

August 8, 2007

MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Deepak Kumar, M.D., President, called the meeting to order at 1:15 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; David S. Buchan, D.P.M.; Dalsukh Madia, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Andrew F. Robbins, Jr., M.D.; and Anita M. Steinbergh, D.O. The following did not attend the meeting: Carol L. Egner, M.D., and Jack C. Amato, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly Anderson, 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, Cheryl D. Pokorny, Angela Scott, Daniel S. Zinsmaster, and Lynn Zondorak, Enforcement Attorneys; Barbara J. Pfeiffer, Karen A. Unver, 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; Mark Barr, IT Systems Manager.

Dr. Kumar noted that a number of students from the Ohio University School of Osteopathic Medicine and their advisor are also present. He noted that more students from that school will be attending future meetings.

MINUTES REVIEW

Dr. Kumar advised that, due in large part to the office move and Ms. Schmidt's vacation, transcription of the minutes of the July 11, 2007 Board meeting have not been finished. They will be presented to the Board for approval at its September 2007 meeting.

At this time, Dr. Kumar recognized Mr. Barr's efforts during the recent move.

Mr. Whitehouse thanked the Board and staff for their indulgence and patience throughout the move. He stated that a number of people on staff stepped up during the move. He especially commended Mr. Barr for all of his work.

The Board recognized Mr. Barr with applause.

EXECUTIVE SESSION

DR. BUCHAN MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONFER WITH THE ATTORNEY GENERAL'S REPRESENTATIVES ON MATTERS OF PENDING OR IMMINENT COURT ACTION, AND TO DISCUSS THE EMPLOYMENT OF A PUBLIC EMPLOYEE. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Pursuant to Section 121.22(G)(1) and (3), Revised Code, the Board went into executive session.

The following joined the meeting after the executive session: Patricia A. Davidson, 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 of fact, conclusions of law, and orders, and any objections filed in the matters of: Mohammad Anvari-Hamedani, M.D.; Kristine M. Blazey, M.T.; Clyde Dennis Brown, M.D.; Benjamin L. Gill, D.O.; and Dale Anthony Humphrey, Jr., M.T. A roll call was taken:

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

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dismissal to permanent revocation. A roll call was taken:

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

Dr. Talmage left the meeting at this time.

MOHAMMAD ANVARI-HAMEDANI, M.D.

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

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF MOHAMMAD ANVARI-HAMEDANI, M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Kumar at this time asked for a motion to go into executive session.

DR. BUCHAN MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONSIDER THE INVESTIGATION OF CHARGES OR COMPLAINTS AGAINST A LICENSEE. DR. STEINBERGH SECONDED THE MOTION.

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

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Dr. Robbins - aye
Dr. Steinbergh - aye

The motion carried.

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

The public session of the Board meeting reconvened at 2:07 p.m.

Dr. Madia stated that it seems to him that this is not an issue of the quality of Dr. Anvari-Hamedani's practice, but Dr. Anvari-Hamedani's decision to do some unethical, and probably illegal, things in the face of the United States law. He illegally transferred large sums of money after September 11, 2001 (9/11) to different countries in an illegal way. Dr. Madia noted that Dr. Anvari-Hamedani was prosecuted in the court and found guilty. He stated that the question here is, if someone goes that far to act against the law and the people of the United States, should the Board trust that person to take care of the citizens of the State of Ohio.

Dr. Buchan stated that he looked at this 38-count indictment and he reviewed the facts. He stated that he doesn't think that there is any disputing the facts of the case. Dr. Buchan stated that his personal view is that the aggravating circumstances far outweigh any mitigating circumstances that the Hearing Examiner describes. Paramount to the practice of medicine is the relationship between patient and doctor, and that relationship is based on a degree of trust. Dr. Buchan stated that he has absolutely lost all trust that Dr. Anvari-Hamedani would make the right decision in the practice of medicine. Dr. Buchan stated that he cannot buy it. Dr. Buchan stated that, based upon the lack of trust that he has in Dr. Anvari-Hamedani's decision-making process, and based upon the fact that the Findings are clear that he broke the laws of this country, he would suggest that the Board permanently revoke Dr. Anvari-Hamedani's license.

DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MOHAMMAD ANVARI-HAMEDANI, M.D., BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION. DR. STEINBERGH SECONDED THE MOTION.

Dr. Steinbergh stated that she agrees with Dr. Buchan. She noted that Dr. Anvari-Hamedani was convicted of 36 out of 38 felony counts. Dr. Steinbergh stated that that's an enormous felony conviction. She doesn't find any mitigating circumstances. Dr. Steinbergh agreed with the amendment of permanent revocation.

Dr. Kumar noted that the Report and Recommendation calls for a stayed permanent revocation.

Dr. Buchan stated that his motion is to amend that to permanent revocation.

Dr. Steinbergh stated that she read the letter from the judge who convicted this physician, and who apparently was sensitive to this physician's age and also concerned about him financially. She stated that having read that, it really does not change her opinion of the fact that he was convicted on 36 counts, including illegal exports to Iran, attempt to illegally export to Iran, money laundering, false tax returns, and three felony counts of Foreign Bank Account Reports, in violation of federal law. Dr. Steinbergh stated

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that she's basing her vote for permanent revocation on that.

Dr. Varyani stated that he did read the judge's letter, and he found it puzzling. The judge convicted this physician on 36 of 38 counts, and then he writes a letter like that. Dr. Varyani commented that he doesn't understand that.

Dr. Robbins also spoke in support of the amendment. He stated that the more he read the letter from the judge, the more concerned he became. Dr. Robbins stated that he can hardly imagine a judge receiving a guilty plea to 36 of 38 felonies, sentencing the individual, and then not thinking that there will be action and review by the Medical Board. Dr. Robbins stated that that is so out of bounds to him, he doesn't understand it. He doesn't understand why the letter was written. If the judge felt that way, he shouldn't have convicted this individual. Dr. Robbins stated that the facts are what they are. Dr. Anvari-Hamedani pleaded guilty to 36 of 38 felony counts. Dr. Robbins stated that, when he came in here, he thought that the Report and Recommendation was way too lenient, and he is in agreement with permanent revocation.

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

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF MOHAMMAD ANVARI-HAMEDANI, M.D. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

KRISTINE M. BLAZEY, M.T.

Dr. Kumar directed the Board's attention to the matter of Kristine M. Blazey, M.T. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF KRISTINE M. BLAZEY, M.T. MS. SLOAN SECONDED THE MOTION.

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

Dr. Steinbergh stated that this is a case of a massage therapist who applied for an Ohio license. During the process of application, the Board learned that she had been found guilty of attempt to commit forgery, a misdemeanor, in February 2006. Dr. Steinbergh noted that Ms. Blazey had found a credit card and some other documents, and she chose to use that credit card illegally. The following day, when she realized she was about to be caught, she came forward and admitted to her mistake.

Dr. Steinbergh noted that Ms. Blazey testified as to how hard she has worked since that day to try to improve herself. However, when she applied for a massage therapy license, she conveniently omitted from her application the fact that she had had two jobs from which she had been fired. Dr. Steinbergh stated that the Hearing Examiner felt that the omission was an innocent mistake. Dr. Steinbergh stated that she doesn't agree with that. Even though Ms. Blazey admitted her misdemeanor conviction on her application, the fact is that she did not complete her application appropriately. Dr. Steinbergh stated that she thinks that the omission was convenient for her.

Dr. Steinbergh stated that she does agree with the Proposed Order. She stated that Ms. Blazey is moving forward with her life, and in order to allow Ms. Blazey to ultimately practice, the Board should move forward with the Proposed Order. Dr. Steinbergh stated that she doesn't think that Ms. Blazey is going to do this again and that the ramifications of this theft will follow her for the rest of her life. The Proposed Order grants an application, suspends it for a definite term of 90 days and places her on probation for at least three years with appropriate terms, including a personal ethics course. Dr. Steinbergh stated that Ms. Blazey did take a short professional ethics course during her massage therapy training, and hopefully that will be enough in regards to the professional aspect.

Dr. Buchan spoke in support of the Report and Recommendation, stating that grace is a good thing in this case. He commented that he had hoped that Ms. Blazey would have appeared before the Board and owned up to her horrible choice, but, not seeing her, he thinks that 90 days is appropriate.

Dr. Kumar advised that Ms. Blazey is present, but did not request to address the Board.

Dr. Steinbergh stated that Ms. Blazey has then heard the Board's conversation.

Dr. Buchan indicated that he would be interested in hearing some discussion about a 30-day suspension as opposed to a 90-day suspension, but otherwise he thinks the Order is appropriate, as written.

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

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

The motion carried.

CLYDE DENNIS BROWN, M.D.

Dr. Kumar directed the Board's attention to the matter of Clyde Dennis Brown, M.D. He advised that objections were filed to Hearing Examiner Davidson'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. Brown. Five minutes would be allowed for that address.

It was at this time noted that Dr. Brown was not present.

DR. BUCHAN MOVED TO TABLE THE REPORT AND RECOMMENDATION IN THE MATTER OF CLYDE DENNIS BROWN, M.D., UNTIL LATER IN THE MEETING. MR. BROWNING SECONDED THE MOTION. A vote was taken

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

The motion carried.

Later in the meeting, by successful motion of Mr. Browning, seconded by Dr. Madia, the matter was brought off the table.

Dr. Kumar advised at this time that he was asked to grant an extension of time to file objections in this

case, and that he denied that request. At the motion for an extension, Dr. Brown also asked to address the Board; however, Dr. Brown is not present.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF CLYDE DENNIS BROWN, M.D. DR. ROBBINS SECONDED THE MOTION.

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

Dr. Kumar noted that Dr. Brown went through CPEP, pertaining to a Kentucky Board of Medical Licensure Order.

Dr. Steinbergh that in December 1993 the Board issued an Order, permanently revoking Dr. Brown's certificate. The Board stayed the permanent revocation, and suspended his license for six months. This action was based on Dr. Brown's conviction for felony theft. Dr. Brown was placed on probation for two years.

Dr. Steinbergh stated that in 1995, the Board issued another Order based on Dr. Brown's conviction on four counts of mail fraud and one count of engaging in monetary transactions derived from unlawful activity, money laundering, billing for laboratory tests that were either not performed or unnecessary. That Order again permanently revoked Dr. Brown's license, stayed the revocation, indefinitely suspended his license for not less than six months, and placed him on probation for five years. In 1997 the Board reinstated his certificate. In 2002 Dr. Brown was released from probation.

Dr. Steinbergh advised that in December 2005, the Kentucky Board charged Dr. Brown with allegations of inappropriate prescribing of weight loss medications. The Kentucky Board issued an emergency order of restriction on his license. Dr. Brown then entered into an agreed order of indefinite suspension in May 2006. That order contained stipulations that included a requirement to successfully complete a clinical skills assessment by CPEP. The order also stipulates that if an education plan is prepared by CPEP pursuant to the assessment, the licensee shall comply completely.

Dr. Steinbergh stated that the CPEP recommendation has come through, and the Board has been able to review it. Although the CPEP report has been received by Kentucky, there is no indication in the record before the Board today that there has been any change in the Kentucky Order. Dr. Steinbergh added that she does believe that the Board will see a significant change in the Kentucky Order. It will have to change because of the CPEP findings.

Dr. Steinbergh noted that Dr. Brown maintains offices and practices in both Kentucky and Cincinnati. Dr. Steinbergh stated that this Board's goal is, of course, patient protection, and it doesn't matter if there's one patient or 1,000 patients that Dr. Brown sees in this state. Dr. Steinbergh stated that CPEP made recommendations to Dr. Brown that Dr. Brown thought were ridiculous. He doesn't agree with the CPEP findings. Dr. Steinbergh referred to the CPEP report, which indicates that Dr. Brown's charts were uninformative, that it was not possible to determine his thought process or judgment in that there was a minimal assessment in the notes and a lack of documentation or clinical thinking. Dr. Steinbergh stated that that's the piece that is so critical for physicians. If you cannot see that they're thinking clinically and

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making decisions about their clinical findings, they're not practicing medicine appropriately.

Dr. Steinbergh stated that CPEP found, overall, that Dr. Brown's knowledge was inadequate, his clinical judgment and reasoning were variable but poor, his bariatric practice appeared to be at or beyond the limit of appropriate care. Dr. Brown's response was that this means nothing to him and that he practices good medicine. Dr. Steinbergh stated that Dr. Brown does not get it

Dr. Steinbergh stated that she finds that the Findings of Fact and Conclusions of Law were appropriate. Dr. Steinbergh stated that she doesn't feel that there's any reason to do other than permanently revoke Dr. Brown's license. She stated that he's had two previous orders of stayed permanent revocation by this Board. There's nowhere else to go.

Dr. Buchan agreed. He stated that he did review the CPEP recommendations and Dr. Brown doesn't show that he has any indication of where he needs to improve. Dr. Buchan stated that licensing in Ohio is a privilege, not a right, and it's time to cut the cord in Dr. Brown's case. Dr. Buchan stated that he absolutely believes that permanent revocation is the right choice here.

Dr. Kumar stated that he kept looking at whether this person could be re-educated, but he just doesn't get it, so he can't be rehabilitated. Dr. Brown doesn't recognize that there's a problem.

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

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

The motion carried.

BENJAMIN L. GILL, D.O.

Dr. Kumar directed the Board's attention to the matter of Benjamin L. Gill, D.O. 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. Gill. Five minutes would be allowed for that address.

Dr. Gill was accompanied by his attorney, Elizabeth Y. Collis. Ms. Collis stated that she's put her position on this case, along with a recommendation for an alternative sanction, in her written objections. She stated

that Dr. Gill will use the remainder of their time.

Dr. Gill stated that he would like to thank the Board for giving him the opportunity to appear before it today. Prior to the Board's making a determination in his case, he would like to tell the Board a bit about himself and about the facts leading to this case.

Dr. Gill stated that he has been licensed to practice medicine in Ohio since 1964. Since 1975 he has practiced bariatric medicine in Akron, Ohio, in a private medical practice. Dr. Gill stated that the Board has charged him with practicing below the minimal standard of care in his treatment of patients by failing to follow the Medical Board's weight loss medication rule, and for failing to clearly document the patient files, showing all the work that he had completed on each patient prior to initiating anorectic medication treatment.

Dr. Gill continued that the Medical Board has also charged him with prescribing diuretic or thyroid medications as a form of weight loss. As the evidence showed at the hearing, however, he never prescribed diuretics or thyroid medications to patients for weight loss. Dr. Gill stated that, throughout his practice, he has always tried to put his patients first and provide each patient with the best possible medical care.

Dr. Gill advised that, as the evidence showed from the hearing, he also took steps over the years to continue to change his practice to comply with the implementation of the Medical Board weight loss rules. While there were no residency programs in bariatric medicine, he has sought training over the past 30 years, through conventions, lectures and seminars to learn more about the practice of bariatric medicine. He has been an active member of the Ohio Osteopathic Association, and the American Society of Bariatric Physicians to keep abreast of the best ways to treat overweight and obese patients.

Dr. Gill stated that he tried to model his practice after the training that he received over the years. As a bariatric physician, he was not the only physician treating his patients. Each patient also had a general practice physician. In his practice, he works hard to keep in contact with his patients' general practice physicians and alert them to any medical tests that they should review with their patients. He also counseled his patients whenever a questionable test result was found, and he advised them to further consult with their general physician.

Dr. Gill advised that the Medical Board has alleged that his records were hard to read because the notes were cryptic and because he used an abbreviation system to identify different medications and dosage amounts. Dr. Gill stated that over the years he tried to use a system that was easy to use and easy for his staff to understand. He feels that he was fortunate to have staff members stay with his practice for many years, and the staff was very familiar with his system of documentation. He also tried to be consistent in his use of abbreviations to avoid any confusion in the patient records. After initially learning from the Board investigator that his notes were hard to interpret, he provided the Board investigator with a legend outlining what each abbreviation meant, and he also posted a legend in the office for anyone else to be able to determine the meanings of abbreviations.

Dr. Gill stated that, prior to this case, he met with investigators from the Board on two or three occasions. He commented that the Board has reviewed his practice and his patient records and has never made suggestions to him to change his recordkeeping or to change the way he dispenses medication. Prior to

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prescribing medications for weight loss to patients, he has blood work taken for each patient to ensure that the patient was an appropriate candidate for anorectic medications. Throughout the treatment process, he also has additional medical tests completed for each patient to determine if they had any medical conditions that were contra-indicated for anorectic medications. Even after he prescribed medications for weight loss, he continued to counsel his patients at each visit on the changes they should be making to their diets and lifestyles. Dr. Gill stated that he had patients keep food logs, and his office provided patients with dietary guidelines, with recipes and portion amounts for them to eat so that they could make the changes needed in their lives for sustained weight loss.

Dr. Gill stated that the Medical Board has charged that he prescribed weight loss drugs to patients for longer than the twelve-week Medical Board rule. Dr. Gill stated that he believes that the evidence from the hearing showed that he attempted to follow the Medical Board rule and consistently took patients off the anorectic medications after twelve weeks and maintained them on a non-medical weight loss program for six months. He only initiated anorectic medications to patients after six months if they were unable to maintain their weight loss, or if they had gained weight.

Dr. Kumar asked Dr. Gill to conclude his statement.

Dr. Gill stated that in his case the Hearing Examiner has recommended that his license should be permanently revoked. He asked that, based on the evidence in his case, the Medical Board issue a different sanction. As outlined by his counsel in the objections to the Report and Recommendation, he is requesting that Board suspend his license for one year and stay the suspension. He added that he would also be willing to take continuing medical education on recordkeeping, medication, distribution, or any other area of concern for this Board. He would also agree to work under a practice plan and to have his practice monitored by a local physician. He has spoken with Kevin D. Huffman, D.O., of Akron, who has agreed to monitor his practice and review his patient charts, if the Board allows him to continue to practice.

Dr. Gill stated that he is 69 years old. He has been blessed with good health, and he would like to continue to practice medicine for at least a few more years. After reviewing the evidence in his case, he would respectfully request that the Board allow him to continue his practice in Ohio, with a monitor overseeing his practice. His patients are good people, seeking help. They are not drug-seeking. His patients are trying to lose weight for legitimate health reasons. They are treated with care, compassion and a comprehensive weight management program. Obesity is a chronic disease requiring long-term care to help lower the risk of developing diabetes, heart disease, and certain types of cancer.

Dr. Gill stated that, if the Board does choose to suspend his license after 40 years of practice in Ohio, he respectfully requests a 30-day period of time to wind down his practice. He would like an opportunity to refer his patients to other physicians or to ensure that each patient has a general practice physician who will continue with their care.

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

Mr. Wilcox stated that this hearing has demonstrated that Dr. Gill has engaged in a pattern of treatment, dating back to the 1980s up until the time his records were subpoenaed up in around July 2003. Mr. Wilcox contended that Dr. Gill's practice has fallen below the standard of care in many ways. The most

immediate and glaring example of this is noticed when you look at his patient charts. The charts are very lacking in the substantive medical information, documented physical examinations, or thorough patient histories. Mr. Wilcox further stated that Dr. Gill has also used a system of abbreviations that are not standard and are extremely difficult, if not impossible, for an independent reviewer, or even at times at hearing, Dr. Gill, himself, to determine a type, quantity or dosage of controlled substance that he dispensed.

Mr. Wilcox stated that the charts are also so lacking in documentation that Dr. Gill's own expert witness, Dr. Huffman, stated at one point in his report: "I'm afraid I have to agree; Dr. Gill has substandard documentation in his medical records, which makes it nearly impossible to determine what was or was not performed throughout the patient visits, or, for that matter, what specific medications were used."

Mr. Wilcox stated that, in addition, Dr. Gill's practice fell below the minimal standard of care in that he often prescribed multiple controlled-substance anorectic drugs with directions to take two or more of those drugs in one day. Dr. Gill repeatedly failed to follow the Board's rules on prescribing controlled medications for the purpose of weight loss. He did this routinely, without documenting the need for these patients to be using such drugs, and he routinely prescribed such medications for long periods of time that, in cases, exceeded the twelve-week period allowed by Board rules. Mr. Wilcox stated that it was shown at hearing that many of these patients were clearly not obese patients, but were still prescribed multiple controlled-substance anorectics. Mr. Wilcox noted that, often, this would occur on the first patient visit.

Mr. Wilcox stated that, finally, Dr. Gill's patient charts for these 27 patients in question often reflect that he either ignored or failed to document any follow-up work or consultations with primary care physicians regarding symptoms or test results that indicated a need to do so. In addition, the patient charts also reflect serious misuse of diuretic medications and thyroid medications that were used for apparent attempts to help patients lose weight. This misuse of medications is potentially very dangerous because many of these patients had aggravating co-morbid conditions, such as hypertension.

Mr. Wilcox stated that he thinks that the Report and Recommendation did an excellent job of summarizing this very lengthy case with many patients, and he would agree with what the Hearing Examiner has recommended.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF BENJAMIN L. GILL, D.O. DR. VARYANI SECONDED THE MOTION.

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

Dr. Madia stated that, by looking at Dr. Gill's records for the 27 patients, there is a common theme. The documentation is very poor. Dr. Madia expressed concern about the abbreviations used, noting that, in hospitals, the JCAHO has come up with standard abbreviations. The biggest medical mistakes happen using abbreviations. Somebody writes something, and the nursing staff, or whoever is following the orders, gives a different dose. There is a very clear-cut standard by the JCAHO now on what abbreviations should be used in both hospitals and in medical practice.

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Dr. Madia stated that Dr. Gill gave anorectic medicine in improper doses and for longer periods than recommended, whether the patient needs it or not. Dr. Madia stated that he has seen in the records that some of the patients' thyroid levels are normal, but Dr. Gill wrote in his note that the thyroid level is abnormal and he prescribed thyroid medicine in inappropriate doses, twice a day. Dr. Madia stated that he doesn't know anyone who gives thyroid medication twice a day. It's a once-a-day pill. Dr. Madia noted that Dr. Gill gave his patients diuretics. He commented that it is illegal to give horses diuretics before a race. You should not prescribe diuretics for weight loss. Dr. Madia stated that, in his opinion, this falls below minimal standards of care.

Dr. Madia stated that, looking at all these things, and he could go on and on, he thinks that the evidence shows that Dr. Gill's standard of practice was clearly below the accepted standard of practice. He agrees with the Hearing Examiner's recommendation of permanent revocation.

Dr. Buchan stated that he thinks that Mr. Porter did an excellent job of reviewing this very long and difficult case. He did go through the 27 patient charts, and he thinks that the Findings of Fact are most accurate, and the Conclusions of Law are appropriate. It's a severe prescribing case. Dr. Buchan stated that he feels badly for Dr. Gill, adding that he believes that, in Dr. Gill's time, he has helped a lot of people. Dr. Buchan continued, however, that what he saw in the records of the last several years is such that the Board needs to stop this practice. Dr. Buchan stated that he believes that the Findings of Fact support permanent revocation. Dr. Buchan stated that he agrees with the Proposed Order, as written.

Dr. Robbins stated that he agrees with both Dr. Madia's and Dr. Buchan's statements. Dr. Robbins referred to page 62 of the Report and Recommendation and stated that he was particularly struck by Dr. Gill's response to whether or not he was familiar with the "SOAP" method of charting: "That came about as a suggestion years and years ago and I don't use it. It's not necessary." Dr. Robbins stated that he thinks that, maybe in years past, Dr. Gill did a lot of service to his patients, but with this kind of approach and this kind of recordkeeping, when his patients would have to go on to different providers, it's going to be very, very difficult. The records, essentially, will be of no use whatsoever. Dr. Robbins stated that he agrees with the Report and Recommendation, as written.

Dr. Steinbergh stated that this was a lengthy case and, in her opinion, very well outlined by the Hearing Examiner. Dr. Steinbergh stated that she doesn't think that the Board has to go into so much depth, as the record does, because the record is very complete and will hold up for any reason.

Dr. Steinbergh stated that she would like to mention a few concerns that support Mr. Porter's Report and Recommendation. She stated that, first of all, she found that the State's expert, Dr. Kevin Hornbeck, evaluated these cases thoroughly, and she agreed with each of his assessments and with each of his comments. She noted that Dr. Hornbeck is an internist, so one might think that he practices at a different level from Dr. Gill, but she happens to be an osteopathic family physician, a generalist like Dr. Gill, and like Dr. Huffman, Dr. Gill's expert. As such, she does feel that Dr. Hornbeck's approach to these cases was excellent.

Dr. Steinbergh stated that when she first approached this case, she thought that it was going to be a simple case of overprescribing controlled prescription anorectics. This case was that, but so much more. Dr. Steinbergh advised that everything documented in this hearing record goes to the fact that this is a very

serious case of a physician whose practice falls below minimal standards in all areas of the record. Dr. Gill testified that his current practice is 90 percent bariatric medicine and 10 percent general medicine, he considers himself a specialist in bariatrics, and, from that description, he approaches the prescribing of medications differently from other primary care physicians. Dr. Steinbergh referred to paragraphs 97, 98 and 99 of the Summary of Evidence in the Report and Recommendation, where Dr. Hornbeck, Dr. Gill and Dr. Huffman discuss the use of multiple anorectics each day. She noted that Dr. Hornbeck testified that utilizing multiple anorectics at different times of the day constitutes an inappropriate use of such medication, and that such treatment is not supported in the literature as a standard of care. Dr. Gill testified that he was trained through his coursework in bariatric medicine to treat patients with combinations of anorectic medication. Dr. Huffman testified that family practitioners or other physicians who don't have experience in weight management generally prescribe one medication.

Dr. Steinbergh stated that the important piece is Dr. Huffman's testimony that these physicians (family practitioners or other physicians) "don't watch the patient's diaries or food intake histories or ask them about hunger and very rarely will try to implement multi-drug therapies." Dr. Steinbergh stated that she reviewed the patient charts, and she couldn't find any evidence of food diaries, food intake histories, any discussion of that. Dr. Steinbergh stated that that's not to say that Dr. Gill didn't talk to the patients about diet or exercise, but he shows no evidence of any clinical thought process in his patient records that indicates that Dr. Gill has a knowledge base specific to bariatrics. Dr. Steinbergh stated that she doesn't see anything specialty-oriented in his records.

Dr. Steinbergh commented on what she considers Dr. Gill's inability to approach metabolic diseases and the fact that Dr. Gill did not interact with specialists. She stated that there is documentation of some laboratory data, but whether it was normal or abnormal, there was no realization of abnormalities. There was no discussion with other specialists. There was no documentation that Dr. Gill had an appropriate conversation with a specialist. Many times Dr. Gill said that he told the patient that test results were abnormal. Dr. Steinbergh questioned what you do with that. She stated when she interacts with a specialist in any area of medicine, that physician has an approach that is specialty-specific but does not exclude other lab data or radiographic information that may need to be assessed by her or another specialist. This information is not ignored but is conveyed to her by a phone call, a written letter or both. Dr. Steinbergh stated that the primary care physician and the specialist should all be on the same page. Even if Dr. Gill is not considering himself to be the primary care physician, he has an obligation to communicate with either a primary care physician or a specialist regarding abnormalities.

Dr. Steinbergh stated that, in Dr. Gill's case, the medical care that was beyond the weight loss issue was mostly ignored. The importance of an abnormal liver test, chest pain, hypertension, and seizures as side effects of medication was ignored. Dr. Gill prescribed and continued to prescribe even with the knowledge of the side effects. Dr. Gill failed to properly evaluate patients for metabolic and hematologic diseases, and he failed to communicate abnormalities that he may not have wanted to treat himself.

Dr. Steinbergh stated that a great concern to her is the fact that there is a lack of documentation of clinical thinking. Nowhere in Dr. Gill's records could you follow any clinical thought process that would allow any other physician to understand his medical decisions.

Dr. Steinbergh stated, for these reasons, she feels that Dr. Gill fails to meet the standard of care of an

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osteopathic physician in the state of Ohio, and she concurs with the Proposed Order of permanent revocation. Dr. Steinbergh stated that, at this stage of Dr. Gill's career, she does not see the possibility of appropriate remediation.

Dr. Steinbergh continued that she does, however, agree that the Board should give Dr. Gill 30 days to wind down his practice and to allow him to find other appropriate physicians to care for his patients.

DR. STEINBERGH MOVED TO AMEND THE EFFECTIVE DATE OF THE PROPOSED ORDER TO COMMENCE IN 30 DAYS, RATHER THAN TO BECOME EFFECTIVE IMMEDIATELY UPON MAILING OF THE ORDER, AND THAT HE SEE NO NEW PATIENTS DURING THAT PERIOD. DR. VARYANI SECONDED THE MOTION.

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

Dr. Robbins stated that it's important that, as Dr. Gill goes through these 30 days, that he go through his charts and try to do what he can so that other physicians can understand them. He stated that to send the charts the way they are won't help anybody who takes care of these patients in the future. Dr. Robbins stated that Dr. Gill is going to have to do some diligence to write some narrative or something; otherwise, it will be no use.

Dr. Madia agreed, but added that whoever takes his patients might have to start all over again. He stated that he doesn't think, even if Dr. Gill writes more, it will be useful.

Dr. Kumar commented that it might give some idea of what was done before.

Dr. Varyani stated that it's important that Dr. Gill use this 30 days to refer his patients and not accept or see any new patients.

Dr. Steinbergh agreed.

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

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF BENJAMIN L. GILL, D.O. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DALE ANTHONY HUMPHREY, JR., M.T.

Dr. Kumar directed the Board's attention to the matter of Dale Anthony Humphrey, Jr., M.T. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF DALE ANTHONY HUMPHREY, JR., M.T. DR. MADIA SECONDED THE MOTION.

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

Dr. Buchan stated that this is an interesting case that is clear. Mr. Humphrey made another bad choice as did an earlier individual the Board discussed. Ultimately, Mr. Humphrey was caught and spent over a year incarcerated. Subsequent to that event he obtained his massage therapy education. The Board is being asked whether it is reasonable that he be allowed to practice massage therapy in the face of this felony conviction. Dr. Buchan noted that the felony was committed in 1998, and it's now 2007.

Dr. Buchan stated that he has a sense that this individual has paid the price and has taken action to get his life back in order. He's got a family. Dr. Buchan stated that he's thinking that grace is not an unreasonable course of action here. The recommendation is for permanent denial. Dr. Buchan stated that he would at least be open to leniency for Mr. Humphrey.

Dr. Steinbergh noted that there is a typographical error on page 2 of the Report and Recommendation, paragraph 6 of the Summary of Evidence. She noted that the date in the opening of the paragraph should read "October 18, 2006."

Dr. Steinbergh stated that she feels that this is a more serious case than the case earlier discussed. Mr. Humphrey stole nearly \$86,000 from others, transferred it into his bank account. Dr. Steinbergh stated

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that, to her, that was a real serious thing. The earlier case involved a misdemeanor conviction rather than a felony conviction. Dr. Steinbergh stated that she does agree with Dr. Buchan in terms of the length of time it has been since the criminal act. She stated that she could consider leniency, and she will wait to see what other Board members think. She added that this was a significantly more serious case than the previous one the Board considered. Dr. Steinbergh stated that she also considered a denial rather than a permanent denial in this case. The Board could also discourage him from reapplying for a few years and see where he is with his life then.

Dr. Buchan stated that the difficulty for him in this case is the timing. He just graduated in 2006 and is asking to start a new life. The conviction was nine years ago.

Dr. Madia stated that he sort of agrees with both Dr. Steinbergh and Dr. Buchan. The crime is really serious, but he agrees with Dr. Buchan that the Board should give Mr. Humphrey a chance to put his life back together and see how he does back in society. If the Board doesn't, Dr. Madia asks what is Mr. Humphrey going to do?

Ms. Sloan stated that she was looking at the time period between the time he finished school, which was recently, and the time that the felony occurred. Even though a large amount of money is involved, Mr. Humphrey did serve his time and also had two years of probation that he had to serve. She stated that she could agree to a more lenient proposal.

Dr. Buchan stated that he would be happy to take the lead on crafting an Order that allows the granting of a license with some probationary terms for, possibly, three years. He stated that he feels that the Board is open to leniency, and that the Board wants to give Mr. Humphrey another chance and an opportunity to make something of his life. Dr. Buchan stated that an alternative Order might include monitoring for three years and a personal ethics course.

Dr. Kumar asked whether there is any consideration to just denying the application, rather than permanently denying it.

Dr. Steinbergh stated that she did think about that.

Dr. Buchan stated that he doesn't think anything is going to change, unfortunately.

Mr. Browning stated that he thinks that the Board should give Mr. Humphrey a chance and start the process. He stated that denying Mr. Humphrey a certificate just puts him in a grey zone and doesn't help move the Board forward.

Dr. Buchan stated that those who have been in training realize that you're never as smart as you are when you first get out of school or a residency. If the Board agrees that Mr. Humphrey needs to go to work, then this would be the time for him.

Dr. Kumar suggesting tabling the matter to allow time to draft an alternative Order.

Dr. Robbins stated that he has a little different take. Mr. Humphrey says that he was in the United States

Navy for essentially ten years. While in the navy, the theft occurred. Mr. Humphrey then moved to France with the money, gets married and has two kids, and does not have a pang of conscience. His arrest is what started the process. Dr. Robbins stated that he would have felt a lot different had Mr. Humphrey initiated a lot of the processes that brought him to this level. He didn't. Dr. Robbins stated that, although he did wrestle with the same thing, at the end of the day he came down with the fact that he felt that the Proposed Order and the Report and Recommendation were appropriate.

Dr. Varyani stated that he was thinking around the same lines. He stated that this Board holds people it licenses, physicians, M.T.s, P.A.s, etc., to a little higher standard. Just letting Mr. Humphrey go and giving him another chance bothers him. Dr. Varyani stated that he's leaning more towards what Dr. Robbins has said.

Dr. Kumar asked for a vote on the motion on the floor.

A vote was taken on Mr. Browning's motion to approve and confirm the Hearing Examiner's Proposed Findings of Fact, Conclusion and Order:

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

The motion failed.

DR. BUCHAN MOVED TO TABLE THE MATTER OF DALE ANTHONY HUMPHREY, JR., M.D. DR. MADIA SECONDED THE MOTION. All members voted aye. The motion carried.

There was a subsequent discussion where Board members discussed schools accepting applicants with felony convictions. Some felt that the schools should either deny enrollment to such individuals or at least warn them that they may be unable to obtain a license.

Mr. Albert commented that the Department of Jobs and Family Services gives those leaving penal institutions lists of different trades or professions that they might pursue, and will help those individuals with financing. Such trades might include massage therapists. So, some of the people who come to the Board are those being aided by the State in pursuing a new trade.

Mr. Whitehouse stated that this issue has been raised with the massage schools.

Dr. Robbins stated that what disappoints him most is that someone from the college is not present or advocating for this individual. If the individual is good enough to be brought into the training program and

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pass the training program, Dr. Robbins would expect the school to advocate for him or her. It disappoints him that the schools just accept them and then don't advocate, because it may mean something to him if the dean of this training program appeared at the hearing and explained why this person was accepted and/or how the person is deserving of a certificate. It would be the least the Board should expect from these training programs.

Dr. Buchan asked whether there is a mandatory background check. The schools might not even know about a student's past.

Dr. Varyani stated that the Board might be disappointed in the schools, but the schools may be telling these individuals that there is a chance for them to get a license. The schools may use this case as a precedent.

Dr. Steinbergh stated that the Board is only talking about licensure in this state. Not all massage therapists fall under medical board regulation. There are many states where massage therapists fall under the auspices of a different board, or are not regulated at all. The fact that the Ohio State Medical Board might not allow this person to practice in Ohio does not mean that he's not going to be able to find massage therapy work elsewhere.

FOLLOWING PERSONAL APPEARANCES, BY MOTION MADE BY DR. BUCHAN, SECONDED BY DR. ROBBINS AND UNANIMOUSLY PASSED, THE REPORT AND RECOMMENDATION IN THE MATTER OF DALE ANTHONY HUMPHREY, JR., M.T., WAS REMOVED FROM THE TABLE.

DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DALE ANTHONY HUMPHREY, JR., M.T., BY SUBSTITUTING IT WITH THE FOLLOWING:

It is hereby ORDERED that:

- A. **GRANT OF APPLICATION (CONDITIONAL):** The application of Dale Anthony Humphrey, Jr., M.T., for a certificate to practice massage therapy in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements.
- B. **PROBATION:** Mr. Humphrey'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:** Mr. Humphrey shall obey all federal, state, and local laws; and all rules governing the practice of massage therapy in Ohio.
 2. **Personal Ethics Course:** Within one year from the effective date of this Order, or as otherwise approved by the Board, Mr. Humphrey 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.

In addition, at the time Mr. Humphrey submits the documentation of successful

completion of the course or courses dealing with personal ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of massage therapy in the future.

3. **Professional Ethics Course:** Within one year from the effective date of this Order, or as otherwise approved by the Board, Mr. Humphrey 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.

In addition, at the time Mr. Humphrey submits the documentation of successful completion of the course or courses dealing with professional ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of massage therapy in the future.

4. **Declarations of Compliance:** Mr. Humphrey 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 effective date of this Order. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

5. **Personal Appearances:** Mr. Humphrey shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Order. 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.
6. **Absence from Ohio:** Mr. Humphrey shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
7. **Noncompliance Will Not Reduce Probationary Period:** In the event Mr. Humphrey is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.

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- C. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Humphrey's certificate will be fully restored.
- D. **REQUIRED REPORTING TO EMPLOYERS AND CONTRACTING ENTITIES:** Mr. Humphrey shall provide a copy of this Order, together **with** a copy of the Report and Recommendation, to the following employers and entities: (1) all employers with whom he interviews for employment or enters employment for the provision of massage therapy services, providing the copies no later than the end of his first interview, or, if there is no interview, then prior to accepting employment; and (2) all entities with which he contracts regarding provision of massage therapy services, including contracts regarding the provision of space for performing massage therapy services, prior to entering any agreement or contract. This requirement shall continue until Mr. Humphrey receives from the Board written notification of his successful completion of probation pursuant to Paragraph C, above.
- E. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Mr. Humphrey shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Mr. Humphrey shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Mr. Humphrey shall provide this Board with a copy of the return receipt as proof of notification within 30 days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Mr. Humphrey receives from the Board written notification of his successful completion of probation pursuant to Paragraph C, above.

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

MR. BROWNING SECONDED THE MOTION.

Dr. Buchan stated that the amended order would allow Mr. Humphrey to practice massage therapy. It grants Mr. Humphrey a license with probationary terms, including requirements for a professional ethics course and a personal ethics course. Probation is for three years.

Dr. Kumar noted that the proposed amendment requires no period of suspension, despite all that Mr. Humphrey has done.

Dr. Buchan stated that that is correct.

Dr. Steinbergh stated that the Order should look a little bit more harsh by including a stayed suspension. She commented that Dr. Buchan's reason for the amendment is so that Mr. Humphrey can go ahead and start practice.

Dr. Buchan indicated that he would entertain a friendly amendment for a stayed suspension, based upon the

gravity of the situation.

Dr. Steinbergh stated that the Board's minimum penalty for section VIII.B is a stayed revocation; indefinite suspension, minimum 30 days, with conditions for reinstatement, and a 5-year probation. The maximum penalty, of course, is permanent denial of his application. If the Board wants to be consistent with its guideline for a minimum penalty, it should use that language.

Dr. Kumar felt that some suspension was in order.

Mr. Browning asked what the sequence is. Mr. Humphrey engaged in this behavior, was found guilty of a felony, but it was discovered after he went to France. What is the Board punishing him for? He stated that he knows what Mr. Humphrey did, but he's trying to understand the rationale here. If the Board doesn't think that Mr. Humphrey should be in the practice of massage therapy, then it should just deny the application. If he's not of appropriate moral character, the Board should deny his application, even though he has been trained and no one apparently talked to him. That was the Proposed Order to begin with. It seems to him that the Board is deciding that it doesn't want to deny his application because Mr. Humphrey has paid the price and now the Board is giving him a second chance. Mr. Browning stated that, once you get to the second chance issue, what are you doing punishing him? He's already been punished for the crime. Mr. Browning stated that he's trying to understand what the Board is accomplishing, other than putting something on his record to punish him for what he did. Mr. Browning stated his view is that, if that's what the Board is going to do, he's against licensing the guy. Mr. Browning asked why, if the Board has to go through all of that, it is even licensing him?

Dr. Kumar stated that he felt that the Board could at least give this individual a chance. Dr. Buchan's initial proposed amendment seems to be more of a slap on the wrist, with just probation. Mr. Humphrey committed a significant crime.

Dr. Varyani stated that Mr. Humphrey has already paid for that crime. He noted that Dr. Kumar wants to give him a chance. Dr. Varyani stated that that was his point earlier, when he spoke in favor of the Proposed Order, as written by the Hearing Examiner. If the Board doesn't want to deny the application, what's the purpose of sanctioning Mr. Humphrey?

Mr. Browning agreed. Mr. Browning asked Dr. Buchan whether he has accepted a friendly amendment to his motion.

Dr. Buchan stated that he did not accept the amendment. He was just entertaining the suspension language. Dr. Buchan stated that, to him, it's semantics. He stated that his proposed order, though, is where he thinks this individual needs to be.

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

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

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Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- nay
Dr. Steinbergh	- nay
Dr. Kumar	- nay

The motion failed.

Dr. Buchan stated that the sentiment earlier was to grant this individual a license, although it was not unanimous. For that reason, he proceeded with his proposed motion. He stated that he will listen now for some language that will be acceptable to the dissenters. He stated that he thinks that that would include revocation and stayed suspension language.

Dr. Steinbergh stated that she has a real hard time with this. This is not like the earlier case where the Board gave a license to another applicant with a misdemeanor conviction on her record. She again stated that she has a problem with this case. She noted that Mr. Humphrey committed his offense in 1998. He then settled down, got married and had two kids. Five years later, in December 2003, he was incarcerated by means of an international warrant. He spent one year incarcerated, awaiting extradition, then went back to Jacksonville, FL, where he pled guilty to conspiracy to commit wire fraud and was sentenced to time served with two years' probation and restitution. Dr. Steinbergh stated that she does have problems licensing this applicant. She added that it's a moral issue for her – a real big one. She added that it's not quite the same as the young lady who, unfortunately, used someone else's Visa card, got caught up in it and realized the next day that she did something wrong. This was a significant conviction.

Dr. Steinbergh stated that she always goes back to the mission of the Board in terms of public protection. She noted that there's just such a tremendous moral and ethical issue in this case. Dr. Steinbergh added that not being granted a massage therapy license doesn't mean that Mr. Humphrey won't be able to use his training in massage therapy. The question is whether he'll be able to use it in Ohio.

Dr. Buchan stated that Mr. Humphrey did what he did, not in the course of practice. It's nine years later and a new beginning. Dr. Buchan stated that he has a sense that granting a license is appropriate, but he understands Dr. Steinbergh's concern. Dr. Buchan again stated that this was an error Mr. Humphrey committed, and it was extraordinary and nine years ago.

Dr. Kumar stated that he would be comfortable if Dr. Buchan's amendment included a stayed revocation and stayed suspension.

Mr. Browning stated that the Board could make the language tougher and see what happens, or it goes back to the original proposal and just have a vote and see whether the votes are there to even come up with a compromise. If the votes aren't there, then the Board should move on and deny the application.

Dr. Buchan suggested a stayed permanent revocation with a stayed suspension of one year.

Mr. Browning stated that he finds it interesting that, as Mr. Albert suggested earlier, the State of Ohio is apparently paying money to subsidize programs to help prisoners become massage therapists, among other

things, after their incarceration. Yet, the Board is opposed to this, potentially. Mr. Browning stated that, if there are certain laws that you're going to break that prohibit you from being licensed in this state, the Board ought to encourage the Legislature to pass the laws, and say, "if you do A, B and C, you can't be a massage therapist."

Mr. Browning stated that the Board doesn't know much about this guy. He noted that Mr. Humphrey did something really bad, he tried and failed to get away with it. He's done his time and now do you let him have a shot, under supervision? Or do you say, "No." Mr. Browning stated that he thinks that the tweaking the Board will do relative to Dr. Buchan's proposal is not particularly significant to him. Mr. Browning stated that he thinks there's a bigger question. If there are things that someone's going to do, breaking laws that prohibit you from doing things from this Board's perspective, then the Board probably ought to get the law changed.

Mr. Whitehouse stated that there is legislation across the street, and he's waiting to hear what the Board's take is on this matter. Does an act outside of the practice of one of the professions matter in the licensing and discipline decisions. If so, are there only certain offenses that are so intolerable that they would cause the Board to deny someone's application for a license or cause the Board to take disciplinary action? Does it matter at all?

Dr. Steinbergh stated that it matters and the Board has discussed this issue before. If this person were already licensed, what would the Board be doing. She stated that, in her mind, the Board has no obligation to license this person. If this person had a license, the Board would be taking some significant disciplinary action.

Mr. Whitehouse stated that it goes back to the mission: Does this person pose a risk to the public, if licensed?

Dr. Robbins stated that he would go a little further. He would ask whether it is conceivable that, if this person was not arrested on an international warrant, he would still be in France, unrepentant. Dr. Robbins stated that what would have made a difference to him is if, five years later, with his family and everything, he decided to make the change. Mr. Humphrey decided to call and turn himself in, decided that he wanted to turn his life around, etc. That's not what happened here.

Mr. Browning stated that he respects that perspective but, when you think about all the people that are in practice today, whom the Board has allowed to go into practice, and who have done outrageous things for which they weren't repentant, it would be a long list.

Dr. Kumar referred to a letter in the hearing exhibits in which Mr. Humphrey advises that he has recently relocated to a French territory where he has tried to practice massage therapy.

Ms. Pfeiffer noted that Mr. Humphrey's letter indicates that he "does not wish to contest the allegations against him, but that he's obligated to request a hearing in order to bring about a means of reaching settlement before the hearing, if possible. However, for the purpose of gaining my livelihood for the practice of massage therapy, I have recently relocated to French territory, where I have the right to practice massage therapy." Ms. Pfeiffer stated that the letter was written on April 5, 2007, and it is part of the

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hearing record.

DR. STEINBERGH MOVED TO RECONSIDER THE ORIGINAL PROPOSED ORDER IN THE MATTER OF DALE ANTHONY HUMPHREY, JR., M.T. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

A vote was taken on Mr. Browning's motion to approve and confirm the Hearing Examiner's Proposed Findings of Fact, Conclusions of Law and Order in the matter of Dale Anthony Humphrey, Jr., M.T.:

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

The motion failed.

Dr. Steinbergh suggested a motion to deny, rather than permanent denial. This would, essentially, allow him to reapply in the future. The denial could also include language that would recommend that he not reapply for a certain length of time, and then the Board could see what he's done with his life after a period of time.

Dr. Buchan suggested, based upon the fact that Mr. Humphrey has taken up residence in a French territory, and that he wouldn't be able to meet the Board's probationary needs at this point, a denial with the notion that he has some opportunity to take up residence in Ohio, at which time the Board could potentially monitor this individual. At least it wouldn't be permanent.

DR. BUCHAN MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DALE ANTHONY HUMPHREY, JR., M.T. BY SUBSTITUTING AN ORDER OF DENIAL, RATHER THAN PERMANENT DENIAL. 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. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF DALE ANTHONY HUMPHREY, JR., M.T. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

PROPOSED FINDINGS & PROPOSED ORDERS

KRISTOPHER NICHOLAS WANKEWYCZ, M.T.

Dr. Kumar referred to the matter of Kristopher Nicholas Wankewycz, M.T. He advised that by letter of April 12, 2007, the Board notified Mr. Wankewycz that it proposed to take disciplinary action against his license to practice massage therapy in the state of Ohio based on allegations contained in the letter. The notice was mailed to Mr. Wankewycz's address of record and proper service was documented. No hearing request has been received from Mr. Wankewycz and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Davidson, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition. Mr. Albert was supervising member. Dr. Talmage served as secretary.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE APRIL 12, 2007 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF KRISTOPHER NICHOLAS WANKEWYCZ, M.T., AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh referred the Board to Ms. Davidson's Summary of Evidence, noting that Mr. Wankewycz failed to comply with the Board's Order of June 9, 2004 in a number of instances. Dr. Steinbergh stated that she agrees with the Proposed Order of permanent revocation in this case.

Mr. Browning stated that he also agrees with the Proposed Order. He commented that it's almost as though

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Mr. Wankewycz was following a game plan to have his license permanently revoked. He couldn't have come up with a better plan of action to lead to permanent revocation.

A vote was taken:

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

The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

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

STEVEN RAY ALLEN, SR., M.D. – CONSENT AGREEMENT

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

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

The motion carried.

JOHN DAVID BROWNLEE, M.D. – STEP II CONSENT AGREEMENT

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED STEP II CONSENT AGREEMENT

WITH DR. BROWNLEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JOHN WESLEY BOOTH, M.T. – SURRENDER OF LICENSE

DR. STEINBERGH MOVED TO RATIFY THE SURRENDER OF MR. BOOTH'S LICENSE TO PRACTICE MASSAGE THERAPY IN THE STATE OF OHIO. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ROBERT L. BRANDT, JR., M.D. – CONSENT AGREEMENT

DR. MADIA MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. BRANDT. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

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Dr. Steinbergh - aye

The motion carried.

JAMES V. FURICCHIA, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

ARLAN MARCUS GUSTILO-ASHBY, M.D. – CONSENT AGREEMENT

DR. MADIA MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. GUSTILO-ASHBY. DR. STEINBERGH SECONDED THE MOTION. A vote was taken

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

The motion carried.

DONALD R. KISER, D.O. – SURRENDER OF LICENSE

DR. STEINBERGH MOVED TO RATIFY THE SURRENDER OF DR. KISER'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. MS. SLOAN SECONDED THE MOTION. A vote was taken

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

The motion carried.

BYRON CHRISTOPHER LEAK, M.D. – CONSENT AGREEMENT

DR. MADIA MOVED TO RATIFY THE PROPOSED STEP II CONSENT AGREEMENT WITH DR. LEAK. DR. STEINBERGH SECONDED THE MOTION. A vote was taken

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

The motion carried.

DAROLD R. LANCE, JR., D.O. – CONSENT AGREEMENT

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. LANCE. MR. BROWNING SECONDED THE MOTION. A vote was taken

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

The motion carried.

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JAMEY D. WRIGHT, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

At 3:28 p.m., the Board took a brief recess. It reconvened at 3:53 p.m. with Dr. Steinbergh and Dr. Talmage absent.

PERSONAL APPEARANCES

MARK D. BALDWIN, D.O.

Dr. Baldwin appeared before the Board pursuant to his request for release from the terms of his August 14, 2002 Step II Consent Agreement. If approved, release from probation would become effective August 14, 2007.

Dr. Steinbergh returned to the meeting at this time.

In response to Board Members' questions, Dr. Baldwin stated that things are going very well in both his professional and personal lives. He advised that the biggest thing he's learned from this experience is to stay in touch with things, and not let other problems interfere with his life. He must keep his life on what's really important, and that is staying sober. He's employed a nurse practitioner, who has helped him out a lot. He's trying to be more organized with things and is taking more time off. He's on a call schedule with three other people, which allows more time off.

Dr. Baldwin advised that his support group is excellent. He doesn't intend to change anything in terms of his recovery, as what he's doing seems to be working so far. He continues to keep up his meeting attendance, sponsorship, and meeting with people in the program.

Mr. Albert advised that Dr. Baldwin has been a great probationer, as have most of those up for release from probation today.

Dr. Buchan commented that it sounds as though stress has been the trigger for him.

Dr. Baldwin stated that both stress and depression have been. He does feel comfortable that he will take action should he feel that trigger again.

DR. BUCHAN MOVED TO RELEASE DR. BALDWIN, EFFECTIVE AUGUST 14, FROM THE TERMS OF HIS AUGUST 14, 2002 STEP II CONSENT AGREEMENT. DR. STEINBERGH SECONDED THE MOTION.

Dr. Baldwin at this time expressed his gratitude for the support and friendship shown to him by Mr. Albert and Ms. Bickers during this process. He stated that, initially, as do others in his circumstances, he thought of this only as a punitive measure, but over the years he found that the Board actually cares about keeping physicians healthy. Dr. Baldwin stated that he appreciates that.

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

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

The motion carried.

GREGORY X. BOEHM, M.D.

Dr. Boehm appeared before the Board pursuant to his request for release from the terms of his September 12, 2001 Consent Agreement. If approved, release from probation would become effective August 31, 2007.

In response to Board members' questions, Dr. Boehm stated that he practices both psychiatry and addiction medicine. He is now certified in addiction medicine. Dr. Boehm stated that he was very fortunate that on the second anniversary of his sobriety, five years ago, he was asked to volunteer at a homeless shelter. That turned out to be a fantastic opportunity for him. He volunteered for a year, and then he started working their daily. That led to his becoming medical director at Stella Maris Detox Center in Cleveland. He still works at Whitehaven, the residential center. He does that in the morning and then in the afternoons he has a private practice. It's been very rewarding. He runs an A.A. meeting once a week at a homeless shelter, and has done so for the last four years. Prior to his agreement with the Board, he was always active in working with the homeless, but he didn't volunteer. Dr. Boehm indicated that he finds volunteering to be incredibly gratifying and empowering. He gets more out of that than he actually gives.

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When asked what he does for his personal health, Dr. Boehm stated that he started running more than he had been. He also keeps a limit on his practice. One of his triggers was that he was a workaholic. With the help of his wife and his sponsor, he's been able to keep a balance and limit on how much he works. The only medication he takes is Wellbutrin; he no longer takes stimulants.

At Dr. Kumar's request, Dr. Boehm related his difficulties with Medicare and Medicaid, for the benefit of the medical students present.

DR. BUCHAN MOVED TO RELEASE DR. BOEHM FROM THE TERMS OF HIS SEPTEMBER 12, 2001 CONSENT AGREEMENT. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Boehm also expressed his appreciation to Mr. Albert and Ms. Bickers.

Mr. Albert commended Dr. Boehm for his volunteer work.

VICTOR BYKOV, M.D.

Dr. Bykov appeared before the Board pursuant to his request for release from the terms of his August 14, 2002 Step II Consent Agreement. If approved, release from probation would become effective August 14, 2007.

In response to Board members' questions, Dr. Bykov advised that he's a radiologist. His drug of choice was alcohol. He's no longer taking Concerta, he takes Wellbutrin and Buspar. Dr. Bykov stated that he's doing very well and has been sober since June 2001. He takes things one day at a time and maintains a sober circle of professional and non-professional friends. He attends meetings frequently and attends other sober activities. He also reads, meditates and prays. He stated that the biggest problem, really is himself, not the drug.

Dr. Steinbergh asked whether Dr. Bykov has ever felt the need, or whether he had ever been asked, to talk to other young physicians about his experience.

Dr. Bykov stated that it's very circumspect, actually, in his environment. He's never encountered a situation where he was approached. He does participate in medical staff activities, but not in that function. He participates as a member, not as a recovering member. Dr. Bykov stated that very few people actually know of his history. Dr. Bykov stated that it is a private matter, and if it comes out, it comes out naturally, when the level of the relationship is the right kind. Otherwise, it doesn't make any difference in his interaction with colleagues.

In response to other questions by the Board, Dr. Bykov stated that he's a locums physician. The most recent hospital in which he worked, Southwest General in Middleburg, Hts., is probably about 500 beds. He's a general radiologist, and does everything except interventional radiology.

DR. STEINBERGH MOVED TO RELEASE DR. BYKOV FROM THE TERMS OF HIS AUGUST 14, 2002 STEP II CONSENT AGREEMENT. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

W. ANDREW HIGHBERGER, M.D.

Dr. Highberger appeared before the Board pursuant to his request for release from the terms of his July 10, 2002 Step II Consent Agreement.

In response to Board members' questions, Dr. Highberger stated that he's basically a half-time physician, working primarily in O.R. anesthesia. Probably ten percent of his practice is devoted to pain management. He just does steroid epidural injections for pain management.

Dr. Highberger stated that everything in his life right now is outstanding. His life today is as good as it's been in the last 15 years. He has a significantly better balance in his life in terms of work, family, recovery and spirituality. This is something that he really hadn't had until this most recent time with the Board. Dr. Highberger stated that he was dying of alcoholism, and if he didn't make some changes in his life, in addition to losing his medical career, he would lose everything else. It was a matter of making a decision on where he wanted to go. Dr. Highberger stated that he's grateful that the Board intervened when it did so that he could get the help that he needed. Dr. Highberger stated that he had been through treatment before in 1993, in a short-term treatment center, and basically went right back to work after treatment, with no

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restrictions. He went back to a full, very busy practice in a small hospital and became very busy. Dr. Highberger commented that that was a mistake. Getting busy at work led to his spending less time on his recovery. As he got busier and more successful, it seemed that recovery was less important. Today he realizes that his recovery is the most important thing, and that's why he devotes more time to that anything else. Dr. Highberger stated that he's grateful that he's in a position where he can work part time, too. He doesn't know that he would want to work full time, even if he could.

Dr. Madia expressed concern that, being an anesthesiologist, Dr. Highberger has access to narcotics. He asked whether having that access affects him in any way.

Dr. Highberger commented that that's a difficult question to answer. He added that he realizes that there was a time that he would use that stuff, but today he looks at it like it's deadly poison, which it is for him. The thought doesn't really enter his mind. Dr. Highberger stated that one of the things that was very good was that the Board prohibited him from working in general anesthesia or handling those medications for the first two years after his return to work. He stated that that was a good choice. Today he primarily works with CRNAs, so the actual physical handling of the medications is extremely rare anyway.

Mr. Albert stated that Dr. Highberger does talk to residents about his problem, and he also has volunteered to give talks or to assist the Board should it ever need his assistance.

Dr. Highberger stated that he does think that anesthesia does provide some additional constraints for the recovering physician, too. He stated that he appreciates the fact that Mr. Albert and Ms. Bickers have been very effective in dealing with his specific case, and the specifics of his profession. He added that he would be glad to provide the Board with any help he can.

In response to further Board questions, Dr. Highberger stated that he has two children, ages 12 and 16. His children are completely aware of this area of his life. Dr. Highberger stated that he got married two years ago, and these children are his stepsons. Their mother is also in recovery, and they knew of his history before the marriage. He added that, interestingly enough, their dad is a very active alcoholic/drug addict. It has been a wonderful experience for these children to see the difference between what it's like to live in a house where there's sick alcoholism versus a home of recovery.

Dr. Steinbergh asked Dr. Highberger how he can affect their lives, knowing that they are genetically predisposed, both from the mother and the birth father, so that this won't happen in their lives.

Dr. Highberger stated that the most important thing he can do is to provide an example of what happens. The statistics demonstrate that they have at least a 70% chance of being alcoholic themselves. He stated that he doesn't think that it's possible to stop them from trying alcohol, but at least they'll know that there's a solution. His goal will be to make sure that they understand that there are consequences from their choices and that, if they have a problem, they don't have to suffer, because there is a solution.

In response to further Board questions, Dr. Highberger stated that there will be no change in what he has been doing once he is released from probation. Although the hospital doesn't require it, his primary care physician would like him to continue drug screens and paper documentation. Dr. Highberger stated that he's happy to continue doing all that. He again stated that he's grateful for the opportunity the Board gave

him. He stated that he knows that the Board has a lot of things to balance, and some physicians will consider the Board's decisions to be harsh, but he thinks that the Board's judgment has been good. He appreciates the opportunity that he got and he doesn't think that, if the conditions had been different, it would have meant as much to him. Certainly in the beginning the fear or concern about loss of his career was important. Today, that's not all that important. The gift he has of sobriety is vastly more important.

DR. BUCHAN MOVED TO RELEASE DR. HIGHBERGER FROM THE TERMS OF HIS JULY 10, 2002 STEP II CONSENT AGREEMENT. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JEFFREY T. JONES, P.A.

Mr. Jones appeared before the Board pursuant to his request for release from the terms of Board's Order of July 14, 2004.

In response to Board members' questions, Mr. Jones stated that he is doing well. He is not currently working as a P.A., and has not since he lost his license. He has been a personal trainer at a health and wellness center in the north Canton, Ohio area.

Dr. Steinbergh noted that Mr. Jones had been involved with anabolic steroids. She asked what he's learned from this experience, and what he's doing to keep himself out of trouble.

Mr. Jones stated that he's learned a lot from this experience. At the time he made poor decisions. This happened before he had his initial license with the Board. He noted for the benefit of the medical students in the room that things that they do before they become licensed are very important. It's all about who you are, the person you are in good standing. Mr. Jones stated that he's not saying that he was a bad person or immoral, but he made bad decisions at the time, not thinking that they would affect his license, as they did, but thinking that, because he wasn't in trouble, nothing had happened. When all of that came down in 2001, before he was licensed, he didn't think much of it, until after he was charged, not convicted. Then the whole process came into play, especially with the Medical Board. He had three great jobs, working in a private practice as a P.A. in a psychiatric department, and working two moonlight shifts in two emergency rooms, at the Cleveland Clinic and University Hospitals, both well respected hospitals. He lost all three

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jobs in an instant, and his whole life was turned upside down, without his even really having anything to do with that because he had to be very honest on his license renewal application. Mr. Jones stated that he didn't lie.

Mr. Jones continued that all of this taught him a lot of lessons. Life has gotten better for him in a lot of ways. Unfortunately, financially, it has been difficult. The reason he's not working as a P.A. is that he's had a difficult time getting malpractice insurance, because he chose intervention in lieu of conviction, which is still on his record. All of this has been expunged as of April. That will now put him in a better position to obtain a job, he believes. He commented that that's what most of the malpractice insurance companies he contacted are telling him.

Mr. Jones advised that, as far as other things go, he remarried this past July. His family relationships have gotten better. He added that he's been able to educate a lot of people as to what he's done wrong. As far as staying away from anabolic steroids, he just doesn't associate himself with the people with whom he associated at the time. He was helping a lot of bodybuilders and professional athletes. Now he helps people who are trying to make lifestyle changes of their own. His clients range from seven years old to 80 years old. Mr. Jones stated that it has been an interesting journey.

In response to further questions by Board members, Mr. Jones stated that he still does his C.M.E., adding that he doesn't want to lose his certification. Mr. Jones stated that he worked very hard for his certification, and Mr. Albert and Ms. Bickers have encouraged him to not let his registration go. He stated that they helped him a lot because there were many times he felt like just giving up.

Dr. Buchan stated that part of staying away from this is truly staying away from it. He expressed concern that, in the business Mr. Jones is in right now, he's not staying away from it. He asked how Mr. Jones deals with that.

Mr. Jones stated that he's staying away from it as far as the clients with whom he deals. It's a different sort of client, a different facility. It's not a bodybuilder gym. It's more of a studio setting. He's taking more of an active participation in telling people that there's a different way to get to an end result that's not a quick fix. He's teaching them to embrace lifestyle changes.

Dr. Buchan stated that, because of where he is, Mr. Jones will see illegal trade. He asked whether Mr. Jones has thought about how he'll handle that.

Mr. Jones stated that, in his gym, he just doesn't see it because they just don't see that type of people there. If he was in that sort of environment, it would be difficult.

DR. MADIA MOVED TO RELEASE MR. JONES FROM THE TERMS OF THE BOARD'S ORDER OF JULY 14, 2004. DR. VARYANI SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye

Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

JOSEPH S. SCHEIDLER, D.O.

Dr. Scheidler appeared before the Board pursuant to his request for release from the terms of his August 14, 2002 Step II Consent Agreement. If approved, release from probation would become effective August 14, 2007.

In response to Board members' questions, Dr. Scheidler stated that his plans are to continue with the program, adding that he enjoys it. He is grateful for the support of the Board, especially that of Mr. Albert and Ms. Bickers. He stated that his intentions are to continue. He added that his main problem was the balance of his lifestyle; he worked too much. Dr. Scheidler stated that that was dictated to him by his Higher Power, whom he chooses to call God. Dr. Scheidler stated that he thinks that, with his Medicare exclusion, he went from a very heavy inpatient practice to all outpatient surgery, which he truly enjoys. During the last six years, he has had the opportunity to see his four kids go through high school and transition into college, all the things he was missing by his previous lifestyle. Dr. Scheidler stated that, if he could pick one word, the balance of his life has been restored to him, thanks to the Board and what he's gone through. He enjoys the balance being returned. He enjoys his children and his work.

Dr. Scheidler stated that his intentions at this time are to return to the hospital in one to two years. He'll continue to go to daily AA meetings. He talks to people, he sponsors people, he works in the Talbert House system in Cincinnati, which is inner-city. He also works in a "Turning Point" program once a week, which is a jail program that has become part of his life. Dr. Scheidler stated that he's not on the A.A. bandwagon, but he certainly makes himself available to anyone who needs him.

Dr. Scheidler stated that he appreciates what he has been given, and the opportunity to continue to practice medicine is an important part of that, but balance is probably the most important part of that.

Dr. Steinbergh noted that Dr. Scheidler is an orthopedist. She asked Dr. Scheidler whether, when he says that he plans to return to the hospital in one to two years, he's talking about the surgical piece. She asked what he's doing at this time.

Dr. Scheidler stated that he does outpatient surgery, primarily arthroscopic. He's not hospital-based at all. He takes no ER call, which means that he sleeps at night. He can't go back to that until August 2008 because of the Medicare situation. After that, his thought is to wait another year and transition into it.

Dr. Scheidler explained that he received treatment in lieu of conviction, which is recognized by the State, but not by the Federal Government. Therefore, he was excluded, mandatorily from Medicare cases for five

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years and will not be eligible for Medicare reimbursement until August 2008.

Dr. Steinbergh explained that Dr. Scheidler obtained Vicodin for his own use by writing prescriptions in the names of patients and his family members. He chose treatment in lieu of conviction because he was chemically dependent. He lost his Medicare privileges that way.

Ms. Bickers advised that there is still an outstanding monitoring physician report due. Release would be subject to receipt of that report.

DR. BUCHAN MOVED TO RELEASE DR. SCHEIDLER FROM THE TERMS OF HIS AUGUST 14, 2002 STEP II CONSENT AGREEMENT, EFFECTIVE AUGUST 14, 2007, SUBJECT TO RECEIPT OF NECESSARY DOCUMENTATION. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MICHAEL J. STANEK, D.O.

Dr. Stanek appeared before the Board pursuant to his request for release from the terms of his August 14, 2002 Step II Consent Agreement. If approved, release from probation would become effective August 14, 2007.

In response to Board members' questions, Dr. Stanek stated that he's still practicing hematology/oncology, but now he is in Phoenix, Arizona, where his practice will begin in two weeks. He moved to Arizona six weeks ago. His clinical startup will begin August 14. He's now struggling with electronic medical recording, and it's an exciting time for him. He stated that he'll be with a group affiliated with the University of Pittsburgh Medical Center. His drug of choice was alcohol.

Dr. Kumar asked Dr. Stanek about his consent agreement with the Arizona Board.

Dr. Stanek stated that he had given the Arizona Board a copy of his Ohio consent agreement, and he was placed under a consent agreement there. He was told that, when he's released in Ohio, he can request to be released in Arizona. That agreement required him to record any medication that he's on, such as Lipitor, Niacin and aspirin, and he keeps a log of that. The urine screen requirements are pretty much the same.

They did require him to start back up with aftercare. He commented that aftercare in Arizona is more expensive. It's about a \$10,000 a year investment for monitoring and aftercare in Arizona. He remarked that it's much more reasonable in Ohio.

DR. BUCHAN MOVED TO RELEASE DR. STANEK FROM THE TERMS OF HIS AUGUST 14, 2002 STEP II CONSENT AGREEMENT. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JAMES VINCENT FURICCHIA, M.D.

Dr. Furicchia made his initial appearance before the Board, pursuant to the terms of his May 9, 2007 Step I Consent Agreement.

Ms. Bickers advised that the Board ratified a Step II consent agreement with Dr. Furicchia earlier in the meeting.

In response to Board members' questions, Dr. Furicchia stated that things are going well. He feels good about things. He practices ophthalmology in Toledo, and will return to work as soon as he's able to. He has his own private practice there. He has patients scheduled to begin in September, and if everything goes well, he'll start seeing patients then and take time off until September.

Ms. Bickers advised that the Step II does return Dr. Furicchia's license, but he'll have to find a monitoring physician and get that individual approved before he can return to practice.

Dr. Furicchia stated that he has nominated someone for that and is awaiting approval. Things are going well, and he thanks God that he's come to this point. He added that he appreciates the Board giving him a second chance. He stated that this has made him a stronger person, it's awakened him. He's gotten back on track and he now does so many different things. He's engaged himself in a variety of self-improvement projects, and he's now on a spiritual journey in life. Every day he tries to improve upon the previous day, and he just keeps doing the things he needs to do. He knows things will work out as long as he does the right thing. Dr. Furicchia stated that he finds serenity in the fact that God will take care of him, and it will be okay. He has his health, his family, and his children love him.

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Dr. Furicchia stated that he's an eye surgeon, and his hours are, regularly, 8:00 a.m. to 4:00 p.m. He's usually out of the office by 4:30 p.m.

In response to further questions, Dr. Furicchia stated that he had his last glass of wine at his mother's house on Easter Sunday. He stated that drugs were not part of the equation for him. He was driving his girlfriend's son's car while his car was in the shop, and the drug paraphernalia found in the car was not his. He stated that his girlfriend's son had just returned from a ski trip and had not cleaned things out of his car. Dr. Furicchia added that he did not realize that the law is that you're responsible for the contents of any car you're driving. He stated that that's the last time he'll ever drive someone else's car.

Dr. Furicchia stated that he broke up with his girlfriend of fifteen years, and that was a traumatic experience. He moved out the day before Thanksgiving. He just couldn't take it anymore; he was a victim of domestic abuse. She had two counts of domestic violence against her. Dr. Furicchia stated that it seemed that she didn't like his family, because one of the incidents involved her not wanting him to go to his brother's wedding, even though he was best man. He didn't go to his brother's wedding because at the time he was trying to make the relationship work. He has his own place now, and although his ex-girlfriend is still living in his house and has his cottages, he's going through legal steps to get her out of his house so that he can sell it and the cottages.

Dr. Furicchia stated that he will probably at some point move to Florida because he has two high school-aged daughters there. He stated that his children do understand what is going on with him. He had been visiting them regularly, but has not seen them in the last six months, so that has been difficult. This has been the longest time he hasn't seen them. He has talked with them on the phone. He hasn't seen them because he lost his license and had to go through all the things he had to go through, he couldn't leave. He didn't have the money. It cost him \$50,000 a month just to maintain his practice, to keep it open. He couldn't close the doors because patients were still calling. He laid off half his staff, but staff still kept the doors open. He hired a locum tenens, and he still had overhead to keep the practice going. He burned through all his liquid cash and didn't have any more money. He had money that he couldn't touch. It's expensive to go to Miami to see his kids for a weekend. So, he's hoping to plan a trip soon. He indicated that he understands that he will have to get permission from the Board to leave the state.

Ms. Bickers stated that she will work with Dr. Furicchia concerning his requirements to notify the Board upon leaving the state.

Dr. Kumar asked Dr. Furicchia whether he had any questions about his consent agreement.

Dr. Furicchia stated that he doesn't.

DR. STEINBERGH MOVED TO CONTINUE DR. FURICCHIA UNDER THE TERMS OF HIS MAY 9, 2007 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. VARYANI SECONDED THE MOTION. A vote was taken:

ROLL CALL:

Mr. Albert

- aye

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

The motion carried.

WILLIAM CLARK HARLAN, D.O.

Although scheduled, Dr. Harlan did not make his initial appearance before the Board, pursuant to the terms of his May 9, 2007 Consent Agreement.

WILLIAM L. HOPPES, M.D.

Dr. Hoppes made his initial appearance before the Board, pursuant to the terms of his July 11, 2007 Step 1 Consent Agreement.

Dr. Steinbergh noted that this is Dr. Hoppes second Step I agreement with the Board.

Ms. Bickers advised that it's actually his third agreement.

In response to Board members' questions Dr. Hoppes stated that he's an alcoholic. He acknowledged that he had a dual diagnosis of depression and alcoholism, but added that, now that he's staying sober, his depression is no longer a problem. He's no longer taking any antidepressants, and he's feeling fine.

Dr. Hoppes advised that the reason that this is his first appearance before the full Board is because he was in inpatient treatment from August 1, 2006 until December 15, 2006. He had a month at Glenbeigh in March and April, and then, starting in August, he was at Shepherd Hill until November 15. He spent another month in Glenbeigh after Shepherd Hill. Dr. Hoppes explained that he was home on a ten-day leave from Shepherd Hill and then on November 14 he had a bottle of vodka. That was a relapse and Shepherd Hill decided that he should go away for six months of treatment at that point. He stated that he balked at that, so he went for 28 more days at Glenbeigh, and he's been sober since. He usually attends nine AA meetings a week. He has two home groups, has had a sponsor for a long time, and he's on Step 4 with his sponsor. Dr. Hoppes stated that he feels that he's doing very well.

Dr. Hoppes stated that the times he relapsed were when he quit going to meetings. His first treatment ever was in 2000. He's had two one-year periods of sobriety over the years, with intermittent short relapses. Now, if he gets an urge, he's calling his sponsor. He has a lot of people he can call. Right now, since it's summer, he's playing lots of golf with some of his drunken friends who are also now sober. It helps a lot that they are spending a lot of time together. His wife attends Alanon twice a week. His wife and his

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children have all stuck with him, and it's working.

Dr. Steinbergh noted that Dr. Hoppes is out of practice for some time.

He stated that he's been out of practice since February 2006. He still teaches, but not with direct patient care teaching. He's on the faculty of Northeastern Ohio University College of Medicine, and his former monitor, Victoria Sanelli, M.D., asked him to give a lecture on addiction and alcoholism to medical students. He was the featured speaker at a noon luncheon.

Dr. Hoppes stated that at this time he feels so much better staying sober that he very much wants it to stay that way. Every time he's relapsed he feels terrible, both mentally and physically.

Dr. Steinbergh stated that Dr. Hoppes has been with the Board long enough to know that there comes a time when the Board says that one can no longer be a physician. She stated that she doesn't clearly understand the disease process, but she understands decision making. It always shocks the Board to know that someone who has been through the years of education he's been through and has such abilities can make that choice. The Board members know it's a disease, but at some point he will have to make a choice.

Dr. Hoppes stated that, unfortunately, the disease doesn't discriminate on how smart you are or how educated you are. A statement made at one of his main meetings is that they have everything there from Park Ave. to park bench. He stated that there are a number of well educated people who attend, and also people who have just gotten out of prison.

Dr. Steinbergh asked whether Dr. Hoppes meets with a psychiatrist.

Dr. Hoppes advised that he does meet with Christopher M. Durner, D.O., about every three months. He just met with Dr. Durner last week or the week before.

Dr. Robbins asked what led to Dr. Hoppes drinking a bottle of vodka on his leave from Shepherd Hill.

Dr. Hoppes stated that he's an alcoholic. He thought he'd try one more bottle. It just doesn't work.

Mr. Albert asked Dr. Hoppes what's different now from the last relapse.

Dr. Hoppes stated that he's feeling well and he has a lot of contacts and support. He attends a lot of meetings, and he wants to stay sober for himself; and, also, he doesn't want to disappoint other people, not only family, but his AA friends. He's much closer to them now than he's ever been before. He's never had these same feelings in previous periods of sobriety. He stated that he thinks that he always had the feeling that he could sneak away and have something to drink before. He's finally admitted to himself that he can't.

Dr. Robbins asked whether Dr. Hoppes wants to practice again.

Dr. Hoppes stated that on November 1 of this year he'll be 68 years old. He doesn't ever want to return to full-time infectious disease consultative practice. The dean of the medical school and the Chief of

Medicine have already said that they want him to keep doing his lectures, which he will do. He's doing board review sessions for the internal medicine residents, doing lectures, teaching infectious diseases to both students and residents. He wants to keep doing that. About the only thing he would like to do, if he can get hired back with the teaching program, would be to do an HIV clinic with the residents on a part-time basis. Dr. Hoppes stated that he had about 150 patients until February 2006. HIV medicine is all outpatient now, they do so well in treatment. The residents have a difficult time learning HIV medicine, which is so important now.

DR. STEINBERGH MOVED TO CONTINUE DR. HOPPES UNDER THE TERMS OF HIS MAY 9, 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. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

Thereupon at 5:34 p.m. the August 8, 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 August 8, 2007, as approved on September 12, 2007.



Deepak Kumar, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



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MINUTES**THE STATE MEDICAL BOARD OF OHIO****August 9, 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; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; David S. Buchan, D.P.M.; Andrew F. Robbins, Jr., M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Dalsukh Madia, M.D. The following did not attend the meeting: Carol L. Egner, M.D., and Jack C. Amato, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly Anderson, Assistant Executive Director; Rebecca J. Marshall, Chief Enforcement Attorney; Barbara J. Pfeiffer, Kyle Wilcox and Karen A. Unver, 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; Kay L. Rieve, Administrative Officer; Karry Thacker, Executive Staff Assistant; Cathy Hacker, P.A. Program Administrator; and Patricia A. Davidson, Chief Hearing Examiner;

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSION**EUGENE ALLAN BREWER, 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. BREWER.
DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

LEO D'SOUZA, 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. D'SOUZA. DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

AMI R. FRENCH-SOWARDS - 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 MS. SOWARDS. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

BRIAN FREDERIC GRIFFIN, 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. GRIFFIN. DR. ROBBINS

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SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LEONID MACHERET, 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. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. MACHERET.
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

UJWALA PAGEDAR, M.D. - LETTER OF PROPOSED DENIAL

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

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

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

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

The motion carried.

MILISSA LEE TARRANT – 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 MS. TARRANT. DR. VARYANI SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- 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. There were no requests to consider an application or request separately.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON JULY 9-10, 2007, WITH: MOHAMMAD A. ADAS, M.D.; CRAIG L. BIERER, D.O.; JOHN D. BROWNLEE, M.D.; RICHARD G. DAY, M.D.; PATRICK R. DENNISON, D.O.; DIXIE A. DOOLEY, D.P.M.; JANICE ELECTA GREEN DOUGLAS, M.D.; PAUL E. DUNCAN, M.D.; WILLIAM H. FIEGENSCHUH JR., M.D.; DANN WILLIAM GANZHORN, M.D.; STEPHEN R. GIORDANO, D.O.; MARK E. GOLDSMITH, M.D.; ANTHONY GRAY, M.D.; HUSAM E. HAMED, M.D.; PAUL F. HEYSE, M.D.; MICHAEL ERIN (DONAHUE) HULL, M.T.; BYRON C. LEAK, M.D.; ROBERT E. MARSICO, JR., M.D.; JAMES M. MCGINNIS, D.O.; THOMAS A. NGUYEN, M.D.; MICHAEL J. O'BRIEN, D.O.; JOHN RUSSELL OGDEN, M.D.; THOMAS R. PICKETT, P.A.; NYKOLAI VASIL PIDHORODECKYJ, M.D.; DAVID A. RATH, M.D.; ROBERT S. REEVES, JR., M.D.; JON P. RYAN, D.O.; GARY W. WALTZ, M.D.; PAUL W. WILSON, D.O. DR. STEINBERGH FURTHER MOVED TO

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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 MARK E. BLAIR, M.D.'S REQUEST TO CHANGE THE MONITORING PHYSICIAN FROM RANDON S. WELTON, M.D. TO MARK A. HURST, M.D.;**
- **TO APPROVE JEFFREY A. BRIGGS, M.D.'S REQUEST TO DISCONTINUE SALIVA SCREENS;**
- **TO APPROVE JEFFREY N. FADEL, M.D.'S REQUEST TO REDUCE DRUG SCREENS TO 26 TIMES A YEAR;**
- **TO APPROVE RONALD A. SACHS, M.D. TO SERVE AS DEBORAH LYNNE FRANKOWSKI, M.D.'S, TREATING PSYCHIATRIST;**
- **TO APPROVE JOHN A. GABIS, M.D. TO SERVE AS MARK O. HENSON, M.D.'S, MONITORING PHYSICIAN, WITH TEN CHARTS A MONTH REVIEWED;**
- **TO APPROVE THE ETHICS AND RESPONSIBILITY COURSE TAILORED FOR M. HUSAIN JAWADI, M.D. BY DONNA HOMENKO, PH.D., AS FULFILLING PARAGRAPH 2 OF THE TERMS OF HIS SEPTEMBER 13, 2006 CONSENT AGREEMENT;**
- **TO APPROVE GREGORY B. COLLINS, M.D. TO SERVE AS JAMES M. KENNEN, D.O.'S, SUPERVISING PHYSICIAN;**
- **TO APPROVE MELANIE LYNNE LEU, M.D.'S, REQUEST FOR A REDUCTION IN HER APPEARANCE SCHEDULE FROM EVERY THREE TO EVERY SIX MONTHS;**
- **TO APPROVE MARYANN CUSHING-SMITH, LCPC, CADC, TO SERVE AS DONALD C. MANN, M.D.'S, MENTAL HEALTH PROFESSIONAL;**
- **TO APPROVE PUTTAGUNTA RANGA, M.D.'S, REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE TO EVERY SIX MONTHS;**
- **TO APPROVE BRIAN D. SOUTHERN, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE TO EVERY SIX MONTHS;**
- **TO REQUIRE DAVID P. SPEARS, D.O.'S, MONITORING PHYSICIAN, TERRY THOMAS, D.O., TO REVIEW TEN CHARTS PER MONTH; AND**
- **TO APPROVE JAMES E. STURMI, M.D.'S, REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE TO EVERY SIX MONTHS;**

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," THE ACUPUNCTURE APPLICANTS LISTED IN EXHIBIT "C," THE ANESTHESIOLOGIST ASSISTANT APPLICANTS LISTED IN EXHIBIT "D." DR. ROBBINS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ADMINISTRATIVE REPORT

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

Mr. Whitehouse advised that the medical students attending the previous day's meeting were third-year medical students. He stated that, following the meeting, he got some good feedback from the group, and added that they will be providing more feedback in the future. He stated that he appreciates the way the Board interacted with the students, and expressed surprise and gratitude that the probationers appearing before the Board also did some teaching.

Mr. Whitehouse noted that the Board's annual retreat is scheduled for September 13, 2007. He advised that representatives from the Federation will be here, and the full morning will be devoted to the Federation. The agenda will include a number of issues of concern to the Board.

Dr. Kumar stated that it was suggested by Dr. Robbins that there should be two retreats: one in September and one in October, as well. The suggestion was made because in September the morning session will be taken up with the Federation. The October retreat could take place following the adjournment of the Board's scheduled meeting on Thursday morning. That retreat could be used for discussing internal topics of discussion. At that time the Secretary and Supervising Member can also make a presentation. He asked whether Board members had any comments concerning this proposal.

Dr. Varyani commented that the October retreat should be over before noon.

Mr. Whitehouse reminded the Board that representatives of O.O.A. will be attending the October meeting.

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Dr. Kumar expressed concern that there won't be that much time left for the retreat in October. He suggested that the October agenda could include a presentation with a little more orientation information for the newer Board members. He stated that it won't be called a retreat.

Dr. Varyani stated that he thought that the main reason for the second retreat was for a presentation from the Secretary and Supervising Member.

Dr. Kumar stated that that will be part of the first retreat.

Dr. Buchan stated that, from his viewpoint, he would like to speak to the importance of the internal process. He stated that he's interested in the associations and the Federation, but he feels that those place a distant second and third in the Board's priorities in his view. Dr. Buchan stated that the Board should continue to prioritize the internal processing of this Board and allow an appropriate amount of time for that to happen.

Dr. Robbins stated that he doesn't think that the Board should be constrained by the time. If it looks like the Board has an agenda that will take five hours, so what?

Mr. Whitehouse stated that he's imagining that the Board's time with O.O.A. will be about an hour. He added that he thinks that there will be three good hours in the morning to have discussion on a number of issues of interest to the Board. He added that presentations, as such, as to what different sections of the office do can be held after lunch and attended by anyone who's interested.

Dr. Madia arrived at this time.

Mr. Whitehouse reminded the Board of the Governor's executive order concerning Board and Commission members' attendance at ethics seminars. They are required to attend one seminar before the end of the year. Mr. Whitehouse stated that seminars are scheduled for September 7 and October 5, and Board members should plan to attend one of them. He stated that the seminar is required every two years.

At this time Ms. Debolt distributed copies of the Board's ethics policy and explained that Board members will have to sign the acknowledgment of receipt form and return it to her.

At this time Ms. Davidson reported to the Board on statistics maintained by the Hearing Unit. She also reported on the report and recommendation process.

Dr. Kumar stated that he wanted Ms. Davidson to make this presentation to give the Board members food for thought, so that the Board can get into a more in-depth discussion of what the Board needs to do to help the Hearing Unit and to expedite the process.

EXECUTIVE SESSION

MR. BROWNING MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONSIDER THE HIRING OF A PUBLIC EMPLOYEE. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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

REPORTS OF ASSIGNED COMMITTEES

SCOPE OF PRACTICE COMMITTEE

Dr. Steinbergh advised that the Committee continues to review a request from Thomas J. Misny, M.D., Medical Director of Cleveland Therapy Center, Inc., relating to the use of massage therapists to give exercise instruction in an orthopedic practice. The Committee is concerned that the therapists were making decisions about whether or not the patient could go on and do more repetitions, etc. She stated that, from correspondence with Dr. Misny, it is now her understanding that the massage therapist would do no more than review the instruction sheet with the patient. The Committee is asking Dr. Misny to rewrite his letter as the Committee feels that, as written, the massage therapist may be crossing the boundary into physical therapy.

Dr. Steinbergh stated that the Committee also continued to discuss a couple of requests dealing with the scope of practice of podiatry; i.e., are harvesting split thickness skin graft from the thigh and peroneal nerve decompression within the scope of podiatry. Dr. Steinbergh stated that the Committee hopes to bring its recommendation to the Board in September.

P.A. COMMITTEE

Dr. Talmage stated that in July the Committee heard considerable testimony from Brian J. Ceccarelli, D.O., of Orthopedic Associates of Southwest Ohio, concerning a number of special services plans the group has submitted for Board approval. Based on Committee discussion in July, the group submitted modified request as to intra-articular shoulder injections. He stated that these would be limited to cortisone injections into the acromio-clavicular shoulder joint or the subacromio rotator cuff only. As for the intra-articular hand injections, those would be only the CMP joint. The P.A. Committee recommends approval, given those limitations.

DR. TALMAGE MOVED TO APPROVE ORTHOPEDIC ASSOCIATES OF SOUTHWEST OHIO'S SPECIAL SERVICES PLANS FOR ITS P.A.S TO PERFORM THE FOLLOWING

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FUNCTIONS, IN AN OFFICE SETTING, UTILIZING 50% ONSITE AND 50% OFFSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM NO LESS THAN 25 PROCEDURES TO DETERMINE COMPETENCY: INTRA-ARTICULAR SHOULDER INJECTIONS INTO THE ACROMIO-CLAVICULAR SHOULDER JOINT OR THE SUBACROMIO ROTATOR CUFF ONLY, AND INTRA-ARTICULAR HAND INJECTIONS IN THE CMP JOINT ONLY, DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Talmage stated that the Committee also discussed the formulary rule and made some minor changes. The rule will be sent back to the PAPC.

DR. TALMAGE MOVED TO REFILE PROPOSED RULES 4730-01-01 THROUGH 4730-01-08, RULES 4730-02-01 THROUGH 4730-02-05, AND RULES 4730-02-07, 4730-02-08 AND 4730-02-09 FOR FORMAL ADOPTION. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Following the Minimal Standards Committee report, Dr. Talmage noted that there were a number of other plans submitted by Orthopedic Associates of Southwest Ohio that the Board tabled in July due to the late hour of the meeting and the lack of Board members present. Dr. Talmage stated that these requests were for extra-articular injections of the hip, ankle, foot, shoulder, elbow, wrist and hand. The Committee recommends approval for those.

DR. TALMAGE MOVED TO APPROVE ORTHOPEDIC ASSOCIATES OF SOUTHWEST OHIO'S SPECIAL SERVICES PLANS FOR ITS P.A.S TO PERFORM THE FOLLOWING FUNCTIONS, IN AN OFFICE SETTING, UTILIZING 50% ONSITE AND 50% OFFSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM NO LESS THAN 25 PROCEDURES TO DETERMINE COMPETENCY: EXTRA-ARTICULAR INJECTIONS IN THE HIP, ANKLE, FOOT, SHOULDER, ELBOW, WRIST AND HAND. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Talmage stated that the Committee also recommends approval of the group's special services plan for intra-articular injection of the wrist, noting that this was simply in the carpal area. The Committee felt that that was within the capability of a P.A. to learn to do.

DR. TALMAGE MOVED TO APPROVE ORTHOPEDIC ASSOCIATES OF SOUTHWEST OHIO'S SPECIAL SERVICES PLANS FOR ITS P.A.S TO PERFORM INTRA-ARTICULAR INJECTIONS OF THE WRIST, IN AN OFFICE SETTING, UTILIZING 50% ONSITE AND 50% OFFSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM NO LESS THAN 25 PROCEDURES TO DETERMINE COMPETENCY. DR. BUCHAN SECONDED THE MOTION.

Dr. Buchan commented that there were some special services plans for which the Committee recommended denial.

Dr. Talmage stated that the request for approval of those plans was withdrawn.

Dr. Steinbergh was out of the room at the time of the vote.

A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- nay

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Dr. Madia	- aye
Mr. Browning	- nay
Ms. Sloan	- aye
Dr. Robbins	- aye

The motion carried.

LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan advised that the Committee reviewed one application for a certificate of good standing.

DR. BUCHAN MOVED TO GRANT TRI-RIVERS CENTER FOR ADULT EDUCATION'S MASSAGE THERAPY PROGRAM A CERTIFICATE OF GOOD STANDING DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MINIMAL STANDARDS OF CARE COMMITTEE

Dr. Kumar stated that the Committee reviewed proposed amendments to the Board's surgery rules. These draft amended rules will be distributed to interested parties for their input.

Dr. Kumar stated that the Committee is also reviewing the office-based surgery rules. He at this time deferred to Dr. Varyani. Dr. Varyani stated that the office-based surgery rules were written in 1993 and revised in 1997. He stated that now many more procedures are being done in doctors' offices, and he indicated that, for this reason, the rules need to be reviewed and revised.

LICENSURE COMMITTEE

Dr. Robbins stated that the Committee reviewed four licensure applications.

Krishna Athota, MD

Dr. Krishna Athota is applying for a license and has requested a waiver of the USMLE seven-year rule for good cause. He is over the seven-year time limit by six months. He passed Steps 1, 2 and 3 on the first

attempt with scores of 92, 83 and 81. Dr. Athota has sent a letter of explanation claiming he went over the 7 year limit for U.S.M.L.E. because he was in a six year Surgical Residency at William Beaumont Hospital in Royal Oak, Michigan, and Step 3 is not required while the physician is still in training. Dr. Robbins advised that the Committee recommends approval of Dr. Athota's request.

DR. ROBBINS MOVED TO APPROVE THE LIMITED EXCEPTION OF THE SEVEN-YEAR RULE AS OUTLINED IN RULE 4731-6-14(C)(3), O.A.C., AND TO ACCEPT DR. ATHOTA'S EXAMINATION SEQUENCE IN ORDER FOR HIM TO BE GRANTED A LICENSE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

The motion carried.

Michael John Flynn, M.D.

Dr. Robbins advised that Dr. Flynn is a graduate of a school that has not been accredited by the LCME or the AOA. He is requesting that the Board consider his previous training and experience as being equivalent to 24 months of approved training through the second year level. Dr. Flynn has completed 12 months of fellowship in Thoracic and Cardiovascular Surgery at the Cleveland Clinic. Dr. Robbins advised that the Committee recommends granting approval.

DR. ROBBINS MOVED TO GRANT DR. FLYNN'S REQUEST TO CONSIDER HIS PREVIOUS TRAINING AND EXPERIENCE AS BEING EQUIVALENT TO 24 MONTHS OF TRAINING THROUGH THE SECOND-YEAR LEVEL, AND TO APPROVE DR. FLYNN'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. MADIA SECONDED THE MOTION.

Dr. Buchan asked whether the Committee is suggesting that twelve months of fellowship training in Cleveland and being a Fellow in the Royal College of Surgeons in Ireland puts this applicant over the top.

Dr. Robbins stated that it is.

A vote was taken on Dr. Robbins' motion:

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Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- nay
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

The motion carried.

Arkady Peterman, MD

Dr. Robbins advised that Dr. Peterman applied for a license in Ohio and requested a waiver of the USMLE seven-year rule on the basis of Rule 473 1-6-14(C)(3), Ohio Administrative Code. The Board initially denied Dr. Peterman's request based on his having failed Step 3 three times or more. On appeal, the Court of Common Pleas of Franklin County reversed the Board's Order, ruling that the "three failures" limitation applying only to those who exceed the seven years was unconstitutional. The application has been remanded to the Board to determine whether Dr. Peterman is otherwise eligible for a license.

Dr. Peterman is over the 7-year time limit by 1 year and 8 months. He passed Step 1 in September 1995 with a score of 77, Step 2 in August 1996 with a score of 80 and Step 3 in April 2004 with a score of 82. The seven year period ended in September 2002. Dr. Peterman holds licenses in Missouri, California and New York. His request for a waiver of the seven year limitation is based primarily on the difficulty he had in being accepted into a specialty residency due to his age (50 at the time) and his language difficulties (since overcome). At the hearing in July 2005, Dr. Peterman submitted letters of support from physicians at his training program.

DR. ROBBINS MOVED TO GRANT DR. PETERMAN'S REQUEST FOR A WAIVER OF THE SEVEN-YEAR RULE, AND TO GRANT HIM A LICENSE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS.

Dr. Talmage noted that part of the Court's decision was based on the fact that Dr. Peterman has successfully practiced in other states. That was the significant part of the decision, and Dr. Talmage feels that the Board needs to take that into consideration in future applications.

DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye

Dr. Robbins - aye

The motion carried.

Silas Chikunguwo, MD

Dr. Robbins advised that Dr. Chikunguwo applied for an Ohio license in February 2007. Dr. Chikunguwo took more than seven years to complete the USMLE sequence and failed Step 3 three times or more, making him ineligible for a "good cause" waiver under Rule 473 1-6-1 4(C)(3), O.A.C., as in effect at the time. He was issued a proposed denial in March 2007; a hearing is scheduled for August 14, 2007, on that notice.

Dr. Robbins stated that, based on the *Peterman* decision, the Board cannot consider the number of failures in determining whether or not a waiver should be granted for "good cause." He advised that Dr. Chikunguwo is over the 7-year time limit by 11 months. He passed Step 1 in June 1998 with a score of 84, Step 2 in March 2000 with a score of 80, and Step 3 in May 2006 with a score of 75. Dr. Chikunguwo has sent a letter of explanation in which he states that he went over the 7 year limit for USMLE because of a back injury sustained in 2003 during his training, and the deaths of numerous family members, including his sister and niece, in Zimbabwe from HIV during the time period of 2000 to 2003. Dr. Chikunguwo graduated from Howard University College of Medicine (Washington, DC) in May 2000. He began his Surgery training at Cooper Hospital in Camden, NJ in June 2000; in June of 2003, he sustained the back injury and did not complete his training there. Dr. Chikunguwo worked in biomedical research from July 2003 through June 2004 while he was seeking another residency program. Dr. Chikunguwo participated in a training program at Brooklyn Hospital from June 2004 until June 2006, and is now a Surgical Research fellow at the Cleveland Clinic.

DR. ROBBINS MOVED TO GRANT DR. CHIKUNGUWO A WAIVER OF THE SEVEN-YEAR RULE FOR GOOD CAUSE, AND TO APPROVE DR. CHIKUNGUWO'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. BUCHAN SECONDED THE MOTION, BUT LATER WITHDREW HIS SECOND. THE MOTION DIED FOR LACK OF A SECOND.

Dr. Talmage asked whether Dr. Chikunguwo is board certified.

Ms. Rieve stated that he is not.

Dr. Varyani questioned how Dr. Chikunguwo can perform surgery if his back injury was so severe.

Dr. Talmage asked whether Dr. Chikunguwo actually went to Zimbabwe at the time of his sister's and niece's deaths, or was it simply an emotional time for him.

Ms. Thompson stated that it was an emotional thing. Dr. Chikunguwo could not afford to go there. She added that Chikunguwo was working in the United States to support his family in Zimbabwe.

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Dr. Buchan stated that he doesn't think that being excused from training due to a back injury is typical. He stated that he would like to know precisely what happened. Was Dr. Chikungwo excused from training?

Dr. Varyani commented that the MRI report didn't look that bad at all. He added that muscle pain doesn't last all this time. Dr. Varyani stated that he's having a hard time justifying a waiver for this individual.

Mr. Albert suggested allowing the hearing to proceed and wait to see what the Report and Recommendation says.

Ms. Whitehouse stated that the earlier Proposed Denial was based on the three strikes rule, which has been ruled unconstitutional by the Court.

Ms. Thompson stated that the Proposed Denial that was issued doesn't specifically say that Dr. Chikungwo is being denied because of his three failures. The notice says that he doesn't have an acceptable examination sequence. It lists the number of times that he took each step, and notes that he is over the seven-year period. The hearing itself can explore these other issues. What they can't do is make a decision based on the three or more failures of any step. The intent is to talk about the good cause. Because the Board hadn't seen the evidence Dr. Chikungwo submitted for his good cause argument, this was the Board's chance to review it and determine whether or not to grant it.

Dr. Talmage stated that the Board's obligation is to use whatever information it has at its disposal to determine competence. He doesn't feel comfortable that there has been a good demonstration of competence in this physician.

DR. BUCHAN MOVED TO PROPOSE TO DENY DR. CHIKUNGUWO'S REQUEST FOR A GOOD CAUSE WAIVER OF THE SEVEN YEAR RULE, AND TO PROPOSE TO DENY HIS APPLICATION FOR ENDORSEMENT LICENSURE BASED ON HIS FAILURE TO COMPLETE AN ACCEPTABLE EXAM SEQUENCE. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- nay
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- nay
	Ms. Sloan	- aye
	Dr. Robbins	- nay

The motion carried.

IMPAIRMENT COMMITTEE

Ms. Bickers advised that the Committee reviewed applications for renewal of certificates of good standing from two schools and a new application for certificate of good standing from a third.

MR. ALBERT MOVED TO RENEW THE CERTIFICATES OF GOOD STANDING FOR THE FOLLOWING: BETHESDA ALCOHOL AND DRUG TREATMENT PROGRAM, CINCINNATI, OH, AND CLEVELAND CLINIC FOUNDATION – ALCOHOL AND DRUG RECOVERY CENTER, CLEVELAND, OH. MR. ALBERT FURTHER MOVED TO GRANT A CERTIFICATE OF GOOD STANDING AS A TREATMENT PROVIDER TO RIDGEVIEW INSTITUTE, SMYRNA, GA. DR. VARYANI SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

The motion carried.

MEETING WITH OHIO STATE MEDICAL ASSOCIATION REPRESENTATIVES

At this time the Board welcomed the following representatives from the O.S.M.A.: Craig W. Anderson, M.D., President; Warren F. Muth, M.D., President-Elect; Richard R. Ellison, M.D., Secretary/Treasurer; Brent Mulgrew, Executive Director; Almeta Cooper, General Counsel; Jennifer Hayhurst, Paralegal.

At this time Ms. Thompson gave a presentation on H.B. 104, which would require all initial applicants and individuals restoring a license to obtain a criminal background check. She advised that staff will develop steps to implement this legislation once it becomes law.

Mr. Miller advised that the Board is very supportive of this legislation, which affects other Boards as well.

Mr. Mulgrew expressed concern that this would be a phenomenal imposition on those applying for licenses.

Dr. Talmage stated criminal background checks are insinuating themselves into many such processes.

Dr. Kumar stated that there was a lot of discussion about this issue at the annual Federation of State Medical Boards (FSMB) meeting this past spring. He added that the Board would do this as simply as possible.

At this time Ms. Thompson gave a power point presentation on the Federation Credentials Verification Service (FCVS) and the Common License Application (CLAF), explaining the benefits and future potential of these systems.

Dr. Kumar advised that for some time the O.S.M.A. has asked the Board to collect demographic

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information on its license renewal application. The Board has learned that this will require a change in the law. He asked Mr. Miller to advise on the status of this.

Mr. Miller stated that the Board attempted to do this through the budget process, but was unsuccessful. Now the Board is looking to either introduce a separate vehicle or attach it to another one.

Dr. Anderson stated that they can take that back to O.S.M.A. and have that discussion.

Dr. Anderson stated that they would like the Medical Board's opinion on out-of-state medical experts and its position on retail clinics and physician oversight.

Dr. Kumar stated that, concerning out-of-state experts, there is legislation that anyone giving expert testimony during a malpractice action is deemed to have an Ohio license. Dr. Kumar stated that, with the way that legislation was passed, it's very difficult for the Board to do anything with it. The activity has already happened, the Board has not issued a license, the expert hasn't even filled out a licensure application, the Board can't take any action.

Dr. Talmage stated that the Board has had only a couple of complaints about these physicians. Unfortunately, if they are granted a temporary license, the only action the Board would have, if their testimony is egregious, is to forbid them from getting another temporary license. The case is already over, but the Board could prevent them from coming back. He commented that that's small consolation.

Dr. Anderson stated that since the Board, should they take action in such a case, would have to report that to other Boards, it could help, eventually.

Dr. Kumar stated that the Board can't really do anything since they don't have a temporary license. They're "deemed" to have one. The Board can't legally do anything because they don't have an Ohio license.

Dr. Steinbergh commented that years ago the Board wanted to require anyone who gives testimony in Ohio to have an Ohio license, but the Board was unable to get that legislation passed.

Dr. Talmage commented that the legislation was well intended, but it was toothless.

Mr. Mulgrew disagreed, stating that the purpose of the legislation was to proactively respond to a retroactive event; in effect, to have the Board review testimony when a complaint is filed, as the Board would do for any complaint. If the Board then determined that the testimony was inaccurate or substantially deviated from minimal standards of practice, it could then report that to the Federation and the National Practitioners Databank. This would not be an action that eliminated that person's license, per se, because the license is only in effect when he or she is testifying in the state; but once that report is made, then, in effect, what the Board has done is to notify that individual's medical board, where they do have jurisdiction. Mr. Mulgrew stated that O.S.M.A. believed that it was a way to influence that individual to give honest testimony. He stated that it was not O.S.M.A.'s intention to require formal application and granting of a license prior to testimony because O.S.M.A. agreed that that would not withstand legal challenge.

Mr. Whitehouse asked whether the Board could report such events.

Ms. Thompson stated that the Board can report almost anything, but she's not sure how the Board would do this. She's not sure of the procedure used in reporting someone with a "deemed" license. She stated that her problem right now is that this Board doesn't have a complaint to go forward on. Right after this legislation was passed, the Board received a complaint and it received a number of depositions, but everything predated the legislation. She stated that the Board is waiting for the next good case, and then all it can do is try.

Mr. Mulgrew stated that that's all the O.S.M.A. is asking for.

Dr. Kumar asked Ms. Debolt to address the issue of retail clinics.

Ms. Debolt advised that these clinics are staffed by APNs, with a collaborating physician. The legislation almost entirely is within the Board of Nursing's jurisdiction. The Medical Board can take action against a physician who does not cooperate with the Nursing Board in an investigation, or who does not fulfill his or her obligations under the collaborating agreement. She advised that questions have arisen as to how many APNs a physician can supervise. Ms. Debolt stated that, again, that's within the jurisdiction of the Nursing Board. Ms. Debolt stated that she believes that that Board has said that physicians can supervise three APNs, who have certificates to prescribe, at one time.

Ms. Debolt stated that the way legislation is written, it's possible that a P.A. can work in a retail clinic, but only if the supervising physician routinely practices at that site.

O.S.M.A. representatives expressed concern that a physician in one part of the state can supervise an APN in another part of the State. They indicated that the O.S.M.A. is not comfortable with that concept.

Ms. Debolt reminded the O.S.M.A. representatives and the Board members that the APNs are independent practitioners. Physicians collaborate with APNs, they don't supervise them.

Mr. Mulgrew stated that the O.S.M.A. understands society's need for access to people they believe are providing medical care. He stated that the practice of medicine needs to be clearly articulated in this supervisory and collaborative role as to the physician's responsibility when he or she has other people that, in effect, create liability for him or her.

Dr. Steinbergh stated that the Board has been articulating this for years.

Dr. Robbins stated that the difficulty that the Board sees is that physicians come in advocating for P.A. rights and going to the Legislature.

Dr. Kumar at this time advised the O.S.M.A. representatives about the Board's need for physicians to serve as expert witnesses. He stated that the expert witnesses would need to assist in determining whether or not physician is practicing below minimal standards of care and to work with staff and the Office of the Attorney General to develop a case for hearing.

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Dr. Talmage noted that experts in pain management are especially needed.

Dr. Kumar advised that on September 13, after the September 12 Board meeting, the Board will hold a retreat, where one of the subjects will be determining continued competency in physicians licensed in Ohio. He noted that, currently, C.M.E. is required, but it has become obvious that that doesn't accomplish what it was hoped it would do. Dr. Kumar invited the O.S.M.A. to the retreat to take part in the discussion.

Discussion was held about the Board's seven-year rule for taking U.S.M.L.E. Ms. Cooper advised that the Association hears a lot of complaints about this rule. Dr. Robbins gave a brief history of this rule, including information about the *Peterman* case, in which the Court ruled that limiting failures on any step to three was unconstitutional. The Board is now in the process of re-evaluating this situation. Dr. Robbins stated that the seven-year rule was not something this Board came up with. He added that the Board is making efforts to determine the logic behind the rule.

Dr. Anderson at this time indicated that the O.S.M.A. has been receiving a lot of calls about the Board withholding exculpatory information from physicians who are going to hearing. He stated that they are told that the investigators have collected this information, but the doctors and the Board don't see it.

Ms. Pfeiffer stated that Dr. Anderson used the term, "exculpatory," which is basically evidence that the Board would have that's favorable and shows innocence of the person. She stated that it's used more for the criminal aspect. She stated that, once a physician is cited, there are administrative rules that require disclosure by the Board through the attorneys.

Ms. Cooper stated that complaints have been made where there are instances where there is specific exculpatory information that has not come forward that the investigators have uncovered but have not shared with the Board. She stated that they are just asking the Board to be mindful of that, and to investigate to see whether that is happening.

Ms. Thompson asked for clarification. She stated that there's a big difference between the investigators collecting exculpatory material and not presenting it in their report to the enforcement staff, and the investigator including the information in the report but the information doesn't get passed on to the physician or the Board at hearing. She stated that if there is an investigator who is concealing information from the Secretary, Supervising Member and enforcement attorneys, that's a problem.

Mr. Whitehouse asked Ms. Cooper to contact him directly, should she get further complaints in that regard.

Dr. Kumar thanked the O.S.M.A. representatives for attending the meeting and he again invited them to the Board's September retreat.

Dr. Kumar reminded Board members that they are scheduled to have their photo IDs for the Rhodes Tower created after the Board meeting.

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

August 9, 2007

Thereupon at 10:57 a.m. on August 9, 2007, the August 8-9, 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 August 8-9, 2007, as approved on September 12, 2007.



Deepak Kumar, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

