, what impact will they have in practicing medicine or seeing patients? If you're so traumatized from seeing a car accident, what if you saw a car accident and had to examine a patient an hour later? How could you do that?

Dr. Steinbergh stated that she doesn't disagree with that.

Dr. Robbins stated that this discussion fits into the one licensure case before the Board.

Haroon Akhtar, M.D.

Dr. Akhtar's request for endorsement licensure was presented to the Board at this time. Dr. Akhtar requested a waiver of the U.S.M.L.E. seven-year rule for good cause. He exceeded the seven-year limit by two years, eight months. He passed Steps 1 and 2 on the first attempt, and Step 3 on the second attempt. According to his résumé of activities, he was studying for the exam from January 2002 through December 2002; however, he was unable to pass the Step 3 exam on his first attempt in September 2002 due to the pain he was suffering from an automobile accident in April 2002.

Dr. Robbins stated that the Committee discussed this application quite a bit yesterday, and it is split. Although the Committee recommends denial, there was significant discussion both ways on this. The flavor of that discussion was that Dr. Akhtar was in a motor vehicle accident, had significant injuries and had rehabilitation. His rehabilitation, according to his physician, was from May 12, 2002 through January 21, 2003. That was the end of his rehabilitation. He passed Step 3 in May 26, 2005, nearly two and a half years after the rehabilitation was complete. Dr. Robbins stated that the discussion was that, although he did have a health issue, the issue was long since dissipated and he had plenty of time within that two and a half years to take the exam. The majority of the Committee felt that, because it took him all that time to pass the exam, after his health issue was no longer an issue, the exception should not be granted.

April 12, 2007

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**DR. ROBBINS MOVED TO PROPOSE TO DENY DR. AKHTAR'S REQUEST FOR WAIVER OF THE SEVEN-YEAR RULE ON THE BASIS THAT DR. AKHTAR DID NOT SHOW GOOD CAUSE FOR NOT COMPLETING THE U.S.M.L.E. IN THE CORRECT SEQUENCE. DR. MADIA SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

Jianming Han, M.D., Ph.D.

Dr. Robbins advised that the Committee reviewed Dr. Han's request for a waiver of the seven-year rule for good cause. Dr. Han indicated that She passed Step 1 on her first attempt in June 1998, Step 2 on her second attempt in March 1999, and Step 3 on her first attempt in April 2006. In May 2004 she received a Ph.D. diploma in biochemistry. In July 2004 she began a family practice residency and is currently enrolled in PGY3 until June 30, 2007. Dr Han exceeds the seven-year limit by 10 months.

Dr. Robbins stated that Dr. Han's Ph.D. was in the biological sciences, and the Committee felt that she fit within the guidelines for approval of the waiver.

**DR. ROBBINS MOVED TO APPROVE DR. HAN'S REQUEST FOR A WAIVER OF THE U.S.M.L.E. SEVEN-YEAR RULE FOR GOOD CAUSE, AND TO APPROVE HER APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. MADIA SECONDED THE MOTION. A vote was taken:**

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

April 12, 2007

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Dr. Amato	- abstain
Dr. Robbins	- aye
Dr. Steinbergh	- aye

The motion carried.

John J. Letterio, M.D.

Dr. Robbins advised that Dr. Letterio indicated on his license application that he has not been engaged in the active practice of medicine since October 1995. He subsequently noted that he did do some part-time work at Urgent Care, and had some clinical duties at the National Cancer Institute. His licensure application was tabled at the March Board meeting in order for staff to gather more information regarding his clinical practice. Dr. Robbins stated that the Committee reviewed letters from Alan S. Wayne, M.D., Clinical Director, Pediatric Oncology Branch of the National Cancer Institute, verifying that Dr. Letterio did participate in clinical practice. Dr. Letterio indicated that the supervisor at the Kaiser Urgent Care Center had changed and he did not have the contact information for his previous supervisor. Dr. Robbins stated that, based on documentation provided by Dr. Wayne, the Committee recommends approval of the application.

**DR. ROBBINS MOVED TO APPROVE DR. LETTERIO'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Steinbergh asked whether Dr. Letterio's board certification is current.

Ms. Rieve indicated that she believes that it is.

Dr. Steinbergh asked that Ms. Rieve find that information for her.

Dr. Varyani stated that he's not a big believer of letters, so he will vote no on this application. He stated that the first answer was the correct answer. He questioned giving this physician a license just because the Board gets a letter from a professor.

Dr. Steinbergh stated that she thinks that he indicated that he periodically worked as a physician in a local urgent care center. He also had a one-month rotation in clinical care.

Dr. Talmage stated that he thinks that this whole discussion hinges on how the Board could not give this physician a license. He thinks that the question should be why shouldn't the Board give him a license. Is there a compelling reason to not grant someone a license? If they are competent physicians, why not? This is a competent physician. There's nothing to indicate that he is not competent, and that's really what licensure is all about. It's to ensure competence. The Board puts all these barriers in the way of people who are academicians, who are deans of medical schools who haven't seen an office patient for a couple of years, and they're perfectly good practitioners. Dr. Talmage stated that if he sees no compelling reason to

April 12, 2007

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deny licensure, then he feels they should be licensed. This guy looks like he should be licensed. He's not going to hurt anybody.

Dr. Varyani stated that he agrees with Dr. Talmage's statements; however, his concern is that approving this application is unfair to those who are not academicians who have been away from practice for two years and are being required to take the SPEX. He stated that it can't be both ways. Dr. Varyani stated that he does agree with licensing this physician because he's in a teaching position and has been there for a year and a half. How can he say that he won't give Dr. Leterrio a license? But then, why deny a person who hasn't practiced for two years, but can practice, who's totally sound, and who has not violated minimal standards of care in the past? Why require him to take the SPEX? It can't be both ways. This path favors the people in education and not private practitioners.

A vote was taken on Dr. Robbins motion:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

A number of Board members noted that Dr. Varyani voted "aye" when earlier he stated that he would vote "nay" on this application.

#### LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Browning referred to the Committee's written report, a copy of which shall be maintained in the exhibits section of this journal. He noted that there are three bills that the Committee is following: S.B. 33, the acupuncture bill; H.B. 104, background checks bill; and H.B. 119, the main operating budget.

Noting that S.B. 33 contains language that will allow the Board to hire another Attorney Hearing Examiner, Dr. Steinbergh stated that, although she agrees with that concept, she wants to know how the acupuncture bill itself is going from the perspective of the Board's responsibilities to protect the public.

Mr. Whitehouse stated that the Board did have some discussion on this months ago. There has been no deviation.

April 12, 2007

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Mr. Browning stated that there has been talk in Ohio and nationally about physicians undergoing background checks for licensure. H.B. 104 moves in that direction. The Board has articulated a position on this bill.

Mr. Whitehouse stated that the bill is taking a little different tack than the Board discussed last month; but taking its cue from the Board, the staff has decided to join this legislation. He noted that the bill has improved considerably, and it gets the Board where it wants to be, at least initially.

Dr. Kumar stated that this is for initial licensure and restoration. It is not to be done for current licensees, training certificates or renewal.

Dr. Steinbergh asked whether there is a reason why the Board couldn't include training certificates in this.

Mr. Whitehouse stated that the Board is coming in a little late, the bill is moving, and the Board doesn't want to do too much to slow it down. The Board was advised to proceed without too many changes.

Dr. Buchan asked how this information will be processed.

Mr. Whitehouse stated that if someone shows up with a bad background check, he's guessing that it will end up in the Licensure Committee for discussion.

Ms. Thompson stated that she would think that the Board would deal with this information in the same way it deals with positive answers on the application now. If someone tells the Board that they have a criminal conviction in their background, the staff has to get the court documents and police reports. It's then made into a complaint and reviewed with the Secretary and Supervising Member. She stated that the Board does get tons of underage consumption responses. The staff looks at it and assesses it from the criminal and impairment aspects, and then takes it to the Secretary and Supervising Member. She added that this adds another layer, which is fraud in the application. That would also become a complaint to be reviewed by the Secretary and Supervising Member, and they would have to determine whether to go forward with it or close something that is explainable or minor.

Mr. Browning asked whether Ms. Thompson knows about experiences in other states who have this.

Ms. Thompson stated that Florida has probably been doing it the longest, and a very small percentage pop up as convictions that were not reported, but it's still significant. She stated that she believes that it's one percent or a little lower who have criminal backgrounds who either don't report it all or don't report. She added that one state has advised that they were told by the FBI that they weren't allowed to keep statistics on how many hits there were. She stated that she doesn't understand that and will explore it further; but there are, in fact, extremely tight controls on what you do with this report. The Board cannot come to anybody and say, "we got the report and it reported this," because that's revealing what the report said, and you can't say what the report said. All the Board can say is that it has information that they have this conviction. You'd have to go to the original source to get the actual documents to document it and then go from there.

April 12, 2007

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Dr. Buchan stated that the Board needs to have a plan as to what it does with this information when it arrives.

Mr. Browning stated that the last piece is the biennial budget bill that was introduced mid March. Mr. Whitehouse testified on March 22, and there have been some adjustments, some cleanup, such as removing references to Test of Spoken English, and replacing it with language that would allow the Board to adopt rules specifying a specific test, and extending the time a visiting medical faculty certificate is valid from one year to three years. Mr. Browning stated that the latter is an old issue, and the Board has had various hospitals and others pushing to change this limit. Mr. Browning asked whether Mr. Whitehouse was comfortable with the process going from one to three years.

Mr. Whitehouse stated that it seems to be reasonable. If the Board is of another mind, it should talk about it now.

Dr. Robbins stated that this bill is what was crafted in the meeting with Case Western Reserve University. It's actually a compromise. They wanted it to be open ended.

Dr. Steinbergh stated that the Board has had a great deal of discussion on this issue for many, many years. The Board has been resisting changing the length of time.

Dr. Egner commented that it's a great way to get around the system.

Dr. Steinbergh agreed that it is a great way to get around the system and to practice on patients without a legitimate medical license. She stated that she doesn't know that that concern goes away.

Dr. Varyani asked whether this is used for those at teaching institutions.

Dr. Steinbergh stated that it is, but, again, it's practicing without a legitimate medical license because they can't meet the criteria for licensure in Ohio.

Dr. Varyani stated that he understood that the problem was that, if they go from one to three years, they will say that the physician has performed 24 months of U.S. training and should be eligible.

Dr. Robbins stated that it's not that that kicks them out. It's the fact that they don't have the sequence of the U.S.M.L.E.

Dr. Egner added that some haven't gone to an accredited medical school.

Dr. Steinbergh asked whether the Board can support this. She stated that she thinks that the Board needs to really be concerned about it.

Dr. Kumar stated that he thinks that the Board has had this discussion before, and he understands that the three years is a compromise that the Board has come up with. That's why he felt that, since there were discussions before, and the three years was a compromise, he said to go ahead and proceed with that.

April 12, 2007

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Mr. Browning asked whether the certificate is renewable.

Mr. Whitehouse stated that he doesn't believe that it is.

Dr. Varyani stated that, as long as it's not renewable, he'd go along with it.

Mr. Whitehouse stated that the Board would encourage full licensure.

Dr. Robbins stated that the representatives backing this bill have said that they discourage them from getting full licensure in the state of Ohio because they don't want competition from these other physicians.

Dr. Steinbergh again expressed concern that there are physicians, practicing on patients, who believe that their physicians are licensed, and they're not. This now extends those physicians' time to do this.

Mr. Browning stated that they are licensed, but it's a different license.

Mr. Albert stated that the background is checked.

Ms. Rieve stated that they're sent an application, but it's not the same as other applications. The dean of the medical school to which they are going has to sign it, they have to list the duties, show a contract with the school, and the work can only be done in that hospital system.

Mr. Browning stated that there are a couple of other minor points in the bill. The Board has talked about extending the deadline in summary suspension cases from 60 to 75 days for issuance of the final order. That language was contained in there. Also added was a new line item for education and professional development, and there's additional language to allow the Board to collect demographic information on renewal applications.

Dr. Kumar continued to express concern about Am Sub. H.B. 9, which would require physicians to report adverse events for office based surgeries. He stated that he would like Mr. Miller to make efforts to get that language dropped.

Dr. Egner stated that the Board has to be really diligent on this. She stated that, as written, the bill will cause a boondoggle for the Board.

Mr. Whitehouse stated that one other item on H.B. 119 was that Ms. Thompson and Mr. Miller have been working with the Nursing Board to craft language to address problems caused by the Porter case relative to verification of receipt of notices of opportunity for hearing.

#### LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed an inquiry from Sharon L. Barnes, Ph.D., Executive Director of the SHI Integrative Medical Massage and Traditional Chinese Acupuncture School, asking

April 12, 2007

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whether acupuncture students must get referrals from physicians for the patients upon whom they are working in class. The proposed response is that they do.

**DR. ROBBINS MOVED TO SEND THE LETTER, ADVISING MS. BARNES THAT ACUPUNCTURE STUDENTS MAY ONLY WORK ON PATIENTS WHO HAVE BEEN REFERRED BY PHYSICIANS. DR. BUCHAN SECONDED THE MOTION.** All members voted aye. The motion carried.

A copy of the letter of inquiry and the letter of response shall be maintained in the exhibits section of this journal.

Dr. Buchan stated that the Committee also reviewed a applications for certificates of good standing for two schools, and recommends approval.

**DR. BUCHAN MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO: THE BRYMAN SCHOOL, TEMPE, AZ, AND THE CAREER TRAINING ACADEMY. DR. ROBBINS SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- abstain
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### P. A. COMMITTEE

Dr. Talmage stated that there will probably be one more meeting before the prescription formulary will be ready.

He advised that following the rules hearing, a considerable number of objections to the rules were filed by the Ohio Association of Physician Assistants.

**DR. TALMAGE MOVED TO SEND THE OBJECTIONS FILED FOLLOWING THE RULES HEARING TO THE P.A. POLICY COMMITTEE FOR FURTHER REVIEW. DR. STEINBERGH SECONDED THE MOTION.** All members voted aye. The motion carried.

April 12, 2007

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Dr. Talmage stated that there was some discussion about the use of experts. Dr. Talmage stated that the Committee's concern is whether the Board is in a compromised position if its expert's opinion is adverse to the P.A. Committee's opinion. Is the Board really allowing the experts to decide whether or not a special services application should be granted? The Committee is going back to look at that to determine how the Board can incorporate the expert. He stated that his own feeling is that an expert opinion in a court or legal situation is simply evidence. Whether the P.A. Committee lends credibility to that evidence or not, it's still the P.A. Committee's option. If the expert thinks that the duties are appropriate, and the P.A. Committee still says that they aren't and provide logic for that position, then the expert's opinion could be appropriately countered. He stated that further study is needed to determine how the Board can incorporate the expert into these cases.

Dr. Steinbergh agreed with Dr. Talmage, stating that much of the discussion was based on the fact that, as the Board begins to evaluate special requests, it will spend a bit more time in evidence based medicine and begin to judge from that perspective, versus what has been the personal perspective on what's appropriate. She stated that, as physicians, Board members tend to fall into that pattern of comfort in what they are used to doing and what they don't think someone else should be doing with lesser training. As the Board considers physician extenders, the Board will have to now look to more evidence based care and make a decision in that regard. If it rises to the level of a complaint at some point, then the Board also has that evidence. The Board can't necessarily believe that it can prevent those physician extenders from doing certain procedures because they believe it's outside of the P.A.'s scope. The Committee will try to address that evidence-based issue as it proceeds forth.

Dr. Talmage stated that another point that was discussed was whether the Board has the expertise on the Board. They noted that there are three OB/GYN members of the Board, and if it's an issue involving OB/GYN, could the Board rely upon the expertise of the Board members? Dr. Talmage stated that it is his understanding that the Board cannot because the Board has the duty to consider all testimony and vote objectively. If the Board is in a position of giving expert testimony as well as voting objectively, there would be compromise. Having an outside expert is preferable.

#### SCOPE OF PRACTICE COMMITTEE

Dr. Steinbergh stated that the Committee discussed the role of the collaborating physician when an APN practices at a retail clinic. She stated that the Board received a letter of inquiry from Howard B. Abromowitz, M.D., of the Montgomery County Medical Society concerning this issue. The concern was the retail clinics that are now providing medical care. Dr. Abromowitz was interested in knowing the Board's opinion in regard to physicians being hired by retail clinics, the role of the collaborating physician with the nurse practitioner, or, in the future, a P.A., what the responsibility is for referrals from that nurse practitioner to the collaborating physician versus other physicians, and, in general, what the Board thinks about this. The proposed response was approved by the Committee and addresses all of the issues including the issue of professional liability. Dr. Steinbergh stated that the Committee couldn't find any further issues that it felt it had to discuss. The Committee approved a letter of response to Dr. Abromowitz. The Committee is also sending information from the American Osteopathic Association and the American Medical Association, who deal with these issues and should assure this physician and this society that the issues have been addressed. A copy of the letter of inquiry and the letter of response

April 12, 2007

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shall be maintained in the exhibits section of this journal.

**DR. BUCHAN MOVED TO SEND THE LETTER TO DR. ABROMOWITZ. DR. ROBBINS  
8SECONDED THE MOTION.** All members voted aye. The motion carried.

Ms. Marshall advised that the expected consent agreement has not yet arrived in the office, and is, therefore not ready to present to the Board.

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

Thereupon at 10:03 a.m. on April 12, 2007, the April 11-12, 2007 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 April 11-12, 2007, as approved on May 9, 2007.



Deepak Kumar, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

