

December 12, 2007

**MINUTES****THE STATE MEDICAL BOARD OF OHIO****December 12, 2007**

Deepak Kumar, M.D., President, called the meeting to order at 12:00 p.m., in the Administrative Hearing Room, 3<sup>rd</sup> Floor, The James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Nandlal Varyani, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; David S. Buchan, D.P.M.; Dalsukh Madia, M.D.; R. Gregory Browning, Ph.D.; W. Frank Hairston; Jack C. Amato, M.D.; and Anita M. Steinbergh, D.O. The following did not attend the meeting: Andrew F. Robbins, Jr., M.D.;

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; William J. Schmidt, Staff Attorney, Enforcement, Compliance & Investigations; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, Karen H. Mortland, Kathleen S. Peterson, Angela Scott, and Daniel S. Zinsmaster, 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.

Dr. Kumar at this time welcomed Mr. Hairston to the Board. He also welcomed students from Ohio University's College of Osteopathic Medicine.

MINUTES REVIEW

**DR. BUCHAN MOVED TO APPROVE THE MINUTES OF NOVEMBER 14-15, 2007.**

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

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

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The motion carried.

EXECUTIVE SESSION

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

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

The motion carried.

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

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

FINDINGS, ORDERS AND JOURNAL ENTRIES

MAGED A. BARAKAT, M.D.

Dr. Kumar advised that on October 16, 2007, the Board notified Dr. Barakat that it proposed to deny his application for a certificate to practice medicine and surgery in Ohio based upon the fact that Dr. Barakat has not completed an examination sequence acceptable to the Board. Specifically, the Board alleged that Dr. Barakat passed USMLE Step I in June 1998 (first attempt) and Step 2 in March 1998 (second attempt), but did not pass Step 3 until August 2006 (second attempt). Dr. Barakat did not pass all three steps of the USMLE within a seven year time period, which ended June 2005. Said notice was mailed via certified mail, return receipt requested, to Dr. Barakat's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. Dr. Barakat filed a request for hearing; however, such request was not timely filed. This matter is now before the Board for final disposition.

**DR. STEINBERGH MOVED TO ENTER AN ORDER OF DENIAL, EFFECTIVE IMMEDIATELY, IN THE MATTER OF MAGED A. BARAKAT, M.D. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

CITATIONS, PROPOSED DENIALS AND ORDERS OF IMMEDIATE OR SUMMARY SUSPENSION

TINA NICOLE AMMONS, M.T. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO MS. AMMONS.**

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

PATRICK JOSEPH GALLAGHER, 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.

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

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

The motion carried.

LEE C. D. HANG-FU, 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. HANG-FU.  
DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

GERALD WILLIAM LANE, D.O. – CITATION LETTER

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

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

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

#### JAMES ROBERT FISCO, D.O. – CONSENT AGREEMENT

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

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

The motion carried.

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NORBERT JOSE SEDA., M.D. – WITHDRAWAL OF APPLICATION

**DR. MADIA MOVED TO RATIFY THE WITHDRAWAL OF DR. SEDA’S APPLICATION TO PRACTICE. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

MOHAMMED YASSER AITI, M.D. – PERMANENT SURRENDER/CONSENT TO REVOCATION OF LICENSE

**DR. MADIA MOVED TO RATIFY THE PERMANENT SURRENDER WITH CONSENT TO REVOCATION OF DR. AITI’S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

WILLIAM JAMES DIERUF, M.D. – PERMANENT SURRENDER/CONSENT TO REVOCATION OF LICENSE

**DR. STEINBERGH MOVED TO RATIFY THE PERMANENT SURRENDER WITH CONSENT**

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**TO REVOCATION OF DR. DIERUF'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

LYNNE A. EATON, M.D. – CONSENT AGREEMENT

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

JAMES CAMERON JOHNSON, D.O. – CONSENT AGREEMENT

**DR. MADIA MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. JOHNSON. DR. VARYANI SECONDED THE MOTION.**

Dr. Steinbergh asked whether this physician voluntarily discussed the sexual impropriety issue, or whether there was a complaint generated.

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Ms. Marshall stated that she doesn't know the answer to that. She added that she can say that there obviously was a complaint for the Board to get to this point, but whether it was one complaint or more that covered all of the issues.

Dr. Steinbergh stated that that would make a difference to her. If during the investigation of his chemical dependency the physician volunteered the information, or it became a point of discussion at some point, she could appreciate getting into a consent agreement like this. If there had been a sexual boundary complaint, she has a problem with handling that in this manner.

Ms. Marshall stated that she doesn't have the answer to that.

Dr. Varyani stated that it appears that the sexual relationship continues, according to what he's reading in the information provided the Board. He stated that if it's continuing and there's not a complaint generated, it may be an incidental finding.

Dr. Steinbergh stated that that's her question.

Dr. Varyani stated that he's assuming that the sexual boundary issue is not complaint generated.

Dr. Kumar stated that the information given to him was that the sexual boundary issue was a side part of this case. The main thing with which the Board is dealing is the impairment and the other aspects. He stated that, in his mind, there was no particular complaint against the physician for that.

A vote was taken on Dr. Madia's motion to ratify :

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

The motion carried.

CHEE YAN LEE, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

BRETON LEE MORGAN, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

ROGER ALAN MILLER, M.D. – CONSENT AGREEMENT

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. MILLER. DR. VARYANI SECONDED THE MOTION.**

Mr. Browning asked whether one year of therapy is a formal part of the agreement.

Ms. Marshall stated that it is. She added that if the physician violates this agreement, the Board will be able to take action against him.

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

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ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- nay
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- nay
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

BRUCE C. CORSER, M.D. – CONSENT AGREEMENT

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

BIANCA SHANE DELOACH – WITHDRAWAL OF APPLICATION

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

ROLL CALL:

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

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Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

KIMBERLY M. TELMANIK, P.A. – CONSENT AGREEMENT

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

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

The motion carried.

RUBEN A. BOGIN, M.D. – WITHDRAWAL OF APPLICATION

**DR. VARYANI MOVED TO RATIFY THE WITHDRAWAL OF DR. BOGIN'S APPLICATION TO PRACTICE MEDICINE AND SURGERY. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### 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: Kimberli Jo Burback; Michael Shane Gainey, M.D.; Russell L. Gaudett; Cynthia Joan Johnson, P.A.; Kandhasamy Kannapiran, MD.; Ali Khan, M.D.; Robert M. Moore, M.T.; Kolli Mohan Prasad, M.D.; Willie Calvin Rabb, Jr., D.P.M.; Mary Ellen Ratcliff; and Robert Rowan Summers, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Mr. Hairston	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

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

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

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

KIMBERLI JO BURBACK

Dr. Kumar directed the Board's attention to the matter of Kimberli Jo Burback. 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 OF LAW, AND PROPOSED ORDER IN THE MATTER OF KIMBERLI JO BURBACK. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Buchan stated that he suspects that he might take the road less traveled on this case, but he will take a position and see what the Board thinks.

Dr. Buchan stated that he does understand the acts of aggression that the Board appreciates in this case with Ms. Burback, and he does understand that she has an impairment issue. Dr. Buchan stated that he also understands this notion of second chances. That having been said, the courts have weighed in on this case. It's an absolutely horrific history, but, as he sees it, now that chapter is closed and Ms. Burback is interested in serving as a massage therapist. Dr. Buchan stated that he does not think that that would be an unreasonable thing for her to do at this point. Dr. Buchan stated that he sees Ms. Burback as a homemaker and as someone who is trying to make a difference in this world of service. She'll forever have this horrific history, but as a massage therapist she could provide reasonable service. He added that he believes Ohio's citizens would be reasonably protected by the courts as they've weighed in on this. Dr. Buchan stated that he would speak against the Report and Recommendation as written and suggest that the Board consider granting a license here.

Dr. Kumar stated that Dr. Buchan is making an intriguing point. He added that he had come to this meeting with the concept of some sort of compassion. He looked at several factors: the stabbing occurred in the arm, it was not in any other body part, the court agreed and there was no jail time served. Dr. Kumar stated that when the event did occur, Ms. Burback stayed with the victim, she was the one who called 911, she was the one who worked at stopping the bleeding, she was the one who rode with the EMT to the hospital, etc.

Dr. Kumar continued that Ms. Burback got very high scores on her massage therapy examination. Dr. Kumar stated that he had asked the staff to assist him in drafting an alternative order, but he is not presenting it because Ms. Burback is not present today. He stated that he wanted to hear her own words on this issue.

Dr. Steinbergh stated that, to summarize this case, in 2004 Ms. Burback was convicted of a third degree felony of reckless homicide. She was engaged in an argument with her significant other and, according to her testimony, he was the aggressor and came at her. She had a knife in her hand as she was cleaning up

the dishes. Ms. Burback stabbed him in the arm and apparently caused enough trauma so that he did, in fact, bleed to death.

Dr. Steinbergh stated that she felt as though she could go either way on this case. The court had some difficulty with the fact that she has had a long history of alcohol abuse. To the date when they saw her in court and convicted her, she still had done nothing. She knew that she was deep into alcoholism, but she had done nothing on her own to help herself heal. Dr. Steinbergh stated that, to her, that was a very significant conviction. She noted that Ms. Burback is still on probation through the courts. Dr. Steinbergh stated that what she thought was important was that in December 2006, having completed her massage therapy program, she passed with scores of 94 on both portions of the examination, so the Board does know that she has been properly educated in massage therapy.

Dr. Steinbergh stated that another piece that bothered her a little bit is that both the hearing record and the Report and Recommendation state that she is on Social Security and does some relaxation massage with a lady which was approved by this Board. Dr. Steinbergh stated that she had concerns that this Board in any way would have approved for her to do some type of relaxation massage. She's doing 200 hours of community service, she's getting alcohol and drug screens, and she'd lost her job as a flight attendant with Continental Airlines due to this conviction. This was a very significant case. She stated that she came thinking that she could go either way, but she is quite uncertain. Dr. Steinbergh stated that this was a serious felony to her; and she appreciates that Ms. Burback is attempting to improve her life, but she questions whether or not a person who commits that type of homicide can be a professional. Dr. Steinbergh stated that there are times when you say that it's inappropriate for that person to become a professional and to be licensed by this Board after a conviction of reckless homicide.

Dr. Kumar stated that one of the things he also looked at is that the Board did not cite this woman for alcoholism, so the Board cannot take that into account, even though that history does exist. Secondly, he questioned whether she would be a danger to the community if she goes out and does massage. He stated that, from what he read, he didn't feel that she would be a danger, as such. Dr. Kumar stated that he was looking at giving her a break. He asked Ms. Thompson to distribute his proposed amendment for Board discussion.

Dr. Egner stated that there are parts of this that make her question whether this is the right approach for Ms. Burback. She stated that part of the court record kept repeating that she never really addressed the alcohol issue, never took ownership of it. At the Board's own hearing, she felt, those sorts of things were coming up again. She said that she's been evaluated. Dr. Egner stated that the way Ms. Burback answered that question, it made it sound like she had been evaluated fairly recently in preparation for this hearing, to give more information. Then on further questioning, that evaluation was in 2004. Dr. Egner questioned whether Ms. Burback has been adequately evaluated and treated. Dr. Egner stated that she just has a lot of questions about whether or not the Board has enough information to put Ms. Burback into practice.

Dr. Egner stated that, since the Board's citation had nothing to do with alcohol abuse, she will assume that the proposed amendment has no provisions in it.

Dr. Kumar stated that that is correct.

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Dr. Egner stated that that's a huge problem for her. There's nothing to do with her counseling behavior, possible alcohol abuse. This is a serious incident.

Dr. Kumar would agree with that aspect, but he felt that, since the Board did not cite her for alcoholism, it couldn't take that action. He added that he felt that permanent denial was too harsh.

Dr. Buchan stated that he respects Dr. Egner's concerns. He stated that he did change gears a little on this. He initially thought he would go along with the Proposed Order, but in the past week he has felt differently. Dr. Buchan stated that, principally, the Board's decision has to be based upon the fact that she has been convicted of a third degree felony. Can the Board license massage therapists with that background and this history? Dr. Buchan stated that, fundamentally, he would say yes. He stated that he is concerned about her impairment, and added that impairment never excuses action. He added that he wishes that Ms. Burback were present; he would like to chat with her. However, the record will reflect the Board's feelings on the matter of impairment. Dr. Buchan stated that he does understand second chances, and he thinks that it is not unreasonable to let her practice and serve from this point forward.

Dr. Madia asked how Dr. Buchan would feel if Ms. Burback was a physician instead of a massage therapist.

Dr. Buchan stated that he would feel differently.

Dr. Varyani stated that he also struggled with this issue. At first glance, after his first read, he felt that he agreed with the decision. Then he re-read the whole thing. He noted that Ms. Burback takes care of two children. He stated that he knows that there are grandparents, on one side at least, who are working with the family. Dr. Varyani stated that he thinks that the Board needs to consider the children, as well. No where did he find that she was bad or mean to the children. Dr. Varyani stated that he would like to have seen her today and he would have liked to have heard from her. Since he hasn't, he still feels like Dr. Buchan, that the Board should give her a second chance. However, when the Board gives a second chance in felony cases such as this, the Board is taking a chance, and he hopes that it is taking the good chance.

Dr. Kumar stated that, for that reason, he is recommending probation for five years.

**DR. b MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF KIMBERLI JO BURBACK BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED that:

- A. **GRANT OF APPLICATION; PROBATION:** The application of Kimberli Jo Burbank to practice massage therapy in the State of Ohio is GRANTED, provided that she otherwise meets all statutory and regulatory requirements, and subject to the following PROBATIONARY terms, conditions and limitations for a period of at least five years:

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1. **Obey the Law and Terms of Criminal Probation:** Ms. Burback shall obey all federal, state and local laws; all rules governing the practice of massage therapy in Ohio; and all terms of probation imposed by the Cuyahoga County Common Pleas Court in criminal case number CR436106.
  2. **Declarations of Compliance:** Ms. Burback shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  3. **Personal Appearances:** Ms. Burback shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every six months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
  4. **Absence from Ohio:** Ms. Burback 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.
  5. **Noncompliance Will Not Reduce Probationary Period:** In the event Ms. Burback 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.
- B. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Burback's certificate to practice massage therapy will be fully restored.
- C. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Ms. Burback shall provide a copy of this Order to all employers or entities

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with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Ms. Burback shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments. This requirement shall continue until Ms. Burback receives from the Board written notification of her successful completion of probation.

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

**AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Ms. Burback shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Ms. Burback shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration of any professional license. Further, Ms. Burback shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Ms. Burback receives from the Board written notification of her successful completion of probation.

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

**DR. VARYANI SECONDED THE MOTION.**

Dr. Steinbergh stated that, although she disagrees with the proposal, if the motion is approved, there ought to be language that requires that she complete her court probation.

Dr. Kumar stated that the proposed amendment does that.

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

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

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Dr. Steinbergh     - nay  
Dr. Kumar           - aye

The motion carried.

**DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF KIMBERLI JO BURBACK. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- nay
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- nay
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- nay
Dr. Kumar	- aye

The motion failed.

Dr. Buchan asked whether there are provisions that those who voted to deny would accept that would allow Ms. Burbach to practice in Ohio. He stated that he would entertain placing stricter terms on Ms. Burbach's license, as opposed to taking the position of permanent denial.

Dr. Egner stated that she's not sure how the Board can make treatment for impairment part of the Board's Order when that issue wasn't cited. She stated that she would like some sort of evaluation, either psychiatric or for impairment. Dr. Egner stated that she was a little bothered by some of the things that Ms. Burbach said at hearing. She indicated that she'd been going to A.A. meetings, but no longer does, she brought up an evaluation done in 2004, and she said that she has been dependent on alcohol. Dr. Egner stated that this is troublesome to her. She added that she understands that other Board members feel that Ms. Burbach has turned her life around and that what happened was a provoked event. She added that, although Ms. Burbach's not appearing before the Board today is not the reason she voted "no," it gives her no reason to vote "yes."

Dr. Kumar suggested that the Order could be amended to simply deny the license, rather than a permanent denial, and that would give her the opportunity to apply again in the future.

Mr. Browning suggested that the Board could table this matter and ask Ms. Burbach to come to the January meeting. Whether or not she comes, the Board can make its decision then.

Ms. Pfeiffer suggested that if the Board does ask her to come and she chooses not to, any Order might be

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perceived as being for her failure to appear as opposed to the hearing record.

Dr. Steinbergh spoke against having Ms. Burback appear before the Board. She stated that the Board should vote, based on the record.

Dr. Kumar again suggested an Order denying Ms. Burback the license, and giving her an opportunity to present more information.

Dr. Steinbergh asked what more information the Board needs to make a decision.

Dr. Kumar stated that he would like more information about the impairment issue.

Dr. Steinbergh stated that she's not charged with impairment. Dr. Steinbergh stated that the Board has a case of a felony conviction for reckless homicide. Dr. Steinbergh stated that she appreciates some of the mitigating factors, and added that she came to this meeting with an open mind to see how others would feel. She added that the more she listens, the more convinced she is that this simply is not a person whom she perceives as being a professional who should be licensed by the State Medical Board of Ohio.

Dr. Buchan noted that the majority suggested that the Board should give Ms. Burback this opportunity, and asked whether those who voted "no" did so based upon the fact of the felony conviction or the impairment issue.

Dr. Madia stated that his problem is the felony itself. He stated that there is no mention of alcohol abuse, and the Board isn't addressing that problem. How does the Board know if she's continued to abuse alcohol? Dr. Madia stated that if Ms. Burback were here and addressed those things, he might reconsider.

Dr. Kumar asked for a vote on the original Proposed Order of permanent denial:

A vote was taken:

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

The motion failed.

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Dr. Kumar again suggested that the Board simply deny Ms. Burback's application at this time.

Dr. Varyani suggested tabling this matter to allow people time to think over the case.

Dr. Egner asked whether the Board can require a psychiatric evaluation, based on the felony conviction of reckless homicide.

Mr. Whitehouse stated that he thinks that the Board would be stretching things to do that. He stated that he thinks that the Board does have to stick to the confines of the felony conviction and whether that excludes an individual from the privilege of practicing. Mr. Whitehouse commented that he thinks that the strength of this Board is obviously its compassion; but he thinks that, in the exercise of that compassion, the Board is going off in a lot of directions and may be stretching itself beyond those things that the Board ought to be considering. He stated that the Board needs to focus on the conviction. A denial affords the opportunity for this person to come back and for the Board's questions to be asked and answered. He stated that alcohol abuse is not the basis of the Report and Recommendation and it cannot be the basis of the Board's determination.

Dr. Steinbergh stated that the hearing record is quite complete. If the Board members can't come to terms with permanent denial, she would not disagree with a denial with the stipulation that there would be no further application until she completes her probation with the court.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF DENIAL WITH THE STIPULATION THAT SHE NOT REAPPLY UNTIL SHE HAS SUCCESSFULLY COMPLETED HER PROBATION WITH THE COURT. DR. KUMAR SECONDED THE MOTION.**

Mr. Whitehouse asked whether the Secretary and Supervising Member could vote on this issue since it is a licensure matter.

Ms. Pfeiffer advised that, since they directed the investigation of this matter, they cannot vote.

Dr. Buchan stated that he would go on record to suggest that the courts spoke to the situation. Ms. Burback was not acquitted, but the leniency that they showed in this case spoke largely to him. What Ms. Burback was charged with and the outcome, the penalty, speaks to the matter of licensure here. He stated that he would vote against the motion.

Mr. Browning stated that, as a matter of procedure, Dr. Varyani had a motion to table.

Dr. Varyani stated that it was not a motion, but a suggestion.

A vote was taken:

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

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Dr. Talmage	- abstain
Dr. Varyani	- nay
Dr. Buchan	- nay
Dr. Madia	- aye
Mr. Browning	- nay
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion failed.

**DR. VARYANI MOVED TO TABLE THE REPORT AND RECOMMENDATION IN THE MATTER OF KIMBERLY JO BURBACK UNTIL THE JANUARY 2008 MEETING. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- nay

The motion carried.

MICHAEL SHANE GAINEY, M.D.

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

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MICHAEL SHANE GAINEY, M.D. DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Steinbergh referred to the two paragraphs following the five stars on page nine of the Report and Recommendation, stating that she is in full agreement with them. She stated that these paragraphs fully describe the lack of professionalism of the physician. In order to protect the citizens of Ohio, she agrees with the Proposed Order, which is a permanent revocation of Dr. Gainey's license.

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Dr. Steinbergh stated that the Proposed Order of permanent revocation implies that there would be no reinstatement or restoration; therefore, she feels that paragraph B of the Proposed Order is not necessary.

**DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MICHAEL SHANE GAINEY, M.D., BY DELETING PARAGRAPH B OF THE PROPOSED ORDER. DR. BUCHAN SECONDED THE MOTION.**

Dr. Egner stated that she agrees with the motion and the amended Proposed Order.

Dr. Buchan stated that he agrees 100 percent. Based upon the Kentucky Emergency Order, he absolutely agrees with the Proposed Order, as amended.

Mr. Albert left the meeting during the previous discussion

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

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

The motion carried.

**DR. BUCHAN MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF MICHAEL SHANE GAINEY, M.D. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Kumar stated that he would entertain further discussion. There was none.

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

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

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Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

RUSSELL L. GAUDETT

Dr. Kumar directed the Board's attention to the matter of Russell L. Gaudett. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation by the State and were previously distributed to Board members.

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

It was noted at this time that Mr. Gaudett had not yet arrived.

Dr. Varyani commented that Mr. Gaudett hadn't shown up for the 72 hour, Board-ordered examination, either.

**DR. BUCHAN MOVED TO TABLE THE MATTER OF RUSSELL L. GAUDETT.**

**DR. STEINBERGH SECONDED THE MOTION.** All members voted aye. The motion carried.

Later in the meeting, noting that Mr. Gaudett is still not present, Dr. Kumar removed this matter from the table for Board consideration.

Dr. Amato had left the meeting prior to this discussion.

Dr. Kumar noted that Mr. Gaudett had requested to address the Board, but is not present.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF RUSSELL L. GAUDETT. DR. MADIA SECONDED THE MOTION.**

Dr. Varyani stated that Mr. Gaudett has applied for a massage therapy license. Mr. Gaudett had been working at a chiropractor's office. He was charged with a DUI and admitted to being impaired. The Board had ordered Mr. Gaudett to submit to a 72-hour examination, to which he agreed to at first, but he did not appear for the examination. Dr. Varyani stated that Mr. Gaudett tried to communicate with somebody after the fact, advising that he did not attend the exam. There were a lot of excuses given. Dr. Varyani stated that the gist of this is that Mr. Gaudett, has applied for a license, has passed the licensing exam, but did not go to the 72-hour Board-ordered examination.

Dr. Varyani stated that the Board Order requires him to report to Glenbeigh. It gives him another chance to

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appear for examination at a future date.

Dr. Steinbergh stated that, were it up to her, she would permanently deny Mr. Gaudett a license. She stated that she does not believe that he meets professional standards that are necessary to become a licensed massage therapist. Dr. Steinbergh stated that Mr. Gaudett, besides his previous convictions, ignored the Board three times. The Board sent interrogatories to Mr. Gaudett on three occasions, and he ignored the Board twice. Now the Board is rewarding this inappropriate behavior, even by denying him a license and giving him terms to reapply. Dr. Steinbergh stated that Mr. Gaudett has been non-compliant, and asked what makes the Board believe that he would ever be compliant. Dr. Steinbergh stated that she really feels that this fellow ought to be permanently denied. She could find no redeeming factors in him.

Dr. Egner stated that she is against the Report and Recommendation herself, but she has a little different take on it. She noted that Mr. Gaudett is not licensed, so when he failed to appear for his evaluation, he's deemed impaired. Dr. Egner stated that he would need to follow all of the provisions as if he's impaired; however, he will get this without going through a 28-day treatment program. Dr. Egner stated that if the Board feels that a 28-day treatment program is very, very necessary in order to be successful in your impairment, it is completely inconsistent that the Board would allow someone to follow a Board Order for impairment that doesn't include a 28-day treatment program.

Dr. Egner stated that she agrees with the State's objections in this matter. She added that she has worked with Ms. Thompson to craft an alternative order that would deny his application, and then place conditions on future applications. Part of his conditions require him to go through a 28-day treatment program prior to applying.

**DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF RUSSELL L. GAUDET BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED that:

- A. **APPLICATION DENIED:** The application of Russell L. Gaudett for a certificate to practice massage therapy in Ohio is DENIED.
- B. **CONDITIONS PLACED UPON ANY FUTURE APPLICATION:** Mr. Gaudett shall not apply in the future for a certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, until all of the following conditions are met.
  1. **Application:** Mr. Gaudett shall submit an application, accompanied by appropriate fees.
  2. **Demonstration of Ability to Practice:** Mr. Gaudett shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:

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- a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Mr. Gaudett has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4) and 4731-16-08(A)(13) of the Administrative Code, completed consecutively.
- b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10 of the Administrative Code.
- c. Two written reports indicating that Mr. Gaudett's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Mr. Gaudett. Prior to the assessments, Mr. Gaudett shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Mr. Gaudett, and any conditions, restrictions, or limitations that should be imposed on Mr. Gaudett's practice. The reports shall also describe the basis for the evaluator's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application.

- C. **PROBATIONARY CONDITIONS TO BE PLACED UPON ANY FUTURE CERTIFICATE GRANTED BY THE BOARD:** In the event that the Board should grant a future application by Mr. Gaudett for a certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, that certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law:** Mr. Gaudett shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy or other licensed practice in Ohio.
2. **Personal Appearances:** Mr. Gaudett shall appear in person for an interview

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before the full Board or its designated representative during the third month following the month during which the Board approved Mr. Gaudett's application for a massage therapy certificate or other certificate. 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.

3. **Quarterly Declarations:** Mr. Gaudett shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month during which the Board approved Mr. Gaudett's application for a massage therapy certificate or other certificate. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs:** Mr. Gaudett shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Mr. Gaudett's history of impairment.
5. **Abstention from Alcohol:** Mr. Gaudett shall abstain completely from the use of alcohol.
6. **Comply with the Terms of Treatment and Aftercare Contract:** Mr. Gaudett shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with his treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
7. **Drug & Alcohol Screens; Supervising Physician:** Mr. Gaudett shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Mr. Gaudett shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the date upon which a future application of Mr. Gaudett for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Mr. Gaudett shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Mr. Gaudett shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Mr. Gaudett.

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Mr. Gaudett and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Mr. Gaudett shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Mr. Gaudett must immediately notify the Board in writing and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Mr. Gaudett shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Mr. Gaudett's quarterly declaration. It is Mr. Gaudett's responsibility to ensure that reports are timely submitted.

8. **Provision of Blood or Urine for Screening without Prior Notice:** Mr. Gaudett shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Mr. Gaudett's expense.
9. **Rehabilitation Program:** Mr. Gaudett shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A. or C.A., no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Mr. Gaudett shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Mr. Gaudett's quarterly declarations.
10. **Releases:** Mr. Gaudett shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Mr. Gaudett's impairment and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after Board approval of

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Mr. Gaudett's application for a massage therapy certificate or other certificate. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

Mr. Gaudett shall also provide the Board written consent permitting any treatment provider from whom Mr. Gaudett obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

11. **Absence from Ohio:** Mr. Gaudett 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.
12. **Tolling of Probationary Period while Out of Compliance:** In the event Mr. Gaudett 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.
13. **Required Reporting to Employers and Hospitals:** Within thirty days of the date upon which a future application of Mr. Gaudett for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Mr. Gaudett shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Mr. Gaudett shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. This requirement shall continue until Mr. Gaudett receives from the Board written notification of his successful completion of probation.
14. **Required Reporting To Other State Licensing Authorities:** Within thirty days of the date upon which a future application of Mr. Gaudett for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Mr. Gaudett 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

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professional license. Mr. Gaudett 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. Gaudett shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Mr. Gaudett receives from the Board written notification of his successful completion of probation.

15. **Termination Of Probation:** Upon successful completion of probation, as evidenced by a written release from the Board, Mr. Gaudett's certificate will be fully restored.

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

**MR. BROWNING SECONDED THE MOTION.**

Dr. Steinbergh stated that she doesn't disagree with the proposed amendment, but added that she doesn't think that she would ever vote to license this individual. She stated that it angered her that Mr. Gaudett kept ignoring the Board's interrogatories.

Dr. Egner stated that the Board could permanently deny Mr. Gaudett.

Dr. Kumar stated that one thing the Board should keep in mind is that he asked to appear before the Board and he didn't show up.

Dr. Varyani stated that he believed that Mr. Gaudett wouldn't show up.

Dr. Steinbergh asked why the Board would go into some kind of a program with a person who didn't even have the decency to answer the questions that were sent to him.

Dr. Varyani stated that he totally agrees.

Mr. Whitehouse stated that if the Board permanently denies this license, there is a potential for litigation. If the Board is on the losing end of that litigation, it could be forced to license this person and then not have a handle on what the Board believes might possibly be a problem with him. If the Board just denies this application, it has a handle. He stated that the proposed amendment isn't a gift at all. It's recognition of the fact that the Board thinks that this is a problem.

Mr. Browning stated that the amendment is not for a permanent denial.

Dr. Steinbergh stated that Mr. Gaudett failed to cooperate in the Board's investigation.

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Mr. Whitehouse stated that he agrees completely.

Dr. Egner stated that Mr. Gaudett is deemed impaired just by virtue of the fact that he didn't go to his evaluation. She stated that her problem is that he can circumvent the 28-day treatment plan by the way the Proposed Order is written.

Dr. Buchan stated that he came today anticipating that the Board would simply deny the application with no conditions. He stated that he's not sure where that puts the Board in jeopardy.

Mr. Whitehouse stated that the Board could certainly do that, but it's doing it with someone who, by operation of law, is deemed to be impaired.

Dr. Varyani stated that if the Board adopts Dr. Egner's amendment, it basically tells him that the Board knows that he is impaired, and that if he comes back for a license, he'll have to do a lot of things. If Mr. Gaudett is worried about the financial situation, a 28-day inpatient treatment is going to cost a lot more than the 72-hour examination. Dr. Varyani spoke in support of Dr. Egner's motion.

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

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF RUSSELL L. GAUDETT. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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Mr. Hairston           - abstain  
Dr. Steinbergh       - aye  
Dr. Kumar             - aye

The motion carried.

CYNTHIA JOAN JOHNSON, P.A.

Dr. Kumar directed the Board's attention to the matter of Cynthia Joan Johnson, P.A. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

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

Ms. Johnson was accompanied by her attorney, Elizabeth Y. Collis.

Ms. Collis stated that the Board has charged Ms. Johnson with violating the terms of her 2003 Step 2 Consent Agreement; however, the only evidence that was presented in this case was one positive ETG test. Ms. Collis stated that it is important to note that Ms. Johnson has never tested positive for alcohol in any of her screens.

Ms. Collis stated that, in her opinion, this case is actually very unusual for the Board. Usually the cases that go before this Board on behalf of the state are pretty much a slam-dunk. The State has the evidence, they line it up, it's very clear. As defense counsel, she usually just comes in and gives mitigation. Ms. Collis stated that that's just not the case in this situation. Ms. Johnson has been charged with one positive ETG test. Ms. Collis stated that she believes that the evidence showed that reliance on one positive ETG test alone is not reliable, as it is not clinically supportable, and it should not be the basis for discipline.

Ms. Collis stated that, at hearing, there was testimony from Gregory E. Skipper, M.D., who was one of the creators of the ETG test. Dr. Skipper testified that a positive ETG test is not reliable to show evidence of a relapse as the test is so sensitive that common household products and the environment can cause a false positive. Ms. Collis stated that, according to Dr. Skipper, the use of the ETG test is too new, and has not been tested to determine when and why the test may register positive when a person has not consumed alcohol.

Ms. Collis advised that Dr. Skipper and many other witnesses also referenced the SAMHSA Report. In the SAMHSA Report, it specifically states, "Legal or disciplinary action based solely on a positive ETG ... is inappropriate and scientifically unsupported at this time. These tests should currently be considered as potential valuable clinical tools, but their use in forensic settings is premature."

Ms. Collis stated that there was also testimony from Dr. Sateren, on behalf of Ms. Johnson. Dr. Sateren testified about the cutoff levels. He specifically stated that the cutoff level of 250, which is used by Ohio, is not the level that is used by all the states across the country. In some states the cutoff level is as high as

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2,000 ng/ml. If Ohio had used a 2,000 cutoff, Ms. Johnson's test would have been considered a negative test. Ms. Collis continued that, according to Dr. Sateren's testimony, many state licensing boards do not even use this test at all because they consider the test to be so unreliable.

Ms. Collis stated that State's witness William J. Closson, Ph.D., Director of Laboratories at Bendiner & Schlesinger Inc. [B&S], the testing facility that tested the urine sample that was sent out by Ms. Johnson, specifically testified that, even at the bottom of the B&S reports that are sent out with a positive ETG there is a proviso that says, "a positive ETG test alone should not be used as a basis for discipline."

Ms. Collis stated that, in this case, the Hearing Examiner relied upon two things, which she believes is an inappropriate review of the evidence. In one instance, Ms. Petrucci stated that "Both experts (Drs. Closson and Skipper) testified that it is unlikely that Ms. Johnson's EtG test resulted from incidental exposure to alcohol." Ms. Collis stated that this statement does not accurately describe the testimony given by the witnesses. Dr. Skipper and Dr. Closson testified that, while the amount of ETG detected is unlikely to have resulted from incidental exposure, this explanation cannot be ruled out.

Ms. Collis stated that the Hearing Examiner also, briefly, hangs her hat on the fact that there was some testimony, or she relied upon a statement that Ms. Johnson had consumed communion wine. Ms. Collis stated that Ms. Johnson was not charged with consuming communion wine, and at the hearing she testified that she did not consume communion wine. Ms. Collis stated that she believes that this was inappropriate reliance on evidence in the case.

Ms. Collis stated that she believes that the evidence did show that all urine screens provided to the Medical Board from Ms. Johnson since 2002 have been negative for alcohol. She added that, according to Stanley Gene Sateren, M.D., of OPHP, there has not been a time, to his knowledge, that Ms. Johnson has not been compliant with the terms of her Consent Agreement. Ms. Collis advised that Ms. Johnson has consistently worked with her monitor, Christina M. Delos Reyes, M.D, who is also an addictionologist. Dr. Delos Reyes believes that Ms. Johnson is stable in her recovery and sees no evidence of relapse. Harris C. Taylor, M.D., Ms. Johnson's supervisor at work, also stated that he had no reason to suspect that she has relapsed. Dr. Taylor has indicated that he believes that the Medical Board should not take action against Ms. Johnson's license. Ms. Collis stated that James Priestler, PhD., Ms. Johnson's therapist, stated in a letter to the Medical Board that he is perplexed by the positive ETG and sees no signs of relapse.

Ms. Collis stated that the evidence does not support discipline in this case. Reliance alone on the ETG test is not scientifically appropriate, and she specifically asked this Board to dismiss this case at this time.

Ms. Johnson stated that eight years ago she was in crisis, which has led her to this meeting today. She'd had a history of depression, arising from a very unhappy marriage. At that time, she found help in therapy and was feeling better, but her marriage didn't improve. They separated and spent four years trying to work things out because they had two children they wanted to protect from the pain of a broken family. They were unable to reconcile, and spent two more stressful years in a difficult divorce proceeding.

Ms. Johnson continued that her depression returned as all of this dragged out and the tension didn't ease up. She needed medication and Prozac seemed to work. There were some problems finding the right dose,

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but they were able to settle on 30 mg. She had some side effects, anxiety the most notable, but she managed that pretty well by stopping caffeine and swimming regularly.

Ms. Johnson stated that she believes that she was in crisis eight years ago because she had taken on too much. It was too soon to start a new career after the divorce. She was in her second year of a P.A. program, doing her clinical rotations. Her husband and she had not had an amicable divorce, and it was still playing out in ongoing conflicts. They kept their children out of their problems, but she knew that they were sad. She took her children to family counseling and she joined a parents' support group. She was trying, but she was exhausted.

Ms. Johnson stated that she thinks that the Prozac stopped working. Her doctor increased the dose, and that was the turning point. There were more side effects and no relief. There was anxiety she couldn't manage and didn't understand. Ms. Johnson stated that she knows that she wasn't herself because, if she had been herself and thinking clearly, she would have suspected the Prozac but she never considered it. She thought it was circumstances, difficult times that she could get through and that the end was in sight.

Dr. Kumar asked Ms. Johnson to conclude her statement.

Ms. Johnson stated that she did her work well in the P.A. program. She stated that she loved her children and took good care of them. She could feel good when she knew that she was doing the right thing, but she fell apart on some Friday evenings, when her children had to leave and they were sad. She was alone with deepening depression and exhaustion. In her better moments, and most times, she was smart enough to read a book or go to bed, but other times, she would drink wine to calm herself down and stop the pain in her stomach. In the worst of times, that led to binge drinking and, when combined with the Prozac, led to bizarre and desperate behavior to do almost anything not to be alone. She got in trouble. She stopped drinking, she stopped Prozac, she was recovering and feeling good when the Board stepped in and sent her to Glenbeigh. She had a hard time believing that she is an alcoholic at first because of her history, but she was determined to open her mind, listen and change.

Ms. Johnson stated that she has changed a lot. She stated that she's very active in the A.A. program. She stated that she loves the A.A. program, adding that it has allowed her to make major changes. She's a sponsor, she's a secretary, and she's been chairman at her meetings. She goes to more meetings than required because she wants to. She would never do anything to threaten her sobriety or mental health. She lost a job because of the Board's prior action. It was a breach of her employment contract because of the Board's disciplinary action, even though all the doctors wanted her to stay and valued her work. Ms. Johnson stated that she's afraid that she will lose her current job. She's been at it for four and a half years; her evaluations are good and she's doing a good job. Ms. Johnson stated that the Board's attorney has seen her employment file, and could have seen her file from her previous job. Her job has not suffered, but she has suffered and she's much better. Ms. Johnson stated that she believes that, if the Board takes action, her career will end. Ms. Johnson asked that the Board consider this and the strong recovery, for which she is really grateful.

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

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Ms. Unver stated that Ms. Johnson does not dispute that the ETG test is reliable. Neither the State's expert, nor Respondent's expert, would disagree with the fact that the ETG test is widely accepted in the scientific community as a reliable and accurate means of detecting the presence of ethyl alcohol in the body. Ms. Unver stated that Ms. Johnson comes here today and refutes the use of the test as the sole evidence to support the violations, but the ETG test is all that is needed to prove a violation under Section 4730.25(B)(5) and Section 4730.25(B)(20), Ohio Revised Code. The lab cutoff rate is 250 ng/ml. Ms. Johnson's urine sample tested positive for ETG at 1,800 ng/ml. Ms. Unver stated that both the State's expert and Respondent's expert testified that Ms. Johnson's sample was unlikely to have resulted from incidental exposure to alcohol. In fact, Dr. Closson testified that it is probable that the ETG level could have only been produced by actual consumption, not incidental exposure. Ms. Unver stated that the 1,800 level was over twice as high as the 800 level that Dr. Skipper, Respondent's expert, testified to as possible incidental exposure. Dr. Skipper opined that the ETG test should not be used as the sole basis for determining alcohol consumption. In fact, Dr. Skipper helped draft the SAMHSA advisory. Ms. Unver stated that the fact of the matter is that determination of what is needed to determine alcohol consumption and what level of the ETG is appropriate is up to this Board to decide.

Ms. Unver stated that there was more evidence than just the test to prove this violation. Ms. Johnson told Ms. Bickers, shortly after finding out about the test results, that Ms. Johnson had consumed communal wine at Mass. Ms. Johnson gave inconsistent and evasive testimony throughout the hearing on this issue. In addition, Ms. Johnson, who has experience as a lab technician, and who has even been involved with testing ethyl alcohol in her career, gave a sample that showed a low creatinine level, which usually indicates some form of dilution. Ms. Unver stated that Ms. Johnson admitted to being a binge drinker, and it only takes one time for a relapse. She added that this was not the result of incidental exposure, as Ms. Johnson would like to cloud the issue. Ms. Unver noted that Ms. Johnson did not change her habits of hand sanitizer use and other use of potential alcohol incidental exposure products between the time she gave the test and the time of the result.

Ms. Unver stated that Ms. Johnson has violated her Step 2 Consent Agreement and the evidence is, in fact, reliable, substantial and probative to this fact.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF CYNTHIA JOAN JOHNSON, P.A. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Egner stated that she has a couple of things to say about this matter. She stated that she does not want the ETG test to be on trial here. The Board is not going to make a conclusion today, nor should it, about what the cutoff should be, that it is the absolute reliable test, or that it's not. She looks at this and it is a piece of the puzzle. So when she looked at this case, there are some things that say that this is a relapse, and there are other things that say that it may not be.

Dr. Egner stated that things that lead her to believe that this could be a relapse include the following:

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1. The urine specimen being dilute, with the decreased creatinine and specific gravity. Dr. Egner commented that it was remarkably dilute.
2. It took 22 days for that specimen to arrive and be tested at the lab. The expert said that, if anything, it would have decreased those values, and there was an ETG value of 1,800.

Dr. Egner stated that she did find Ms. Johnson's testimony to be inconsistent with the possible etiology of a positive test. Although the Board doesn't know the absolute cutoff number that should be used, 1,800 does seem unlikely to be an incidental finding. When most states and experts are using levels significantly less than that, it's hard to ignore.

Dr. Egner asked whether, on the other hand, this was a relapse. She noted that Ms. Johnson's supervising physician, her monitoring physician, and her boss at work found that this was probably a false positive, that they saw no signs in her behavior, her demeanor or work ethic that she had had a relapse. Dr. Egner stated that there was a lot of testimony given regarding the reliability of a positive ETG, and that, perhaps, the Board should only look at a negative as confirming abstinence, but not a positive as confirming a relapse. She advised that further tests were done on other specimens, and they were negative, but there was no further testing done on the specimen of 12/27/06.

Dr. Egner stated that this is not an easy case to decide, but the Board has been here before. With every relapse that the licensee denies, the testing comes into question. The Board does have to look at all of the other factors. Dr. Egner stated that she would like to hear what other Board members have to say. She added that the only thing she will say is that, based on Ms. Johnson's consent agreement, her probation would have been up in 2008. With the amount of question that arises from this hearing, suspending her license for 90 days, imposing a stayed permanent revocation, and five years of probation seems to be too much. There is also a requirement for an ethics course. Dr. Egner stated that she doesn't understand at all where that comes into play.

Dr. Steinbergh stated that she does agree with Dr. Egner in regard to the ETG testing. She stated that she thinks that the evidence in this record demonstrates that the ETG level in her urine was significant. Dr. Steinbergh stated that she would agree that she would not bother requiring the professional and personal ethics course. Otherwise she agrees with the Proposed Order, in terms of consistency with what the Board has done with relapses.

Dr. Steinbergh stated that the biggest concern she had was the difference in Ms. Johnson's testimony. She noted that Ms. Johnson had a conversation with Ms. Bickers, and immediately tried to explain why she may have had a positive test. It's the communion wine or at Christmas time, some people put alcohol into their foods. Dr. Steinbergh stated that Ms. Johnson accepted the positive screen for what it was, but then tried to explain it off. Dr. Steinbergh stated that Ms. Johnson also had conflicts in her testimony as to whether or not she consumes communal wine when she takes communion. Then, she says that she doesn't drink the wine, but, yet, she said that she drank the wine. Dr. Steinbergh stated that none of that makes sense.

Concerning Ms. Johnson's use of other products that might contain alcohol, Dr. Steinbergh stated that

when a person is truly dedicated to the healing process with the level of intelligence Ms. Johnson has, she would not expose herself to products that have alcohol in them. Dr. Steinbergh stated that she has to believe that. She added that the Board has seen other practitioners who walk on that edge, and they get caught every time.

Dr. Steinbergh stated that she does have concerns as to whether or not Ms. Johnson has relapsed. She appreciates the fact that they haven't seen it at work. She added that one of the things with which she thinks all Board members can agree is that work is the last place where you see that happening. There are relationship issues and a variety of other issues that come up prior to anyone noticing at work that the person has a problem. That's not quite as impressive to her. Dr. Steinbergh stated that she's in agreement with this Board Order in that it's consistent with those physicians who have relapsed. She added that she does agree that the ethics course is not necessary.

Dr. Buchan stated that he is supportive of Ms. Johnson and her recovery. He thinks that she's done well, but he does believe that there's been a bump in the road. He hears the conversations about products and communal wine, and then her denials, but the story has changed. The Board has heard this so many times. He stated that he would agree with the Proposed Order, but he would be willing to hear Dr. Egner's proposal for suspension time. He does believe that relapse has taken place, and he does believe that the Board needs to respond to it.

Dr. Varyani agreed with Dr. Buchan. He added that, in ETG tests, the cutoff point is 250. With a level of 1,800 and with urine diluted to such a point (he noted that, in Ms. Johnson's case, the specific gravity was 1.005, and it should be 1.010), he can't accept the argument that Ms. Johnson has made. He stated that he doesn't buy it.

Dr. Egner stated that, if it's the Board's conclusion that this is a relapse, she would be in favor of a suspension of less than 90 days. She stated that she would probably go for 30 days, the reason being that, if she did relapse, this would be a minor one as the Board evaluates relapses. What the Board should do is watch Ms. Johnson a little longer. Dr. Egner stated that to put Ms. Johnson on probation for another five years would take her to 2013. She stated that that's a long time. Her probation would have ended in 2008. Dr. Egner stated that she would add an additional year to probation, taking her to 2009. That would be sufficient for her.

**DR. EGNER MOVED TO AMEND THE PROPOSED ORDER BY LESSENING THE SUSPENSION TIME TO 30 DAYS, REDUCING THE PROBATIONARY PERIOD TO ONE YEAR BEYOND HER CURRENT PROBATIONARY PERIOD, AND TO ELIMINATE THE ETHICS COURSE REQUIREMENT.**

Dr. Steinbergh stated that, to be consistent with the Board's guidelines for a first relapse, the sanction is a suspension period as long as 90 days and probation of five years. Every time the Board goes into a new order or a new consent agreement because of a relapse, this is what the Board does. She stated that, although she doesn't disagree with Dr. Egner in regard to her attempting to quantify the degree of relapse, she doesn't know that the Board can do that. She stated that a relapse is a relapse. If the Board is committed to the concept that Ms. Johnson has relapsed, the Board should be committed consistently with

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the minimum guidelines, which call for an indefinite suspension for a minimum of 90 days and a five-year probation.

**DR. BUCHAN SECONDED DR. EGNER'S MOTION.**

Dr. Buchan stated that, since Ms. Johnson is present, she has won at least a couple votes for softening the Order, as written. He indicated that the Board may not be as lenient a second time.

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

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

The motion carried.

**DR. EGNER MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF CYNTHIA JOAN JOHNSON, P.A. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

**KANDHASAMY KANNAPIRAN, M.D.**

Dr. Kumar directed the Board's attention to the matter of Kandhasamy Kannapiran, M.D. He advised that

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no objections were filed to Hearing Examiner Porter's Report and Recommendation.

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

Dr. Kannapiran stated that, after graduating in 1968, he entered medical practice. He practiced until 2006 without any malpractice problems. In the year 2006, when he was threatened with a potential malpractice suit, he got scared and he did alter some medical records, even though the outcome or the treatment was never changed. Dr. Kannapiran stated that he has regret for his actions and he takes full responsibility for them. Dr. Kannapiran asked the Board for another chance, adding that he will never repeat those mistakes again. He asked for the Board's forgiveness.

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

Ms. Pfeiffer stated that Dr. Kannapiran said that he got scared because of a malpractice suit. She stated that that's one factual agreement that she would make with Dr. Kannapiran. He got scared, but it wasn't just because of the malpractice suit. Ms. Pfeiffer advised that Patient 2 in this case had been a patient of Dr. Kannapiran's for a number of years. The patient had been diagnosed with diabetes about twelve years before this incident. Ms. Pfeiffer stated that Patient 2 is a school teacher, who, in February 2006, left the school where he was teaching because of severe pain in his shoulder. He went to the emergency room, got a cortisone shot and pain medication. He didn't have any real improvement. He continued to be nauseous. Ms. Pfeiffer stated that on February 26, Patient 2 went to see Dr. Kannapiran, who gave him another shot of cortisone and tried a different type of pain medication. There was still no improvement. Patient 2 continued to be nauseous. Ms. Pfeiffer stated that, finally, on March 3, 2006 Patient 2 and his wife decided that the pain was bad enough that he would have to go to the hospital. They went to the emergency room of MedCentral Hospital in Mansfield. She stated that when Patient 2 was admitted, he had an elevated white blood cell count. That increased over the time that he was hospitalized.

Ms. Pfeiffer continued that, after Patient 2 was hospitalized, Dr. Kannapiran ordered the taking of blood and urine cultures. The evidence presented, according to the testimony of Patient 2's spouse, was that during the time Patient 2 was hospitalized, he had increasing pain in his wrist and in his hip. He also developed a red spot on his wrist. Patient 2 described the pain in his hip as severe. Patient 2's spouse testified that the day before her husband was discharged on March 7, he called her and asked her to take the day off because he thought that the doctor was going to discharge him. She took the next day off and went to the hospital in the morning to pick her husband up. When she arrived there, her husband advised that the physician hadn't been there yet. Dr. Kannapiran arrived shortly afterward. According to Patient 2's wife, Dr. Kannapiran made no mention to the patient of his elevated white blood count, which had gone up to 26,000 upon the day of his discharge. Dr. Kannapiran did not prescribe antibiotics for Patient 2. The patient was discharged.

Ms. Pfeiffer stated that Patient 2 went home and continued to decline. His bouts of nausea and vomiting increased and worsened. He couldn't keep food down, and his blood sugar levels worsened. Finally, on March 10, it's getting very serious. Patient 2 and his wife decided that he had to go to the hospital. They did not want to go back to MedCentral, so they came to OSU Hospital in Columbus. When they got there,

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OSU quickly transferred Patient 2 to Riverside because he needed surgery on his hand. The surgery that he needed was to drain an infection on his wrist. Shortly thereafter there was surgery to drain an infection in his leg. Ms. Pfeiffer stated that it turned out that Patient 2 was suffering from a staph infection in both his blood and his urine. He was treated at Riverside Hospital. At times he appeared to be improving, but then he declined. Ms. Pfeiffer stated that, unfortunately, on March 30, Patient 2 died from the complications of the staph infection.

Ms. Pfeiffer stated that this case is, in part, a standard of care case for Dr. Kannapiran's failure to advise Patient 2 of his elevated white blood cell count and his failure to prescribe the antibiotics. Ms. Pfeiffer commented that Dr. Kannapiran stated that he readily admitted to the Hearing Examiner that, because he got scared, he went back and altered the last seven office visits for Patient 2. He asked his employee, who is also a patient of his, to get Patient 2's records. He folded over the last several office visits and told his employee to make him some blank progress notes. She made the copies, brought them back to Dr. Kannapiran, who then altered them. Ms. Pfeiffer stated that Dr. Kannapiran readily admitted what he did because he got caught, because the employee was savvy enough to photocopy the original notes. If he hadn't have gotten caught, she doubted that he would have readily admitted it.

Ms. Pfeiffer stated that Patients 1 and 3 were employees of Dr. Kannapiran. Patient 1 testified that Dr. Kannapiran pulled out her chart after she told him that they were going to get an inspection and that neither she nor Patient 3 had their TB tests. She advised him that this issue came up before. Dr. Kannapiran asked patient 1 to pull the charts. She pulled the charts and Dr. Kannapiran proceeded to write in them that on March 18, 2006 he administered a TB test and that two days later the test, according to his report, was negative. Ms. Pfeiffer stated that one thing Dr. Kannapiran didn't realize at the time was that March 18 was a Saturday and the office was closed. Both patients testified that Dr. Kannapiran never administered a TB test to them.

Ms. Pfeiffer stated that Dr. Kannapiran's credibility is suspect at best. He is dishonest, he altered patient records, he indicated that he gave the original patient records to plaintiff's attorney in the wrongful death suit, yet he altered the records to the Board. Ms. Pfeiffer commented that she could surmise as to why. If the Board takes his license, he will lose his opportunity to practice and he can't earn money. He's maybe not as concerned with a malpractice carrier who will settle the case in a civil suit; but when it comes to this Board, he's scared. He altered them to make it look good, that he did not practice below the standard of care. He clearly was.

Ms. Pfeiffer stated that one of the allegations was that Dr. Kannapiran violated the A.M.A. Principles of Medical Ethics, which requires physicians to be honest in all professional interactions. After hearing all of the evidence and reviewing the transcripts, it's beyond clear that Dr. Kannapiran is not honest. His moral compass is shattered. Ms. Pfeiffer stated that it is the Board's job to protect the public, and the only thing the Board can do is to uphold and approve the recommendation of permanent revocation.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF KANDHASAMY KANNAPIRAN, M.D. DR. STEINBERGH SECONDED THE MOTION.**

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

Dr. Steinbergh stated that she absolutely agrees with the Findings of Fact and Conclusions of Law in this case. There were multiple examples of his forgery in Patient 2's records. He clearly allowed this patient to be discharged with an increasing white blood cell count. He never addressed this increasing infection with this diabetic patient. Dr. Steinbergh stated that she also agrees that he falsified records in regards to the PPD tests for the other two patients, who were his employees. Dr. Steinbergh stated that she agrees with the Proposed Order of permanent revocation.

Dr. Varyani stated that everything Ms. Pfeiffer said was to the point. Dr. Varyani stated that all he has to say to Dr. Kannapiran is that, if he could say he was sorry to Patient 2, he would be lenient. Dr. Varyani stated that he otherwise totally agrees with the Proposed Order, and urged its adoption.

Dr. Buchan stated that he agrees with the Findings of Fact, and he agrees that it is an incredible minimal standards issue when a doctor "doctors" the records. The Proposed Order is appropriate.

Dr. Steinbergh stated that sometimes the Board sees cases where it has to evaluate multiple, multiple charts to come to this decision. Sometimes there is one case that is so egregious, and demonstrates such low standards, that the Board can do nothing other than to permanently revoke his license. It has to be a reflection of his care of others. There's no question in her mind.

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

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

The motion carried.

ALI KHAN, M.D.

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

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

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Dr. Khan was accompanied by his attorney, Eric J. Plinke. Mr. Plinke stated that he filed objections, which he's sure the Board members have read. He stated that this case is not one where there are factual disputes. Rather, what he is stressing are the mitigating circumstances that were presented in this case: the physician self-reporting his bad conduct, his lack of any professional disciplinary history, and his demonstration of remorse for his wrongdoing.

Mr. Plinke stated that the remainder of his objections were dedicated to the issue of whether the proposed discipline in this case is similar to the discipline taken by this Board in other cases. He stated that he struggled in finding a case of similar factual nature. He could not find any record of other petty theft misdemeanor convictions that have come before the Board. What he was forced to demonstrate were cases where the circumstances underlying the misdemeanors were much more aggravated and the physician had received much less discipline.

Mr. Plinke asked that, after examining the mitigating circumstances presented by Dr. Khan and comparing this case to the other cases that were even more aggravated, the Board stay the suspension so that the discipline is, at a minimum, consistent with even more aggravated cases.

Dr. Khan stated that he's not here to contest the facts. He's just asking for leniency. What he did was wrong, but he self-reported it to the Board the next day. He also called the nurse the next day. Dr. Khan asked for leniency, stating that a suspension would lead him to bankruptcy. His brother and his sisters are on student visas and cannot work. They will be forced to abandon their education.

Dr. Khan stated that for the past year and a half, his practice has been based only on credit cards and checks. There has never been a single discrepancy. He protects the public and he can be trusted. He stated that he knows that the laws are the laws, but he's begging the Board to look at the spirit of the law to give him a second chance. Dr. Khan stated that he is sorry.

Mr. Plinke stated that he thinks the record before the Board demonstrates that Dr. Khan is not a bad person. He did a bad act. He reported it to the Board. He admitted it to the police upon their inquiry. He pled guilty to the petty theft, he paid a fine and he paid restitution. Dr. Khan spent 30 days in jail for this petty theft conviction. Mr. Plinke stated that he's not saying that the Board shouldn't discipline Dr. Khan. He stated that putting Dr. Khan on probation and staying the proposed suspension would be consistent with what has been done previously. Mr. Plinke stated that if Dr. Khan is suspended, he would lose his position with the emergency room group and he would lose his private practice. There's no way he could shut it down for a year and bring it back up again. Mr. Plinke stated that, in light of the circumstances, and not to understate Dr. Khan's bad conduct, he felt that the Proposed Order would be an undue hardship in comparison to some of the other Board Orders.

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

Mr. Wilcox stated that he has had a chance to review the Report and Recommendation, and he also had a chance to review the objections filed on behalf of Dr. Khan. He stated that he has a few comments regarding this case.

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Mr. Wilcox stated that he believes in this matter that at hearing, if you look at the record, it's pretty evident that Dr. Khan tried to minimize his behavior as a petty theft offense that occurred away from his workplace, when he filled up his Mercedes with gasoline at that gas station in Woodville, Ohio. Mr. Wilcox stated that he thinks that the facts in the record show that Dr. Khan committed this theft offense at Tiffin Mercy Hospital in the emergency room, when he was on duty. He stole the Visa credit card from the nursing supervisor who worked with him in that hospital. Ms. Myers was a co-worker who trusted Dr. Khan implicitly up until that date. Mr. Wilcox stated that this certainly qualifies as an act of moral turpitude, and he thinks that that is unquestioned.

Mr. Wilcox stated that the theft offense to which Dr. Khan pled guilty stated that he knowingly obtained or exerted control over the property without the consent of the owner or the person authorized to consent. In this case, that was Ms. Myers. Mr. Wilcox stated that, in this case, you have to look at where Dr. Khan exerted control over the property, and that was at the hospital. It's when he picked it up in the emergency department, right outside Ms. Myers' office. Mr. Wilcox stated that he doesn't think that there's any question that this offense occurred while on duty in the hospital. Mr. Wilcox stated that it certainly fits within the definition of committing a misdemeanor in the course of practice.

Mr. Wilcox at this time referred to the Judgment Entry in this case. The Honorable Steve C. Shuff of the Seneca County Common Pleas Court explained in his Judgment Entry that the defendant, Dr. Khan, is no longer permitted to practice medicine in Seneca County, Ohio. Mr. Wilcox stated that it's pretty obvious from that Order that the Judge in this case felt that this clearly implicated his ability to safely practice medicine in the State of Ohio.

Mr. Wilcox stated that he believes that the Recommendation of the Hearing Examiner in this case is appropriate.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ALI KHAN, M.D. DR. MADIA SECONDED THE MOTION.**

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

Dr. Egner stated that she does not agree with the Report and Recommendation in this case, adding that she does not find this an act of moral turpitude, but does find it the most incredibly stupid act. Dr. Egner stated that she doesn't know that, had Dr. Khan not been caught, he wouldn't have used that credit card time and time again. She stated that she doesn't know the answer to that. Dr. Khan got caught on camera, putting gas in his car. Dr. Egner stated that she doesn't think that Dr. Khan will do something like this again. He was cooperative with the police, he notified the Board, and those things mean something to her. Dr. Egner stated that she thinks that Mr. Plinke's objections are pretty commanding, when the Board looks at other cases it has had that involve incredibly questionable and bad behavior on the part of a physician.

Dr. Egner stated that, for her, it doesn't become a question of whether or not this was in the course of practice, it was the wrong thing to do. He knows it was the wrong thing to do. Dr. Egner stated that she

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thinks that the Court punished Dr. Khan pretty severely, and she's not sure why that is. There's nothing in the record that says that there was a particular reason that this occurred. Dr. Egner stated that she looks at the previous cases cited where the Board reprimanded with probationary terms, and she thinks that the Board should do the same in this case and that Dr. Khan should also take an ethics course.

Dr. Steinbergh stated that she does feel that this was an act of moral turpitude during the course of practice. Dr. Khan found a credit card that belonged to one of his colleagues in the emergency room. He did not return it. Dr. Steinbergh stated that she found Dr. Khan's argument in court to be inappropriate. He stated that he did not look at the name on the credit card, but used it not knowing whose credit card it was. Dr. Steinbergh stated that she does think that this act was in the course of practice, even though it did not involve patient care. He was practicing medicine at the time this occurred. Dr. Steinbergh stated that she doesn't think that people with a good moral standard or ethical standard do this. On the other hand, what he did was a very foolish thing. She feels that the Court appropriately handled Dr. Khan's case. Dr. Steinbergh added that she disagrees with the Proposed Order because she does think that the Court has handled it somewhat and that the Board could be a little more lenient. She stated that she has an alternative Order she would like to submit.

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

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Ali Khan, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Khan's certificate shall be SUSPENDED for a period of thirty days.
- B. **PROBATION:** Upon reinstatement, Dr. Khan's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:
  1. **Obey the Law:** Dr. Khan shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Declarations of Compliance:** Dr. Khan shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Khan's certificate is reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
  3. **Personal Appearances:** Dr. Khan shall appear in person for an interview before the full Board or its designated representative during the third month

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following the month in which Dr. Khan's certificate is reinstated or as otherwise directed by the Board. Dr. Khan shall also appear upon his request for termination of the probationary period, and/or as otherwise requested by the Board or its designated representative.

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

In addition, at the time Dr. Khan 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 medicine in the future.

5. **Absence from Ohio**: Dr. Khan shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
6. **Noncompliance Will Not Reduce Probationary Period**: In the event Dr. Khan 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.

- C. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Khan's certificate will be fully restored.
- D. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Khan shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Khan shall provide a copy of this Order to all employers or entities with which

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he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Khan receives from the Board written notification of his successful completion of probation.

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, Dr. Khan shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Khan shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Khan 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 Dr. Khan receives from the Board written notification of his successful completion of probation.

**EFFECTIVE DATE OF ORDER; IMMEDIATE RESTRICTIONS:** This Order shall become effective 30 days from the date of the mailing of notification of approval by the Board, except that Dr. Khan shall not undertake the care of any patient not already under his care in the 30-day interim.

Dr. Steinbergh stated that she doesn't think that a reprimand is enough in this case. She thinks that it's an immoral act to steal from someone, to use the credit card and pretend that he didn't know what he was doing. Dr. Steinbergh stated that she finds that very offensive. Dr. Steinbergh stated that she does feel that her alternative order is lenient, noting that it does fall below the minimum guidelines, but she also thinks that it is fair.

Dr. Varyani stated that he knows that Dr. Khan has paid his dues a little bit. He stated that when he read the case, he felt that the Proposed Order was light, but he was going to agree with it. As things have unfolded, after reading the case again, he finds that there is a question as to whether Dr. Khan really found the credit card or took it from the purse. He stated that that bothered him. He was also disturbed by Dr. Khan's statement in Court that he didn't know whether he was using the nurse's card or his own. Dr. Varyani stated that he finds that to be incredible. Then Dr. Khan said that he called it in, but there was no message on the nurse's phone that he called in. Everything happened once he got caught. He was smart enough to self-report to the Board. Dr. Varyani stated that he finds it very disturbing that an emergency room physician would take the nurse supervisor's credit card, go ahead and make purchases with it, not report it, and only report it after he was caught by the police. Dr. Varyani again stated that he finds it offensive that a physician took a nurse's credit card, and Dr. Varyani added that he knows that Dr. Khan did this knowingly, and held it for the whole day without returning it. He stated that he cannot understand how Dr. Khan could not have given the card back to the nurse.

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Dr. Varyani stated that he struggled with everything, and felt that the initial Proposed Order was light. He stated that he cannot agree to a 30-day suspension.

Dr. Madia stated that he agrees with what Dr. Varyani has said. He stated that there is one thing he cannot comprehend. He doesn't understand how the Judge could say that Dr. Khan is not fit to practice medicine in Seneca County. If you're not fit to practice in one county, why would you be fit to practice in a different county? Dr. Madia stated that he agrees with Dr. Varyani's disbelief that Dr. Khan didn't know he had the nurse's card. Dr. Madia stated that he believes that Dr. Khan purposely took the card to use, which he did. Once he was caught, he found all these excuses. At the same time, he will agree with Dr. Steinbergh's amendment.

Dr. Amato stated that he agrees with Dr. Egner that what the Board sees here is a crime of incredible stupidity. He also agrees with Dr. Steinbergh that Dr. Khan has been punished by the court system for the criminal part and if, in fact, he served 30 days in jail, Dr. Khan's license was suspended for 30 days. Dr. Amato commented that he doesn't believe that Dr. Khan could have practiced in jail. Dr. Amato stated that Dr. Steinbergh's resolution of adding another 30 days' suspension is a pretty severe punishment for his stupidity. Dr. Amato added that he agrees with Dr. Steinbergh that stealing is an act of moral turpitude, whether it happened in the course of practice or not.

Dr. Kumar asked whether there was a second to Dr. Steinbergh's motion.

**DR. MADIA SECONDED THE MOTION.**

Dr. Kumar asked whether there was further discussion on the amendment.

Dr. Buchan stated that, aside from the fact that the Board members all agree that this was a very stupid act, at issue with him is the character of this physician and whether or not the Board should trust him to practice another day, much less another 30 days. Dr. Buchan stated that there's no question that Dr. Khan stole the credit card, and that it happened in the course of practice. Dr. Buchan stated that Dr. Khan's argument that it wasn't in the course of practice because he used it a half an hour later is a ridiculous argument. Dr. Buchan stated that he will go along with the proposed amendment, but he feels that this was beyond stupidity on Dr. Khan's part. He stated that, to him, this is at one's core. Dr. Buchan stated that Dr. Khan needs at least 30 days out of practice to think about that core.

Dr. Talmage left the room during the previous discussion.

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

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

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Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion carried.

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

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

The motion carried.

KOLLI MOHAN PRASAD, M.D.

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

Dr. Kumar continued that a request to address the Board has been timely filed on behalf of Dr. Prasad. He added that he has also granted Dr. Prasad's request to allow his sons to speak on his behalf; however, their address will be limited to the matter at hand. Five minutes will be allowed for Dr. Prasad's entire address, including that of himself, his attorney and his sons.

Dr. Prasad was accompanied by his attorney, Beth Collis, and his son, Harsha Kolli. Ms. Collis thanked Dr. Kumar for allowing Dr. Prasad's family to testify. She stated that, given the limited amount of time, they do have a written statement from one of Dr. Prasad's sons and from his wife that she would like to distribute to the Board members. Dr. Prasad will give his statement today, as will his oldest son. Ms. Collis asked whether she may distribute the statements to Board members.

Dr. Kumar asked whether the State has any objection.

Ms. Pfeiffer stated that she would object. She added that if Dr. Prasad's son and spouse wanted to address the Board, that would have been fine. She stated that a written statement is testimony that she has not an opportunity to cross examine. Ms. Pfeiffer stated that these statements were just e-mailed to her this

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morning, and she hasn't had an adequate opportunity to look at the statements and she doesn't think it's appropriate for the Board to take it into consideration at this time.

Dr. Kumar denied Ms. Collis' request to distribute the written statements.

Ms. Collis indicated that she understands. She stated that the statements were mainly offered to try to stick within their five minutes.

Ms. Collis stated that they are here today with Dr. Prasad. She stated that she wants to make it clear that this is not a case of a relapse. Dr. Prasad has not relapsed. He has remained sober for more than ten years. She stated that the matter today involves Dr. Prasad starting work at a V.A. Hospital in Iowa City in January 2007 before submitting a practice plan to the Board with the name of a monitoring physician and a site for his weekly collections. Ms. Collis stated that Dr. Prasad did believe that he could do his screens at the V.A. Once he arrived there, he was advised that, because he was a part-time employee, he could not do his screens there. Within one week he was able to find a testing site, but he did miss one week of screens.

Ms. Collis stated that Dr. Prasad also believed that he could very quickly find a name and CV of someone to be his monitoring physician. Within one week he contacted Ms. Bickers and advised that he had moved to Iowa City and that he had been advised very quickly of their need and that they needed him immediately. Within one week he submitted to the Board the name of a monitoring physician, his CV, and a practice plan. Stanley L. Parker, M.D., was approved by the Board to be Dr. Prasad's monitoring physician, and he did monitor his practice throughout the limited time period Dr. Prasad was in Iowa City.

Ms. Collis stated that the Iowa City position was a term position that he only had for several weeks. Since that time, Dr. Prasad has been offered three other employment positions. In each of the other employment positions, Dr. Prasad did submit a practice plan to the Board before moving or accepting employment. In each of those instances, the Board has approved the practice plan. In the case of a Knox County position, which Dr. Prasad is scheduled to begin work on December 13, he has submitted a practice plan to the Board, it has been reviewed by Dr. Talmage, and it has been provisionally approved by the Board.

Ms. Collis stated that their position is that, although there was an issue in that the practice plan had not been submitted and approved by the Board prior to Dr. Prasad's moving to Iowa City, they believe that this was a unique situation and, since then, Dr. Prasad has followed the requirements of this Board and received approval prior to accepting any employment. Ms. Collis stated that she believes that Dr. Prasad has corrected any problems that the Board had. She again stated that this was not an instance of relapse.

Mr. Harsha Kolli, Dr. Prasad's son, at this time addressed the Board. He stated that he appreciates the opportunity to address the Board on behalf of his father. He added that he speaks for his entire family, adding that he's sure that each of them would like to have five minutes of their own, but they're trying to cram everything into the five minutes, so they had prepared written testimony. He stated that his mother had provided a heart-felt statement, and his brother had provided a narrative of a very good man. Mr. Kolli stated that the Board will see that, in this case, his father does have full-fledged support from his personal relationships, in addition to his professional peers.

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Mr. Kolli stated that over ten years ago his father did begin his dealings with the Board voluntarily and without any blemishes on his record. His two younger children were in high school, and Mr. Kolli was in a six-year medical program prior to switching career tracks. He advised that, ten years later, his father is still dealing with the Board, and still, though with some disciplinary action in the record, has no blemishes on his professional record. Ten years later, there has been no relapse. Mr. Kolli stated that Dr. Prasad's personal relationships are extremely strong. There has been no incidental exposure. He stated that the Board will find only positive evidence and positive testimony on behalf of his father that he's not had a single drop of alcohol in ten years. The Board will also find that for ten years Dr. Prasad has had an unblemished professional record. In fact, in the past two years alone he has had only glowing testimony from his professional peers in Ohio, Illinois and Iowa.

Mr. Kolli stated that, since 2004, his father and family have overcome severe hardships and no issues of relapse are of concern. The mitigating circumstances do include multiple back surgeries, a car accident, three heart attacks, the last coming days after last month's hearing, and a brother lost to cancer.

Mr. Kolli stated that, as Ms. Collis has advised, today's meeting results from a complex set of circumstances. He stated that he won't go into those, but he does want to say that, on behalf of his father, all his family were involved in trying to help his father follow the proper protocols, the proper procedures and the proper paperwork. Unfortunately, they didn't execute properly. Their checklists were brand new and their communication lines were not perfect. He asked that the Board consider that, since Dr. Prasad's first real job in many years, they have subsequently had three properly presented practice plans and three subsequent opportunities. Two of those opportunities have backed out until some of the dealings with the Board have passed. The third is ready to go and was approved by Dr. Talmage a couple of weeks ago.

Mr. Kolli stated that his father and the Board share the same goals. He asked that the Board conclude that his father is a strong supporter of the Board, and he's an example of the Board's strong support for Ohio's best physicians, and he's a role model for his family, as well as for physicians who are looking to defeat their own demons and become valuable contributors to the community.

Mr. Kolli thanked the Board for the opportunity to testify.

Dr. Kumar noted that the time is up for Dr. Prasad's address. He asked whether the Assistant Attorney General wished to respond.

Ms. Pfeiffer stated that she did.

Ms. Collis asked for one more minute for Dr. Prasad to address the Board.

Dr. Kumar granted Dr. Prasad one more minute.

Dr. Prasad thanked the Board. He stated that he is here today because he violated his Consent Agreement of 1998. At the same time, he's happy that he's enjoyed a decade of sobriety with serenity. He stated that he wants to briefly explain what happened. He advised that on January 17 he was approached by an employment agency to ask whether he was willing to cover several weeks at the V.A. Iowa Medical

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Center. He stated that he would. They advised that the job would start in February, so that he would have time to get approval from the Medical Board. On January 19 the agency called him and asked whether he could start on January 22 because one physician had surgery a couple of weeks before and he was still recovering in the hospital and might not be back for a few weeks or a few months. Another physician had to leave because her mother had Alzheimer's.

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

Dr. Prasad stated that this other physician had to take care of her mother. He agreed to start on January 22, and he tried to call Ms. Bickers, but could not reach her. He got to Iowa and started work on the 22nd. Dr. Parker was there, but left because he wasn't feeling well. Dr. Prasad stated that he didn't want to bother Dr. Parker when he was so sick. When Dr. Parker came back to work, Dr. Prasad advised him about what was going on and that he needed to get his urine checked. Dr. Prasad stated that he was sent to Employee Health, but he couldn't get his urine screens done there because he was only a temporary employee. Dr. Prasad also advised Dr. Parker that he would need Dr. Parker's CV for Board approval. He got that CV and sent it to the Board on January 26.

Dr. Kumar advised Dr. Prasad that the Board has this information. He again asked Dr. Prasad to conclude his statement.

Dr. Prasad stated that he doesn't think that he did anything fraudulent. He didn't do anything of moral turpitude. He didn't try to gain anything financially, and he didn't do anything unlawful. He again stated that he has enjoyed a decade of sobriety. He stated that, in trying to help take care of the soldiers in the V.A., who were fighting and giving their lives for the country, he thought he was meeting their needs and his, and that he could satisfy the Board Order by the following week, which he could not do.

Dr. Prasad stated that he doesn't mean to defy the Board, adding that he respects the Board. He takes the Board's advice and orders very seriously. Dr. Prasad stated that this was an honest mistake on his part, and he apologized to the Board.

Ms. Pfeiffer at this time addressed the Board. She stated that she's not usually at a loss for words, but she finds addressing the Board on this case to be a little challenging. She stated that the Board has two primary options in its consideration. This is a physician who has repeatedly failed to do what the Board has ordered him to do. On the other end, the Board has a physician who can't quite cross the T's and can't quite dot the I's. Ms. Pfeiffer stated that one thing that stands out in this recent case is Dr. Parran's testimony on behalf of Dr. Prasad that he told Dr. Prasad to go ahead out to Iowa and that the V.A. Hospital would set up his screens for him. Ms. Pfeiffer stated that she believes that it was because Dr. Prasad was not a permanent employee at the V.A. Hospital, they could not do the urine screens for him. Dr. Prasad had to find someone else, and he did.

Ms. Pfeiffer stated that the question before the Board is whether it will handle Dr. Prasad as this person who has been before the Board so many times and just can't quite do what the Board says, so the Board is tired of dealing with him and permanently revokes his license; or is the Board considering him as a physician who is learning how to cross the T's and dot the I's and wants to let him go, no longer interested

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in regulating him. Ms. Pfeiffer stated that the Board has that range there.

Ms. Pfeiffer advised that one of the Board's options is to do no further discipline at this point in time. The Board knows how to permanently revoke, suspend or limit a license. The Board's rules give it another option. It can take no further action. The Board can find that Dr. Prasad did violate his agreement and that the State proved its allegation against Dr. Prasad, but declines to impose any disciplinary sanction. Reading from the Board's rule, Ms. Pfeiffer stated that:

“No Further Action” means that the board finds that a violation occurred but declines to impose any disciplinary sanction. No further action shall be ordered by the board under circumstances where the board finds that all necessary remedial measures have been completed by the certificate holder, future monitoring is unnecessary and reprimand is not warranted.

Ms. Pfeiffer stated that she would offer this as another option for the Board to consider in its deliberations.

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

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

Dr. Egner stated that she feels exactly the same way she felt in November 2006. She doesn't agree with Dr. Prasad, she does not admire him, and she does not find him to be a very respectful individual. Dr. Egner added, however, that the Board's charge is to protect the public. The initial problem in this case was Dr. Prasad's impairment. She added that there is no evidence that Dr. Prasad has relapsed since 1998. Dr. Egner indicated that, if the Board imposed the five years' probation it currently imposes for impaired physicians at the time Dr. Prasad first came before the Board, he would have been away from the Board three years ago. Dr. Egner stated that Dr. Prasad needs to be away from the Board, and it needs to be away from him.

Dr. Egner stated that the Board is doing no good here. She stated that the issue is not that Dr. Prasad is relapsing. The issue is that, for whatever reason, Dr. Prasad cannot or will not follow the Board's rules. Dr. Egner stated that she has no faith that he will follow them again, but asked whether it is worth a permanent revocation.

Dr. Egner stated that she reviewed Dr. Prasad's record to see how egregious his errors were. Since he was last before the Board in November, he was required to go to 30 A.A. meetings, and he went to 29; he was required to do ten drug screens, and he missed two, one being the one in Iowa City, where he thought he would be able to do it at the VA Hospital. Dr. Egner stated that it's not that Dr. Prasad is totally blatant in disregarding his probationary terms, but he can't do it 100%.

Dr. Egner stated that she doesn't understand Ms. Pfeiffer's last statement about “no further action.” She asked whether the Board can do that and let Dr. Prasad go, or is she stating that, for this particular incident

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the Board can find that there was a problem but will take no action for this.

Ms. Pfeiffer stated that that is correct. She added that the Board can choose to revisit the November 2006 Order and possibly vacate it or leave it in effect.

Dr. Egner stated that she thinks the November 2006 Order should be vacated. She stated that the Board isn't protecting the public at this point, and the Board is wasting an incredible amount of time and resources on someone that she doesn't really think needs the Board's time. Dr. Egner suggested that the Board take no further action today and vacate the November 2006 Order.

Dr. Varyani stated that he totally agrees with Dr. Egner. He noted that the only problem Dr. Prasad has is compliance with his probationary terms. He just simply cannot cross the T's and dot the I's. He stated that Dr. Prasad just simply cannot do it. If Dr. Prasad has been sober for eight years, what is the Board trying to do? Dr. Varyani stated that he thinks that the Board should take no further action and release Dr. Prasad from probation.

Dr. Steinbergh stated that the message is that if a physician comes before the Medical Board and can't comply with a consent agreement, the Board will just let it go. Dr. Steinbergh stated the objections submitted on Dr. Prasad's behalf included the minutes of the Board's discussion in November 8, 2006, where the Board debated about Dr. Prasad. He simply will not comply with his consent agreement. The Board talked a little bit about the fact that, historically, when physicians are not compliant, the Board finally has to revoke their licenses. She noted that Dr. Varyani stated that non-compliance is the same as a positive urine screen.

Dr. Varyani acknowledged that. He added that the threat of a stayed permanent revocation is that the Board will take a license away. He stated that the Board's job is to make sure that the impairment is gone and that the physician is working, as Dr. Prasad is now.

Dr. Steinbergh stated that Dr. Prasad has not demonstrated any respect for this Board or for his license. When that phone call came, he knew that he could not go and take a job without a simple phone call. It would have taken one phone call to the Medical Board. The Secretary and Supervising Member could have approved it until the next Board meeting and then the Board would take a look at it. No simple phone call was received. Dr. Prasad has an ability to say, "no." He has the ability to say to these people that he can't come to Iowa until he gets the Board's approval, so he can't be there by Monday. Dr. Steinbergh noted from Dr. Prasad's history the number of times the Board has had to deal with his non-compliance.

Dr. Varyani stated that he's looked at that, as has Dr. Egner. Dr. Varyani stated that he's not trying to defend Dr. Prasad. He asked whether the Board should revoke the license of a physician who has remained sober, simply because he didn't call the Board.

Dr. Steinbergh stated that it should.

Dr. Varyani stated that he doesn't feel that way.

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Dr. Steinbergh stated that he shouldn't have said it in November if he didn't mean it.

Dr. Buchan stated that Dr. Prasad is an alcoholic; therefore the Board needs to monitor him. Because of his non-compliance, the Board has become so familiar with him that many of the Board members feel that he may not be an alcoholic. That's not because he's compliant, but because he continues to make a presence here, and some Board members are persuaded by his presence time and time again that he really may not have an impairment issue at this moment. Dr. Buchan stated that, if the tools of the Board's monitoring process are valid, and he would suggest that they are, Dr. Prasad has failed. The Board has tools in place to protect the public, and which the Board has suggested time and time again are how the Board assesses people in their sobriety. Dr. Prasad is not responding to the Board's tools. The Board can't monitor this man. Dr. Buchan stated that enough is enough, and his sense is that the Proposed Order, as written, is appropriate.

Dr. Amato stated that he thinks that the Board should be consistent. Two months ago the Board saw a young physician who had missed a urine screen and the Board didn't revoke his license. He was very early in his chemical dependency. If the Board's job is to protect the public, he believes that, from what he found in the record, there was no instance where Dr. Prasad tested positive. Dr. Amato stated that he would agree that Dr. Prasad is certainly not 100% compliant; but when he was, he was certainly not positive in any of his testing. Dr. Amato stated that he finds it hard to revoke the license of a physician nine years into a plan for not turning in a urine specimen.

Dr. Steinbergh stated that, in her mind, it's not because of a missed urine specimen. It's because Dr. Prasad knows that he has to have an approved practice plan before he goes to practice and the inconsistency over the years for Dr. Prasad. One of the inconsistent things is that he doesn't allow himself to be properly monitored. She stated that that's the point that Dr. Buchan is making about Dr. Prasad's impairment. The previous Board Order imposed a stayed permanent revocation. Dr. Steinbergh added that the minutes of November 2006 are clear that it was the Board's intent to permanently revoke Dr. Prasad's license should he be noncompliant in the future. Dr. Steinbergh stated that if the Board doesn't intend to do something, then it shouldn't say that it will. She expressed concern that the message the Board is projecting is that if you don't comply with the Board, eventually they'll just let you go.

Mr. Browning stated that the Board has been around this horn so many times. Playing off Dr. Steinbergh's last comment, Mr. Browning asked what Dr. Prasad's intent is. Is his intent to dismiss the Board and not follow the Board's Order on purpose? If that would be true, then he thinks that most Board members would be in favor of ending it, enough is enough. Or is the reason that he came before the Board no longer the reason he's still here? He's no longer engaged in the abuse of alcohol. He's incompetent in terms of following the Board's rules. Is that the problem? Is he incompetent? Is he just screwing up because he can't get it together? Mr. Browning stated that the latter isn't a great excuse, but it sounds like that's what's happened. He stated that the Board has been dealing with this physician for so many years that it's lost the cost benefit on this case. It's now dealing with a guy who can't or won't follow the Board's rules. Mr. Browning stated that he thinks this lands on that. If Dr. Prasad is incompetent, that's one thing. If he's intentionally thwarting the Board's rules, then it should permanently revoke his license. Mr. Browning stated that he just sees someone who is incompetent about following the Board's rules. Mr. Browning added that intent matters. Mr. Browning stated that he's either at, let's move on to the next case, keeping

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the Order as it stands today, or vacating the case. The Board is just wasting the taxpayers' money on this case.

**DR. EGNER PROPOSED TO AMEND THE PROPOSED ORDER IN THE MATTER OF KOLLI MOHAN PRASAD, M.D., TO ENTER AN ORDER TAKING NO FURTHER ACTION ON THE CURRENT CITATION, AND TO RELEASE DR. PRASAD FROM THE TERMS OF THE BOARD ORDER OF NOVEMBER 2006. DR. VARYANI SECONDED THE MOTION.**

Dr. Egner stated that she doesn't do this because she agrees with Dr. Prasad, but the Medical Practice Act does not force you to respect the Board. You can't be disciplined because you don't respect the Board. If Dr. Prasad is impaired and relapses, she hopes that someone will call the Board and inform the Board of the relapse. Dr. Egner stated that she just feels that this is a waste of the Board's time, and the Board is not protecting the public at this point.

Dr. Kumar stated that he would now entertain discussion on the amendment.

Dr. Steinbergh stated that she will vote against the motion. She asked who needs to hire a physician who is not competent enough to follow a Board Order. Does he demonstrate competency in medicine if he can't follow a Board Order by a licensing agency that licenses him? She stated that that just doesn't make sense to her.

Dr. Buchan stated that the message the Board sends if it adopts this amendment is frightening. It suggests that the tools the Board currently uses aren't valid. It suggests that if you are impaired and can remain sober, you don't really need to follow the rules that closely because the Board will bend and fold and eventually, if you persist long enough, they may even let you go. Dr. Buchan stated that that's not the protocol he would like to see in place. Dr. Buchan stated that he's tired of the recurrence issue, and he understands the fatigue and the cost benefit concepts, but at the end of the day Dr. Prasad did not comply. That's what the Board has on the table, and he suggested that Dr. Prasad's license be revoked.

Mr. Browning stated that it's not entirely black and white. It's not like he didn't follow any of the rules. He followed most of the rules, but didn't follow them all. Mr. Browning stated that the question in his mind is how important are the ones that he didn't follow, and why he did it. Mr. Browning stated that, for him, it goes to substance and intent and it's not as though Dr. Prasad thwarted the Board entirely and did nothing. In fact, the Board could argue that it succeeded on the fundamental point. He came here because he was an alcoholic, he was taken out of practice, he went through the Board's process, didn't do it perfectly, but mostly did it right. Mr. Browning added that he thinks that most of the Board members feel that he's sober and has been for years. The Board has no evidence to the contrary. So on the fundamentals, Dr. Prasad made it. On the details, including the important details, he didn't.

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

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

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Dr. Varyani	- aye
Dr. Buchan	- nay
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- nay
Dr. Steinbergh	- nay
Dr. Kumar	- aye

The motion carried.

**DR. EGNER MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF KOLLI MOHAN PRASAD, M.D. DR. VARYANI SECONDED THE MOTION.**

Dr. Kumar stated that he would entertain further discussion on the amended motion.

Dr. Buchan stated that he will vote against the motion again because he can't imagine vacating an order when non-compliance is at issue. He could make an argument for the first part of the amendment, but not the second.

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

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

The motion failed.

Dr. Kumar stated that the Proposed Order of permanent revocation is still on the table.

**MR. BROWNING MOVED TO AMEND THE AMENDED PROPOSED ORDER IN THE MATTER OF KOLLI MOHAN PRASAD, M.D., BY SUBSTITUTING AN ORDER OF NO FURTHER ACTION. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

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Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- nay

The motion carried.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF KOLLI MOHAN PRASAD, M.D. DR. EGNER SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Following the 3:38 p.m. recess of the Board, Dr. Kumar noted that he has been advised by staff of a problem with the Board's previous discussion, and would like to bring the matter back for Board reconsideration. Neither Dr. Prasad nor his attorney was present at that time.

Ms. Pfeiffer stated that she could explain the issue to the Board to help them with understanding it. She stated that one of the staff members noted that the law requires "aye" votes by six members to take disciplinary action, such as revoke, suspend or limit. However, releasing someone from the terms of an agreement or prior Board Order requires only a majority vote. She stated that, in effect, Dr. Egner's motion to find a violation, take no further action and vacate the previous Order did not require six votes, and carried by a vote of five.

Ms. Pfeiffer continued that the Board is not necessarily done there; the Order hasn't been drafted and it has not been sent out. Ms. Pfeiffer stated that she has been informed by Board staff that the Board still has the ability to move to reconsider the case, discuss it and come up with a different result. Right now, where the Board stands, Dr. Egner's motion carried and the Board has cut Dr. Prasad loose. She stated that if the Board moves to reconsider and the motion passes, she would suggest that the matter be tabled until January

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so that Ms. Collis can be contacted about the status so that she can be present.

Mr. Browning asked whether the Board always has the ability to change its mind, in effect.

Ms. Pfeiffer deferred to Ms. Thompson.

Ms. Thompson stated that the Board loses jurisdiction if an appeal is filed or once the appeal time has run. This Order hasn't even been issued, so the 15-day time clock hasn't even started to run. She added that, if someone makes a motion to reconsider before that time has run, it basically stops everything for reconsideration at the next Board meeting.

Mr. Browning stated that the Board can move to reconsider the matter and keep the Order as amended by his motion, or it could do nothing and Dr. Egner's amended Order carries.

Dr. Kumar stated that the only advantage of reconsidering the matter is that the Board's intent was to leave Dr. Prasad under the November 2006 Board Order.

Ms. Thompson stated that, if the Board members are uncomfortable about staying with "no action" and releasing him from his prior Order, then a motion to reconsider is needed.

Dr. Kumar asked for discussion on the motion to reconsider.

Mr. Browning asked whether, if there is consensus on the Board to maintain the Board's final decision, the Board can just do that now.

Ms. Pfeiffer stated that the Board could.

Ms. Thompson agreed. Where a problem would arise is if the Board reopens the case, meaning that it is starting all over again, and comes up with a different outcome from the one the Board thought it reached today without informing Ms. Collis that the matter was reopened.

**DR. BUCHAN MOVED TO RECONSIDER THE MATTER OF KOLLI MOHAN PRASAD, M.D.  
DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

**DR. MADIA MOVED TO AMEND MS. PETRUCCI'S AMENDED ORDER IN THE MATTER OF KOLLI MOHAN PRASAD, M.D., BY SUBSTITUTING AN ORDER OF NO FURTHER ACTION, AND CONTINUING DR. PRASAD UNDER THE BOARD'S ORDER OF NOVEMBER 2006. MR. BROWNING SECONDED THE MOTION.**

Dr. Egner stated that she doesn't like this. She noted that this is a public record, and she thinks that the Board should have more discussion. She noted that there were five votes to let that physician go, and now there's no discussion about this motion.

Dr. Steinbergh indicated that she is concerned about the danger of letting this person go at this stage. It gives the message that the Board doesn't mean what it says. This is going to go to a court, which will review the record, and the record will indicate that this Board has always given this man the message of permanent revocation should he not comply again, and now the Board is just saying, "just go ahead." Dr. Steinbergh stated everyone will appeal permanent revocation, stating to the courts that the Board never applied it to Dr. Prasad, that it just let him go. Dr. Steinbergh expressed concern about the Board's going down a very slippery slope in this case. She stated that this is a very dangerous thing to do.

Mr. Browning stated that in the earlier vote, he did vote to let Dr. Prasad go, but he was somewhere between on view and the other. He stated that he doesn't have a problem maintaining Dr. Prasad under the November 2006 Board Order, adding that it is a reasonable thing to do.

There was a brief discussion wherein concern was expressed about the advisability of proceeding with this case without first alerting Ms. Collis.

**DR. VARYANI MOVED TO TABLE THE MATTER OF KOLLI MOHAN PRASAD, M.D., UNTIL THE JANUARY 2008 MEETING. DR. BUCHAN SECONDED THE MOTION.** All members voted aye. The motion carried.

ROBERT ROWAN SUMMERS, D.O.

Dr. Kumar directed the Board's attention to the matter of Robert Rowan Summers, D.O. He advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

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

Dr. Summers was accompanied by his attorney, Eric J. Plinke.

Mr. Plinke advised that he filed no objections in this case because they agree with Mr. Porter's Summary of the Evidence, Findings of Fact and Proposed Order.

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Mr. Plinke stated that Dr. Summers has been under Board Step 1 and Step 2 consent agreements since March 2002, and had been compliant with those provisions until this past summer when he obtained a prescription for Ultram. Instead of having that prescription filled, he dispensed it to himself and used that medication. Mr. Plinke stated that the Board knows that the medication use was limited because the second urine test that was obtained was negative for Ultram.

Mr. Plinke advised that Dr. Summers went to Dr. Collins for evaluation and treatment, and Dr. Collins testified and opined that it was a depressive state that Dr. Summers was suffering that predisposed him to engaging in conduct that was a violation of his consent agreement. Dr. Collins did not find that there was impairment.

Mr. Plinke stated that Dr. Summers did testify about his divorce in 2006 and how he did not seek treatment as he probably should for the depression he was suffering. Mr. Plinke stated that, at hearing, Dr. Summers consented to the inclusion of terms regarding the psychiatric and mental health issues. Mr. Plinke stated that they obviously do not contest that, even though it was not in the notice letter, as they think that that is an important issue as to Dr. Collins.

Mr. Plinke again stated that they have no objections or disagreement with the Report and Recommendation.

Dr. Summers thanked the Board for its time and consideration. He apologized to the Board for the actions that led to this situation. He stated that he is clearly not here to try to mitigate or say that what the record reflects did not happen. It did. He remarked that he's a drug-dependent person, and his record clearly states that. Dr. Summers stated that, if he had to summarize it, he would have to say that his actions were not consistent with someone in active recovery. Dr. Summers stated that he's here to say that the Board's monitoring system does work.

Dr. Summers stated that he would like to discuss what has happened since that phone call of August 30. He went to Cleveland, and Dr. Collins suggested that he was in a negative state of existence. He was having some difficulty dealing with the end of a 20-year marriage. His 12-year-old daughter and he now live six hours away. Instead of admitting that and finding help for it, he denied it. He stated that that is absolutely not an excuse for what he did. Things are improving. Dr. Collins placed him on an antidepressant, they did some counseling, he has an upcoming appointment in Toledo for ongoing counseling. Dr. Summers stated that he is willing to adhere to whatever the Board feels is appropriate as far as discipline in this matter. He added that, short of permanent revocation of his license, he will be back and he will be compliant, if the Board allows him the privilege.

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

Mr. Wilcox stated that one thing he wants to point out on this case is, if you look at the entire abuse history of Dr. Summers, the recommendation of a 90-day suspension may be a little light. Mr. Wilcox stated that Dr. Summers was first treated for alcohol and drug abuse at Greene Hall/Peachtree Recovery in Atlanta, Georgia for three to four months in 1988. Dr. Summers then had a long period of sobriety for about ten years. He suffered an elbow injury and began using Ultram samples taken from work. He apparently had two seizures related to this abuse and was confronted by his spouse and coworkers. Mr. Wilcox stated that

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this would have been his first relapse and occurred sometime around the year 2000. Dr. Summers then went to a 28-day residential treatment program in Brighton, Michigan as a result.

Mr. Wilcox stated that in 2001 Dr. Summers began drinking beer and using Vicoprofen by writing and calling in scripts in his own name and a coworker's wife's name, as well. Mr. Wilcox stated that this was the second relapse. Dr. Summers' use was discovered in February 2002, and his Ohio license was suspended when he entered into his first Step 1 agreement with the Board. Dr. Summers went to Shepherd Hill for three months of inpatient treatment in February 2002. In April 2003 Dr. Summers entered into a Step 2 agreement and remained clean and sober until August 2007 when, again, the pattern was repeated. He had an injury, he was prescribed Ultram by a colleague, and rather than using the Ultram that was prescribed, he began self-medicating with samples at work and relapsed again.

Mr. Wilcox stated that he won't suggest a penalty to give Dr. Summers, but he feels that, given Dr. Summers' history, the guidelines for a second relapse recommend treatment followed by a one-year suspension.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ROBERT ROWAN SUMMERS, M.D. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Steinbergh stated that she would like to discuss the proposed suspension time. She stated that she thinks that Mr. Wilcox makes an excellent point. There is one correction that she would like to make. She referred to page 16 of the Report and Recommendation, noting that the second paragraph under the five stars states, as follows:

The Proposed Order suspends Dr. Summers' certificate for 90 days, the minimum required under Rule 4731-16-02(D), Ohio Administrative Code, followed by a period of probationary monitoring for at least five years to ensure that Dr. Summers re-establishes a record of recovery before being released from Board oversight.

Dr. Steinbergh stated that five years of probation is traditional for this Board in order to establish a record of recovery before being release. She noted, however, that the Proposed Order sets the period of probationary monitoring for two years, rather than five.

Dr. Steinbergh added that she thinks that the Board needs to discuss whether or not a three-month suspension is appropriate for this type of relapse. She stated that she's pleased that Dr. Summers is getting mental health care, and she hopes his depression will improve. Dr. Steinbergh noted that a dual diagnosis of depression and alcoholism is a very difficult diagnosis to overcome. She stated that Dr. Summers will be at this a long time.

Dr. Varyani stated that it seems like Dr. Summers jumps off the wagon every five years. He suggested that, instead of suspending Dr. Summers' license for more than 90 days, the probationary period should be

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increased to more than five years. Dr. Varyani stated that he was impressed by Dr. Summers' affect today.

Dr. Egner stated that she appreciates what Dr. Summers has to say, adding that he seems to take an honest look at himself; but she looks at this case and Dr. Summers' first treatment was 20 years ago. She doesn't know at what point the Board says "enough." Dr. Egner stated that she doesn't want to say that today, but Dr. Summers has a long, long history of impairment, and there will be some time when the Board says that you just won't recover. There may come a time when the Board says that it is, perhaps, medicine that is causing him relapse and that he should find something else to do.

Dr. Egner stated that she agrees with Dr. Varyani that the probation rather than the suspension should be lengthened.

**DR. VARYANI MOVED TO AMEND THE PROPOSED ORDER TO INCREASE THE PROBATIONARY PERIOD TO SEVEN YEARS. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF ROBERT ROWAN SUMMERS, D.O. DR. AMATO SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

Dr. Kumar at this time advised that the Board would need to recess to meet with the Governor at the State House later in the meeting. He stated that, for that reason, he would proceed with the Probationary Appearances and continue with the Reports and Recommendations following the recess.

#### PROBATIONARY APPEARANCES

##### JOANNE POJE, M.D.

Dr. Poje appeared before the Board pursuant to her request for release from the terms of her December 11, 2002 Step II Consent Agreement.

In response to Board member questions, Dr. Poje stated that she's requesting release from probation, adding that she wants to try to get back with her life and try to get her certifications back. She would like to start some new positions that weren't available to her while she was on probation. She stated that she is doing very well. She stated that she's been in psychotherapy for the past six years. She's worked on handling stress.

Dr. Poje stated that she hasn't been able to go back to her specialty of OB/GYN, and it took her a while to get over her not being able to find a position in her specialty, but she's learned acupuncture, and she's doing addiction medicine. She hopes to get certified in addiction medicine. She stated that she's found some things that are equally satisfying to her previous specialty, and added that she's happy doing these things. She again stated that it was hard to get over not getting back to the OB/GYN, but she doesn't think that she was really that happy when she was doing that type of practice. She was very stressed and overworked. Dr. Poje stated that maybe all this happened for good reasons, noting that she's found other avenues to do different types of medicine.

Dr. Steinbergh stated that the information provided to the Board indicate that Dr. Poje plans to start a new job in an urgent care facility in Chillicothe.

Dr. Poje stated that she's been doing that, but she's actually now looking at an urgent care position in Dayton.

Dr. Steinbergh stated that the information the Board has is that that includes some primary care. She stated that primary care is a wonderful profession, and Dr. Poje may do some gynecologic care within the primary care position. She stated that that could be rewarding to her without the surgical responsibilities.

Dr. Poje agreed.

In response to further questions, Dr. Poje stated that she hasn't been on medication for two and a half to three years. She sees her therapist once a month and will continue to do that. It helps in reducing stress; she has somebody to vent out to and speak to. It's therapeutic and it's helped her.

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Mr. Albert stated that Dr. Poje has been a good probationer, and added that she hasn't had an easy time. She had a hard time getting a job. Mr. Albert stated that he had a hard time getting her to smile, but she's doing it now.

Dr. Poje stated that Mr. Albert has been wonderful, and she thanked him for his help and his support.

Mr. Albert stated that he hopes that, now that Dr. Poje is leaving the Board, she'll keep her good health and find herself a good job.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON NOVEMBER 13, 2007, AND TO RELEASE DR. POJE FROM THE TERMS OF HER DECEMBER 11, 2002 STEP II CONSENT AGREEMENT. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

STEVEN F. GREER, M.D.

Dr. Greer appeared before the Board pursuant to the terms of his Superseding Step I Consent Agreement of August 9, 2007, and the Board's motion of September 12, 2007.

Dr. Steinbergh stated that Dr. Greer has just heard the Board go through a discussion on non-compliance. She stated that he's a young man with a good career in front of him. He simply needs to comply with the terms of his consent agreement. She asked how things are going at this point.

Dr. Greer stated that they are going well from a recovery standpoint. He has a bigger support group of people upon whom he can call every day.

Dr. Greer advised that he did have an issue that has been resolved. He got a letter from his monitor in Cleveland that addressed one of the urine samples that didn't come through. He advised that he's tried to take measures since then to avoid that problem. He's going to a new lab to drop his urine specimens. He stated that his monitoring physician is his primary care physician and he was going there during business

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hours, when his physician was running here and there. He stated that, in order to protect himself, he now goes to a lab where that's all they do.

Dr. Steinbergh commented that it's important for the Board to see that he's taking control of this. She added that it's the goal of the Board that Dr. Greer work on his sobriety.

In response to further questions, Dr. Greer stated that when he first left treatment he had a job. It was in a factory. He then got a letter from the holder of his loan saying that his deferments had run out. He asked whether there was any other deferment left. He was told that there is an unemployment deferment. Dr. Greer stated that he talked with several people, including his sponsor, who said that the only alternative was to become unemployed so he could apply for the deferment. Now, with his history, he's having a hard time finding employment. He stated that he's been thinking that, since he will be out of practice for three years, he needs to get affiliated academically with someone so that when the time comes, if it comes, they won't ask him what he's been doing for three years. Dr. Greer stated that it seems that a lot of people in his position go into addiction medicine, so he's going to try to do some postdoctoral research in addiction medicine.

Dr. Buchan asked Dr. Greer what year of residency he was in.

Dr. Greer stated that he was in his second year.

Dr. Buchan stated that Dr. Greer now has three years to sort things out and get healed. He added that the Board will be part of the team to help him get back to practice.

**DR. STEINBERGH MOVED TO CONTINUE DR. GREER UNDER THE TERMS OF HIS SUPERSEDING STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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DAROLD R. LANCE, JR., D.O.

Dr. Lance appeared before the Board pursuant to the terms of the Board's Order of June 13, 2007, and the Board's motion of November 14, 2007.

Dr. Buchan noted that Dr. Lance was before the Board in November, and he asked Dr. Lance to explain why he is back before the Board in December.

Dr. Lance stated that this is a follow up to make sure that he got a monitor who is getting urine screens, and to make sure that he is compliant with the terms of his consent agreement. He stated that he's finally gotten a monitor, he's having urine tests done, he's going to aftercare and Caduceus. He also attends three A.A. meetings a week. Dr. Lance stated that he's being compliant with his consent agreement, as best as he understands it.

Dr. Buchan stated that last month Dr. Lance had a difficult time, but the Board's goal is to see him through his recovery. He asked whether Dr. Lance has any questions of the Board.

Dr. Lance stated that he has no questions at the present. He added that he's really eager to get back to work for the financial problems and all that.

Ms. Pfeiffer urged the Board to inquire of Ms. Bickers about Dr. Lance's compliance since his last appearance before the Board.

Dr. Buchan asked Dr. Lance whether it was his understanding that he's in full compliance with the consent agreement.

Dr. Lance stated that he believes so.

Dr. Kumar asked Ms. Bickers whether this is correct.

Ms. Bickers stated that the Compliance Section has not received a nomination for a supervising physician, nor has it received urine screen reports.

Dr. Lance stated that he has copies of the screens.

Ms. Bickers stated that, as of December 1, and as of the previous quarter, the Board hasn't received that documentation, so, today, Dr. Lance is still not in compliance.

Dr. Lance stated that he's brought copies of the urine screens and the name of his monitor. He has an agreement with OPHP, and they agreed with Dr. David Ball in Chillicothe, who is his monitor. Dr. Lance stated that he didn't bring his OPHP agreement.

Dr. Steinbergh stated that one thing Dr. Lance needs to understand is that, first of all, he must read and clearly understand his consent agreement. She advised that the consent agreement stipulates exactly when

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he must present the information. It's not today, it was prior to December 1. Dr. Steinbergh stated that Dr. Lance needs to understand that it's not at his whim. She stated that the Board is pleased to know that he is progressing, but it is not at his whim. The requirements are clearly defined in the consent agreement. If Dr. Lance doesn't clearly understand that, Ms. Bickers will bring him up to date with that. The Board has no problems communicating that piece. But if he doesn't respect that piece, that's what will get him into trouble with the Board.

Dr. Lance indicated that he understood.

Dr. Steinbergh noted that Dr. Lance is before the Board this month because when he made his appearance in November, it was clear to the Board that he was not compliant. The Board brought him back this month, and he's still not compliant, according to the specifications of his consent agreement. Dr. Steinbergh stated that Dr. Lance could be cited again for that noncompliance. Every time he gets a citation, he gets in deeper. Dr. Steinbergh stated that this is not a whimsical thing on the Board's part; this is clear, he must comply, and it has to be done within a timeframe.

Dr. Egner asked whether Dr. Lance heard the discussion that the Board had regarding Dr. Prasad.

Dr. Lance indicated that he did.

Dr. Egner stated that she's afraid that Dr. Lance is going to be the Board's new "Dr. Prasad." She stated that, even though she made an eloquent argument for his release, Dr. Prasad was not released. He's still with the Board. Dr. Egner stated that she fees that Dr. Prasad will be with the Board a very long time, and Dr. Lance is headed in that same direction. The Board won't let him go. It will just keep him until he can be compliant. It gets harder and harder. It doesn't get easier. It gets harder.

**DR. VARYANI MOVED TO CONTINUE DR. LANCE UNDER THE TERMS OF THE BOARD'S ORDER OF JUNE 13, 2007, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE.** The motion died for lack of a second.

Dr. Varyani stated that Ms. Bickers will go over Dr. Lance's compliance responsibilities one more time in detail today.

Dr. Steinbergh suggested requiring Dr. Lance to make his next appearance before the full Board in January. She noted that Dr. Lance achieved a postgraduate degree and is licensed to practice medicine in Ohio. He ought to be able to comply with the Board's Order. She asked that he do so.

Dr. Buchan noted that Dr. Lance is currently under a stayed revocation, with a 180-day suspension.

Dr. Lance stated that he does have a suspension for 180 days.

Dr. Buchan stated that he believes that Dr. Lance's license was permanently revoked, and that the revocation was stayed.

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Dr. Lance stated that he did not understand that.

Dr. Steinbergh stated that it says so in the language of his consent agreement. She stated that that's the point. Dr. Lance needs to read his consent agreement and understand it.

Dr. Buchan stated that he would suggest that the Board cite Dr. Lance and pursue permanent revocation if this is not cleaned up.

**DR. STEINBERGH MOVED TO CONTINUE DR. LANCE UNDER THE TERMS OF THE BOARD'S ORDER OF JUNE 13, 2007, WITH HIS NEXT APPEARANCE BEFORE THE FULL BOARD IN JANUARY. DR. VARYANI SECONDED THE MOTION.**

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

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

The motion carried.

JOHN W. SHAW, M.D.

Although scheduled to appear this month, at the Board's request Dr. Shaw will make his initial appearance before the Board at its January 2008 meeting.

At 3:48 p.m., the Board took a recess to meet with the Governor at the State House. The meeting reconvened at 4:53 p.m., with only Dr. Amato absent.

#### REPORTS AND RECOMMENDATIONS

Dr. Kumar at this time removed this topic from the table to continue with the Reports and Recommendations on the Board's agenda.

ROBERT M. MOORE, M.T.

Dr. Kumar directed the Board's attention to the matter of Robert M. Moore, M.T. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation and were previously

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distributed to Board members.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ROBERT M. MOORE, M.T. MR. BROWNING SECONDED THE MOTION.**

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

Dr. Steinbergh stated that this case is very similar to that of Mr. Gaudett. She stated that she agrees with the State's objections in both cases, which were that the only issue before the Hearing Examiner at the time of the hearing was why Mr. Moore didn't appear for a Board-ordered evaluation. The objections noted that the Hearing Examiner went beyond this narrow issue.

Dr. Egner stated that, as opposed to the other two cases, Mr. Moore is already licensed and was notified to appear for evaluation. Instead, he sent a letter back asking that the evaluation be rescheduled. The letter requesting the rescheduling did not arrive in the Board offices, based on mail difficulties at the time of the Board's move. When the Board finally received the letter, the date of the evaluation had already passed. Dr. Egner expressed concern that there was no call or contact with Mr. Moore advising him that the Board couldn't reschedule the exam. She stated that there should have been some response to Mr. Moore before a notice for opportunity for hearing is issued. Dr. Egner stated that there was mitigation for why Mr. Moore did not appear at the evaluation. Mr. Moore did send the Board a letter, although it may not have been sent in a very timely fashion. Dr. Egner stated that her feeling is that the Board should let him reschedule the evaluation, as proposed in the Hearing Examiner's Proposed Order. She stated that letting him do so is not out of line.

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

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

The motion carried.

WILLIE CALVIN RABB, JR., D.P.M.

Dr. Kumar directed the Board's attention to the matter of Willie Calvin Rabb, Jr., D.P.M.. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation, but have not yet been

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distributed to Board members due to their being misdirected. He stated that the objections are being distributed at this time, and he gave Board members opportunity to review the objections.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF WILLIE CALVIN RABB, JR., D.P.M. DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Buchan stated that the facts in this case are clear, as are the Hearing Examiner's Findings of Fact, Conclusions of Law and Proposed Order. The Maryland Board permanently revoked Dr. Rabb's license, based upon a number of findings: impairment, dishonesty, practicing below standards of care and unprofessional conduct. Dr. Buchan stated that the Board has no recourse but to permanently revoke Dr. Rabb's license.

Dr. Steinbergh agreed, noting that Dr. Rabb was found to have failed to provide appropriate pre-operative care, not taking histories, not doing radiographs pre- or post-op, depending upon the case, chart documentation. There was also a finding of failure to get tissue samples at the time of surgery; or, if he did get tissue samples, he failed to send them to pathology.

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

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

The motion carried.

MARY ELLEN RATCLIFF

Dr. Kumar directed the Board's attention to the matter of Mary Ellen Ratcliff. He advised that objections to Hearing Examiner Porter's Report and Recommendation were filed by the State and were previously distributed to Board members.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MARY ELLEN RATCLIFF. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Egner stated that she has the same objections to this case as she had in the matter of Mr. Gaudett. This is an unlicensed person who has finished massage school but will be subject to all of these conditions when not having gone through a 28-day treatment program. That is not in accordance with the Board's rules. Dr. Egner stated that she has the same alternative proposed orders for this person as she did for the previous case.

**DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MARY ELLEN RATCLIFF BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED that:

- A. **APPLICATION DENIED:** The application of Mary Ellen Ratcliff for a certificate to practice massage therapy in Ohio is DENIED.
- B. **CONDITIONS PLACED UPON ANY FUTURE APPLICATION:** Ms. Ratcliff shall not apply in the future for a certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, until all of the following conditions are met.
  1. **Application:** Ms. Ratcliff shall submit an application, accompanied by appropriate fees.
  2. **Demonstration of Ability to Practice:** Ms. Ratcliff shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
    - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Ms. Ratcliff has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4) and 4731-16-08(A)(13) of the Administrative Code, completed consecutively.
    - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10 of the Administrative Code.
    - c. Two written reports indicating that Ms. Ratcliff's ability to practice has

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been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Ms. Ratcliff. Prior to the assessments, Ms. Ratcliff shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Order. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Ms. Ratcliff, and any conditions, restrictions, or limitations that should be imposed on Ms. Ratcliff's practice. The reports shall also describe the basis for the evaluator's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application.

C. **PROBATIONARY CONDITIONS TO BE PLACED UPON ANY FUTURE CERTIFICATE GRANTED BY THE BOARD:** In the event that the Board should grant a future application by Ms. Ratcliff for a certificate to practice massage therapy in the State of Ohio, or for any other certificate issued by the Board, that certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey the Law:** Ms. Ratcliff shall obey all federal, state, and local laws, and all rules governing the practice of massage therapy or other licensed practice in Ohio.
2. **Personal Appearances:** Ms. Ratcliff shall appear in person for an interview before the full Board or its designated representative during the third month following the month during which the Board approved Ms. Ratcliff's application for a massage therapy certificate or other certificate. 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.
3. **Quarterly Declarations:** Ms. Ratcliff shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month during which the Board approved Ms. Ratcliff's application for a massage therapy certificate or other

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certificate. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

4. **Abstention from Drugs:** Ms. Ratcliff shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of Ms. Ratcliff's history of impairment.
5. **Abstention from Alcohol:** Ms. Ratcliff shall abstain completely from the use of alcohol.
6. **Comply with the Terms of Treatment and Aftercare Contract:** Ms. Ratcliff shall maintain continued compliance with the terms of the treatment and aftercare contracts entered into with his treatment provider, provided that, where terms of the treatment and aftercare contract conflict with terms of this Order, the terms of this Order shall control.
7. **Drug & Alcohol Screens; Supervising Physician:** Ms. Ratcliff shall submit to random urine screenings for drugs and/or alcohol on a weekly basis or as otherwise directed by the Board. Ms. Ratcliff shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Ms. Ratcliff shall submit the required specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Ms. Ratcliff. Ms. Ratcliff and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Ms. Ratcliff shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or

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unwilling to so serve, Ms. Ratcliff must immediately notify the Board in writing and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Ms. Ratcliff shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Ms. Ratcliff's quarterly declaration. It is Ms. Ratcliff's responsibility to ensure that reports are timely submitted.

8. **Provision of Blood or Urine for Screening without Prior Notice:** Ms. Ratcliff shall submit blood and/or urine specimens for analysis without prior notice at such times as the Board may request, at Ms. Ratcliff's expense.
9. **Rehabilitation Program:** Ms. Ratcliff shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A. or C.A., no less than three times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Ms. Ratcliff shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Ms. Ratcliff's quarterly declarations.
10. **Releases:** Ms. Ratcliff shall provide continuing authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Ms. Ratcliff's impairment and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after Board approval of Ms. Ratcliff's application for a massage therapy certificate or other certificate. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

Ms. Ratcliff shall also provide the Board written consent permitting any treatment provider from whom Ms. Ratcliff obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

11. **Absence from Ohio:** Ms. Ratcliff 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

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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.

12. **Tolling of Probationary Period while Out of Compliance:** In the event Ms. Ratcliff 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.
13. **Required Reporting to Employers and Hospitals:** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Ms. Ratcliff shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. This requirement shall continue until Ms. Ratcliff receives from the Board written notification of his successful completion of probation.
14. **Required Reporting To Other State Licensing Authorities:** Within thirty days of the date upon which a future application of Ms. Ratcliff for a massage therapy certificate or other certificate is approved by the Board, or as otherwise determined by the Board, Ms. Ratcliff 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. Ms. Ratcliff 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, Ms. Ratcliff shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Ms. Ratcliff receives from the Board written notification of his successful completion of probation.
15. **Termination Of Probation:** Upon successful completion of probation, as evidenced by a written release from the Board, Ms. Ratcliff's certificate will be fully restored.

**EFFECTIVE DATE OF ORDER:** This Order shall become effective immediately

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upon the mailing of the notification of approval by the Board.

**DR. STEINBERGH SECONDED THE MOTION.**

Dr. Varyani stated that the only problem he has with this is that Ms. Ratcliff exhibits behavior that is very unbecoming. She was charged with disorderly conduct when she went to a neighbor's house and started a fight. Dr. Varyani stated that he knows that Ms. Ratcliff is impaired and that things happen when you're impaired, but this is a bothersome sign to him. Dr. Varyani stated that he will, however, agree with Dr. Egner's proposed amendment.

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

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

The motion carried.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF MARY ELLEN RATCLIFF. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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

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Thereupon at 5:37 p.m. the December 12, 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 December 12, 2007, as approved on January 9, 2008.



Deepak Kumar, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**December 13, 2007**

Deepak Kumar, M.D., President, called the meeting to order at 8:05 a.m., in the Administrative Hearing Room, 3<sup>rd</sup> Floor, The James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Nandlal Varyani, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egnor, M.D.; David S. Buchan, D.P.M.; Dalsukh Madia, M.D.; R. Gregory Browning, Ph.D.; W. Frank Hairston.; Jack C. Amato, M.D.; and Anita M. Steinbergh, D.O. The following did not attend the meeting: Andrew F. Robbins, Jr., M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; William J. Schmidt, Staff Attorney, Enforcement, Compliance & Investigations; Marcie P. Pastrick, Karen H. Mortland, Kathleen S. Peterson, Angela Scott, Daniel S. Zinsmaster, and, 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; and Barbara Jacobs, Public Services Administrator.

**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 was no request to consider an item separately.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON NOVEMBER 13, 2007, WITH: DAVID B. AXELSON, M.D.; MARK A. BANKS, M.D.; ROBERT M. BENSON, M.D.; ROBERT A. BERKMAN, M.D.; KEVIN W. BOWERS, D.O.; SCOTT M. CAMPBELL, M.D.; PAUL CLAASSEN, D.O.; MILES E. DRAKE, JR., M.D.; DAVID C. ERNST, M.D.; JAMES VINCENT FURICCHIA, M.D.; WILLIAM CLARK HARLAN, D.O.; WILLIAM L. HOPPE, M.D.; MELANIE LYNNE LEU, M.D.; DAVID J. LEVY, M.D.; PHILLIP THIELE NORTH, M.D.; MICHAEL PAUL PARKER, M.D.; JAMES M. ROSSELIT, D.O.; JULIA RUFFIN, D.P.M.; AND MICHAEL CRAIG WARREN, D.O. DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS FOR BOTH PROBATIONARY REQUESTS AND REINSTATEMENT REQUESTS:**

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- TO APPROVE MICHAEL TODD ADAMS, M.D.'S REQUESTS FOR A REDUCTION IN APPEARANCES FROM EVERY SIX MONTHS TO ANNUALLY; ELIMINATION OF THE WORK HOUR RESTRICTION UPON RECEIPT OF THE RECOMMENDATION FROM AN EVALUATOR; AND APPROVAL OF DANIEL RAY GASKIN, M.D., TO SERVE AS AN EVALUATING PHYSICIAN;
- TO APPROVE DAVID C. BLOCKER, M.D.'S REQUEST TO REDUCE APPEARANCE REQUIREMENT TO ONCE ANNUALLY;
- TO APPROVE TRACIE L. BOLDEN, M.D.'S REQUEST FOR A REDUCTION IN PSYCHIATRIC SESSIONS REQUIREMENT TO EVERY TWO WEEKS;
- TO APPROVE L. JEAN COOPER, M.D.'S REQUESTS FOR A REDUCTION IN URINE DRUG SCREENS TO TWICE A MONTH; TO DISCONTINUE ON SITE CHART REVIEW BY MONITOR; AND FOR A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS;
- TO APPROVE GREGORY G. DUMA, M.D.'S REQUEST FOR APPROVAL OF RONALD A. SACHS, M.D., TO SERVE AS HIS TREATING PSYCHIATRIST;
- TO APPROVE SONJAY J. FONN, D.O.'S REQUEST FOR APPROVAL OF THE FOLLOWING ETHICS COURSES: *ETHICAL FITNESS SEMINAR*, OFFERED BY THE INSTITUTE OF GLOBAL ETHICS, AND AN ETHICS COURSE TAILORED FOR THE DOCTOR BY DONNA F. HOMENKO, PHD.; AND TO APPROVE THE ONLINE ETHICS COURSE, *ETHICS OF DISCLOSURE: TELL OR HIDE*, OFFERED BY LEARNWELL RESOURCES, INC., ONLY IN ADDITION TO ONE OF THE OTHER COURSES.
- TO APPROVE FRED R. MOSS, M.D.'S REQUESTS FOR A REDUCTION IN HIS DRUG SCREENS REQUIREMENT TO TWICE PER MONTH, AND A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS;
- TO APPROVE PHILIP F. MYERS, JR., M.D.'S REQUEST FOR A REDUCTION IN APPEARANCES TO ONCE A YEAR;
- TO APPROVE MICHAEL J. O'BRIEN, D.O.'S REQUEST FOR APPROVAL OF GEORGE A. MORESEA, III, M.D., TO SERVE AS HIS MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;
- TO APPROVE JOHN RUSSELL OGDEN, M.D.'S REQUEST FOR APPROVAL TO CHANGE HIS MONITORING PHYSICIAN FROM E. ANTONIO CHIOCCA, M.D., PHD., TO GREGORY W. BALTURSHOT, M.D., WITH TEN CHARTS REVIEWED PER MONTH;
- TO APPROVE LOVSHO PHEN, M.D.'S REQUEST FOR APPROVAL OF *MEDICAL ETHICS, BOUNDARIES AND PROFESSIONALISM*, OFFERED BY CASE WESTERN RESERVE UNIVERSITY, AS REQUIRED BY THE BOARD ORDER FOR

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**REINSTATEMENT;**

- **TO APPROVE JODY LEE NELSON SHORT, D.O.'S REQUESTS FOR: REDUCTION IN DRUG AND REHABILITATION MEETINGS TO TWO PER WEEK AND NO LESS THAN TEN PER MONTH; A REDUCTION IN DRUG SCREENS TO TWICE A MONTH; AND A REDUCTION IN APPEARANCES FROM QUARTERLY TO EVERY SIX MONTHS;**
- **TO APPROVE JAMES E. STURMI, M.D.'S REQUEST TO CHANGE HIS TREATING PSYCHIATRIST FROM RICHARD E. MINTER, M.D., TO JAMES M. OAKS, D.O.;**
- **TO APPROVE BRETT E. TOWARD, M.D.'S REQUEST FOR APPROVAL OF AN ETHICS COURSE TAILORED FOR THE DOCTOR BY DONNA F. HOMENKO, PHD., REQUIRED FOR REINSTATEMENT; AND**
- **TO APPROVE GARY W. WALTZ, M.D.'S REQUEST TO CHANGE THE MONITORING PHYSICIAN FROM MICHAEL F. FARIVAR, M.D., TO JOY E. STANKOWSKI, M.D.;**

**DR. STEINBERGH FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT "A", THE P.A. APPLICANTS LISTED IN EXHIBIT "B," AND THE ACUPUNCTURE APPLICANTS LISTED IN EXHIBIT "C." DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

**PROBATIONARY REQUESTS**

**KOLLI MOHAN PRASAD, M.D.**

At this time, the Board considered Dr. Prasad's requests for approval of a new practice plan, and a new monitoring physician, pursuant to the terms of the Board's Order of November 8, 2006. .

**DR. STEINBERGH MOVED TO APPROVE DR. PRASAD'S NEW PRACTICE PLAN,**

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**ALLOWING THE DOCTOR TO WORK PART-TIME AT THE KNOX COMMUNITY HOSPITAL, AND TO APPROVE HIS REQUESTED CHANGE IN MONITORING PHYSICIAN, FROM STEVEN W. ARLE, M.D., TO KINGSLEY A. ORRACA-TETTEH, M.D. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### REINSTATEMENT REQUESTS

##### ELIZABETH A. DORIOTT, D.O.

At this time, the Board considered Dr. Doriott's request for reinstatement of her license to practice osteopathic medicine and surgery, which was suspended by Consent Agreement of July 11, 2007. Ms. Bickers advised by memorandum that Dr. Doriott has submitted all necessary documentation required for reinstatement by the Consent Agreement.

**DR. STEINBERGH MOVED TO REINSTATE DR. DORIOTT'S LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY, SUBJECT TO THE TERMS OF HER JULY 11, 2007 CONSENT AGREEMENT. DR. AMATO SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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DRAFT REPORT OF F.S.M.B. SPECIAL COMMITTEE ON MAINTENANCE OF LICENSURE

Dr. Kumar referred Board members to the draft report of the Federation of State Medical Board's Special Committee on Maintenance of Licensure. He noted that this will take some discussion, adding that the Federation is asking the member boards to make comments on this report so that they can create policy in a formal document for the upcoming meeting to help to implement maintenance of licensure. He stated that he hopes that Board members have had a chance to look at this material, because there is need for discussion.

Dr. Steinbergh stated that she thought it was an excellent draft, and she's not sure that she has any specific suggestions. She commented that everyone's moving in the same direction. Dr. Steinbergh suggested that the Board create a special committee on maintenance of licensure, as one of the group committees or as an ad hoc committee, where you can have as many people participating as possible, as many specialties as possible, and engaging other interested parties, such as the professional associations, once the Board sets the direction. She added that she doesn't think that the Board has to have an ultimate goal of when this will be accomplished, but it should begin discussions in an earnest way.

Dr. Kumar stated that he thought that the report was done well, but some of the ways to implement this were going to be a little problematic. Part of the report talks about doing a proctored exam at least every ten years. Dr. Kumar stated that he's not sure what that means, how it will be implemented and what does that really imply. Will physicians have to take some kind of a SPEX every ten years? He stated that he was confused by that part of the report.

Dr. Steinbergh stated that she didn't get the sense that that was an absolute directive. She just had a sense that the draft is a working piece created by people who were looking at ideas of what this might look like. She added that she thinks that it's going to be different for different specialties. She remarked that, in her mind, the OB/GYN Board is already doing maintenance of licensure. She sees that board as a model.

Dr. Talmage stated that he believes that the language was left vague because there are a lot of stakeholders. They're saying that the recognized specialty boards should give proctored exams for recertification. Dr. Talmage stated that there are other entities, such as the American Board of Medical Specialties, who are lobbying for a place at the table. If they say "proctored exam by your specialty society," that would preclude these other entities, and he doesn't think that the Federation is prepared to do that at this point.

Dr. Kumar stated that his understanding from the Federation's last annual meeting was that almost all of the ABMS boards have accepted these recertification issues to some degree.

Dr. Kumar stated that Dr. Steinbergh has made a good suggestion about forming a committee for this topic. He asked for Board member input.

Dr. Steinbergh again suggested an ad hoc committee, consisting of as many Board members as possible and representatives of the various professional societies and associations.

Dr. Varyani stated that, because this is going to be a multi-specialty project, his initial thought was to have an ad hoc committee with participation of various organizations. He stated that when you're formulating

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continuing certification or continuing competence, the Board will need the help of those societies. He commented that this isn't something that will happen quickly. Dr. Varyani noted that there are a large number of specialists who are practicing without board certification.

Dr. Kumar agreed. He also suggested that the ad hoc committee also address the seven-year rule.

Dr. Varyani and Dr. Steinbergh agreed.

Dr. Madia stated that, currently, only hospitals and medical staffs monitor a physician's performance. If there's a bad outcome or the physician is not doing quality work, the medical staff looks at it. That's where true monitoring happens. Dr. Madia suggested that the Board involve the OHA in its discussions.

Dr. Kumar commented that he understands that that is occurring to some degree. He stated that part of the problem is this theory that so much stuff is being totally done on an outpatient basis and outside the realm of the hospitals. How is that brought into the equation, as well?

Dr. Talmage stated that the shift in practice in primary care is to the office and the hospitalists then take care of the hospitalized patient. Unless they are evaluating the care that the patient has received prior to their coming into the hospital, you really lose that quality assurance that you have in the hospitals. So some kind of quality assurance has to be done in an office setting. If you look at the Ontario model, you have a practitioner of like practice evaluating another practitioner, going into their office. That model has been out there for about the last four or five years. He thinks that that remains on the table as a viable potential; but, thus far, unless it's mandated, America doesn't have that potential in its system.

Dr. Buchan stated that the shift of practice in the surgical world is moving away from the hospital into the surgical centers. The surgical center's motivation for quality is not maybe what the hospital's motivation for quality is. He added that the Board just saw a physician who was licensed in a surgical center who shouldn't have been licensed in the surgical center.

Dr. Varyani indicated that it would be better to have charts monitored by those who would not be in competition with the physician or institution.

Mr. Browning stated that, as a consumer member, he's all for this, directionally; but he thinks that regulators may end up going a lot slower than the marketplace. If someone comes into Columbus, Ohio, tomorrow, how would he or she know who's a good physician, other than by reputation? He stated that he would have no idea how to tell someone that. He stated that his sense is that regulators are going to move in the direction of measuring "value added."

#### PROBATIONARY APPEARANCES

##### RICHARD DAVID GRECZANIK, D.O.

Dr. Greczanik made his initial appearance before the Board, pursuant to the terms of his September 12, 2007 Step I Consent Agreement.

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In response to Board members' questions, Dr. Greczanik stated that he is doing well. His license is currently suspended, so he attends an A.A. meeting every day. He also meditates every morning. He maintains contact with his employers, his program director and his sponsor. He's working the Steps. Dr. Greczanik stated that he's following the treatment plan outline from Shepherd Hill. He stated that he believes that he understands the terms of his Consent Agreement.

Concerning personal support, Dr. Greczanik stated that he's had a tremendous amount of personal support. He's living with his parents right now, and they've been most gracious in helping him. Also his friends and his Program Director have offered a tremendous amount of support. He stated that he is currently going through a divorce, but he couldn't have more gratitude toward the people in his life who have offered help.

Dr. Greczanik stated that he graduated from the Ohio University College of Osteopathic Medicine, and is currently in a family practice residency at Cuyahoga Falls General Hospital.

Dr. Greczanik stated that the toughest thing for him over the last couple of months has been just maintaining his focus on one day at a time and not worrying about things he can't control or when he can go back to work. Paying his bills has been the biggest worry for him. His most positive experience has been the support he's received from people he knows.

Dr. Greczanik advised that he also got into trouble by prescribing scheduled drugs, Vicodin, without maintaining records. He added that this concerned his wife and is one of the reasons they are divorcing. He was actively engaged in co-dependent behavior. Dr. Greczanik stated that he does understand now that prescribing for family members is problematic. Dr. Greczanik stated that he wouldn't say that his wife was hooked on Vicodin, but she was accident prone: she was in a car accident, she tripped and broke her wrist, she cut her foot, and, while he was in treatment, she fell off a cliff and was hospitalized. He stated that she does have a personal physician. Dr. Greczanik advised that they do not have any children.

**DR. STEINBERGH MOVED TO CONTINUE DR. GRECZANIK UNDER THE TERMS OF HIS SEPTEMBER 12, 2007 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.

Dr. Ridgeway made his initial appearance before the Board, pursuant to the terms of his November 15, 2007 Step II Consent Agreement.

In response to Board members' questions, Dr. Ridgeway stated that he thinks that his current recovery has been a very solid recovery. He attends many meetings and his family is very supportive, as well, particularly his parents. He is maintaining constant contact with his daughter, since he and his wife have shared parenting with joint custody. He's with her half the time when she's not in school, and that has been a tremendously positive influence for him. His most recent sobriety date is July 5, 2006.

Asked to explain about his most recent relapse, Dr. Ridgeway advised that he was dating someone whom he found out had been using at a party. When he went to pick her up, he somehow ingested something. He's not sure whether someone put it in a drink or if it was from contact with her. It was a trace positive screen. He later had a hair analysis done, and that was negative. Dr. Ridgeway stated that he doesn't really know exactly how it got into him.

Dr. Kumar stated that he has a hard time believing that.

Dr. Ridgeway stated that he doesn't have a hard time understanding that other people have a hard time believing it. It's very uncomfortable for him. It would have been easier if it was more of a straightforward relapse.

Dr. Steinbergh asked Dr. Ridgeway why he would put himself in that situation.

Dr. Ridgeway stated that it was poor judgment and probably relapse behavior, at the very least. He understands that, which is why he signed the Step 1 Consent Agreement and has treated it as a relapse in terms of his recovery. He has not put himself in any similar situation or even remotely close to a similar situation since then.

He stated that he attends four to five A.A. meetings per week. He does tend to go to a lot of the Caduceus meetings, including the aftercare in the Cleveland Clinic but also the Worthington meeting and the Talbot Hall meetings here. Dr. Ridgeway stated that he recognizes bad decisions he's made, and his lifestyle has changed drastically. He stated that he knows that he'll have a social life where dinner parties with alcohol are a common occurrence. He added that they never occur for him anymore. He doesn't go to the social functions where there's abundant alcohol any longer. It's just not part of his life anymore. He stated that he seldom has urges anymore. There are certain food associations more than anything; he wouldn't say that they're urges. He'll think that he used to have a glass of wine with something, but that's not really an issue so much as earlier on. The thoughts don't cross his mind very often at this point.

Dr. Steinbergh suggested that Dr. Ridgeway might reach a point where he doesn't have the urge because he realizes that he feels so much better without.

Dr. Ridgeway stated that he thinks he's already at the point where he prefers not to ever be intoxicated.

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Those thoughts already do cross his mind. He stated that he was never physiologically ill at any point, so it's not going to rise to that level.

Mr. Albert stated that he and Dr. Ridgeway have had some discussions at office conferences, and he sees a glimmer of improvement here. Mr. Albert stated that when Dr. Ridgeway first started with the Board, he was in some denial, but he thinks that Dr. Ridgeway is really starting to realize that he has to put all of his denial behind him, admit that he has a serious problem and start working towards his recovery. Mr. Albert stated that he thinks that Dr. Ridgeway can do it because he's a young man who has a lot at stake. He's had one relapse, and there aren't too many more chances left for him.

Dr. Ridgeway stated that he understands that, and he thinks that it's a fair assessment. He thanked Mr. Albert for his positive words, and advised that he will never put himself into a situation to be back here if he can help it.

Dr. Steinbergh asked about Dr. Ridgeway's OMVI and the child endangerment charge in Indiana.

Dr. Ridgeway stated that that was resolved totally quite a long time ago.

**DR. STEINBERGH MOVED TO CONTINUE DR. RIDGEWAY UNDER THE TERMS OF HIS NOVEMBER 15, 2007 STEP II CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

STEPHEN J. ROLFE, M.D.

Dr. Rolfe made his initial appearance before the Board, pursuant to the terms of his October 10, 2007 Step II Consent Agreement.

In response to Board members' questions, Dr. Rolfe advised that his sobriety date is February 14, 2001. He advised that he is not currently working. His area of medicine is internal medicine and cardiology. He stated that, prior to this, he'd been in private practice at Riverside Hospital. He plans to start working at McConnell Heart Health Center. They're starting up a new obesity bariatrics clinic. It's something that

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they don't have there, so they're getting a position approved by the various levels of people in Ohio Health. Once that's done, then they'll be able to hire him.

Dr. Rolfe stated that he was on his Step 1 agreement for a long time. He got sober in February 2001, and the Step 1 was started in March of that year. He just recently decided to move forward. He had not retired. He quit work before he got caught and before all of this happened, because he didn't know how to stop doing what he was doing. He was financially able to do that. His thought was that he would quit working and quit doing the things he was doing, but it didn't turn out that way. He got caught, and that's how he got into recovery. Dr. Rolfe stated that, for a long time, for a whole host of reasons, he fully intended not to go back into practice.

Dr. Rolfe stated that he belonged to McConnell as a member, and one of the guys he used to work with there invited him to work with them. He explained that his license was suspended and everything, but that started the process for him. Dr. Rolfe commented that although Mr. Albert has been telling him for years to get his license reinstated, he never did that. He always did what he needed to do so that he'd have that option, but he finally took the SPEX and passed. Dr. Rolfe stated that he doesn't like the way that he went out of medicine. He doesn't like that he stopped working the way he did.

Dr. Rolfe indicated that he has a son now, who is six years old. He advised that he and his wife were divorced when he was a year and a half sober. He said that they'd been married for about 25 years. His wife decided that she was going to go to China and adopt a son, which was incredibly courageous. She asked him to go to China with her to pick up her son, which he did. He was over there from day one of their meeting, and the child has always considered him his father. Dr. Rolfe stated that he and his wife remarried in 2005, and he has adopted his wife's son. Dr. Rolfe stated that his son has never seen either of his parents leave the house in the morning to go to work. He added that he and his wife are active in volunteer work, but he wants his son to know that going to work is what people do. Most people don't get to sit home and play with their kids all day. Dr. Rolfe stated that, in his mind, that's a big reason why he's doing what he's doing. He wants his son to see that his dad goes to work.

Dr. Rolfe commented that nobody ever told him to go back to work to have a better chance at recovery. They just told him to keep busy, and he's done that.

Dr. Madia asked whether Dr. Rolfe would go back to work as a cardiologist.

Dr. Rolfe stated that he would not, adding that he lost his board certification in internal medicine and in cardiology. He thinks he's going to try to get those back, but he doesn't have any plans at this point to return to work as a cardiologist. Dr. Rolfe added that he didn't have any plans to go back to work as a doctor, either, so he doesn't know what he will do.

**DR. STEINBERGH MOVED TO CONTINUE DR. ROLFE UNDER THE TERMS OF HIS OCTOBER 10, 2007, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

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Dr. Talmage	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion carried.

JACK E. SLINGLUFF, D.O.

Dr. Slingsluff made his initial appearance before the Board, pursuant to the terms of the Board's Order of November 10, 2004.

Dr. Steinbergh asked Dr. Slingsluff to review for the Board what brought him before the Board.

Dr. Slingsluff stated that he's a little confused about that himself. He thinks that the original reason he came here was because he was doing chelation therapy and nutritional IVs in his office. He added that he doesn't know of any other reason.

Dr. Steinbergh asked about Laetrile.

Dr. Slingsluff stated that Laetrile was used some years ago, but not recently.

Dr. Steinbergh stated that he was moving vials of Laetrile. The conviction was for interstate commerce, movement of Laetrile.

Dr. Slingsluff stated that he doesn't know how Dr. Steinbergh means that.

Dr. Steinbergh stated that the Board's record indicates that Dr. Slingsluff pled guilty to a misdemeanor count of introduction or delivery for introduction into interstate commerce of Laetrile, an unapproved drug, from Florida to Salem, Ohio. She asked whether he remembers that.

Dr. Slingsluff stated that he remembers purchasing it from somebody at a meeting and, basically, it was sent up from outside the State of Ohio.

Dr. Steinbergh stated that that's why Dr. Slingsluff is before the Board.

Dr. Slingsluff agreed.

Dr. Kumar asked what Dr. Slingsluff was referring to when he was talking about his practice of chelation.

Dr. Slingsluff stated that this was some years ago.

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In response to further questions, Dr. Slingluff stated that, currently, he's running a general practice in osteopathic medicine in Canton, Ohio. He works full-time. He's not using anything that is unapproved in his practice.

**DR. VARYANI MOVED TO CONTINUE DR. SLINGLUFF UNDER THE TERMS OF THE BOARD'S ORDER OF NOVEMBER 10, 2004, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

ANDREAS HERBERT SZOKOLOCZY-SYLLABA, D.O.

Dr. Szokoloczy-Syllaba made his initial appearance before the Board, pursuant to the terms of his September 12, 2007 Step I Consent Agreement.

In response to Board members' questions, Dr. Szokoloczy-Syllaba stated that he's feeling pretty good. His license is currently suspended. He's currently seeing a psychiatrist, Peter A. Ramirez, M.D., every two to three weeks, and is taking several medications to treat his manic depression or bipolar disorder. He's taking Depakote, Geodon at bedtime, and Celexa for his depression. In addition to that, he sees Paul D. Entner, Ph.D. for psychotherapy.

Dr. Szokoloczy-Syllaba stated that, prior to his Consent Agreement, he was getting psychiatric care, but he doesn't think that he was that aware of what some of his stressors were. He was not seeing a psychologist. He added that there were a lot of different things that came to a head at the same time, including some problems with his ex-wife. Also, his daughter had been recently diagnosed with diabetes as a four-year old. There was a lot of stress at work. There were break-ins in his neighborhood. He stated that a lot of stress came down at the same time.

Dr. Szokoloczy-Syllaba stated that he doesn't really have the typical patterns. It wasn't diagnosed until this recent occurrence, so this was the first event, which is not typical. Dr. Szokoloczy-Syllaba stated that there may have been some hints earlier in life. He got through medical school and postgraduate training without any problems. He stated that he's always known himself as being very highly functioning, and his

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friends always thought of him as being very stable and having a very long fuse. He stated that he just snapped, and it was a very unpleasant experience.

Dr. Szokoloczy-Syllaba stated that he also has the support of his network of friends, and his psychiatrist wanted him to have several people who would call him if they were concerned about any signs of Dr. Szokoloczy-Syllaba starting to relapse. So he's signed off on his chart for them to call his Dr. Ramirez if they have concerns.

Dr. Szokoloczy-Syllaba stated that he does hope to return to his practice, and has been in regular communication with his employer.

Dr. Buchan asked whether Dr. Szokoloczy-Syllaba has any questions for the Board.

Dr. Szokoloczy-Syllaba stated that one question he has is that he will be meeting with the independent psychiatrist in January, and is hoping that the psychiatrist will say that he can go back to work. He asked how long it would take for him to get back to work. He added that his psychiatrist really wants him to start with only about ten hours a week and then gradually increase.

Ms. Bickers stated that she can talk with Dr. Szokoloczy-Syllaba after the meeting to explain the process to him.

Dr. Kumar asked Dr. Szokoloczy-Syllaba who his employer is.

Dr. Szokoloczy-Syllaba stated that it's Dayton Pain Center.

Dr. Steinbergh commented that Dr. Szokoloczy-Syllaba may be taking the medications he's taking forever. She asked how he feels on these medications. She asked whether he has any sense that he cannot work at the same pace, or that his decision making is in place.

Dr. Szokoloczy-Syllaba stated that his psychiatrist wants to get him to a lower dose of Geodon when he's ready to work. He's doing some training in real estate just so that he has something else he can do if he can't return to medicine. He took some very tough classes in real estate law and was able to make it through that and get an A. He stated that he knows that he has the cognitive abilities, but he tends to need lengthy periods of sleep with the medications he's taking now. It's been getting better gradually. In the beginning it was tough and he was discouraged about the effect the medications were having on him.

**DR. STEINBERGH MOVED TO CONTINUE DR. SKOLOCZY-SYLLABA UNDER THE TERMS OF SEPTEMBER 12, 2007 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. ALBERT SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

#### PROPOSED COMPLIANCE GUIDELINES

Mr. Albert stated that proposed guidelines were distributed to the Board members in November for their review. They were authored by the staff, with input from him and Dr. Talmage. He added that the guidelines, a copy of which shall be maintained in the exhibits section of this journal, do not preclude either him or Dr. Talmage from taking a different direction.

**MR. ALBERT MOVED TO APPROVE THE PROPOSED COMPLIANCE GUIDELINES AND COMPLAINT FILING. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### PROPOSED BOARD MEETING DATES FOR 2009

Dr. Kumar at this time referred the Board to the memo in the agenda package proposing Board meeting dates for the year 2009. He noted that these dates occur on the second Wednesday and Thursday of each month. He also noted that there is one conflict in that the Wednesday in November falls on Veteran's Day, a State and National Holiday, when the Board offices will be closed.

Dr. Steinbergh asked whether the dates can be changed after they are approved. Mr. Whitehouse advised that they could be.

**DR. STEINBERGH MOVED TO APPROVE THE FOLLOWING BOARD MEETING DATES FOR THE YEAR 2009:**

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January 14-15  
February 11-12  
March 11-12  
April 8-9  
May 13-14  
June 10-11

July 8-9  
August 12-13  
September 9-10  
October 14-15  
November 12  
December 9-10

**DR. VARYANI SECONDED THE MOTION.** All members voted aye. The motion carried.

#### ELECTION OF OFFICERS FOR 2008

**DR. STEINBERGH NOMINATED DR. VARYANI AS PRESIDENT, DR. MADIA AS VICE-PRESIDENT, DR. TALMAGE AS SECRETARY AND MR. ALBERT AS SUPERVISING MEMBER. DR. BUCHAN SECONDED THE NOMINATIONS.**

There were no further nominations. By acclamation, the officers for 2008 are:

Dr. Varyani, President  
Dr. Madia, Vice-President  
Dr. Talmage, Secretary  
Mr. Albert, Supervising Member

#### REPORT OF RULES HEARING

Ms. Debolt advised that a public hearing on the P.A. formulary rule, the TSE rule, and the intractable pain rules was held on December 7. A copy of the hearing record and the Hearing Examiner's Report and Recommendation will be distributed to the Board members for discussion at the January 2008 meeting.

Ms. Debolt noted that the only comments received regarding the P.A. formulary were positive. Technical, non-substantive changes will be made on the formulary rule and on the TSE rule. She added that the Board may want to consider some revisions to the intractable pain rules, based on some of the comments made from a couple of organizations.

#### REPORTS OF ASSIGNED COMMITTEES

##### LEGISLATIVE LIAISON AND RULES COMMITTEE

Mr. Miller at this time reviewed his written report, a copy of which shall be maintained in the exhibits section of this Journal.

##### LICENSURE COMMITTEE

Mr. Browning reported in Dr. Robbins' absence. He stated that the Committee reviewed applications for three physicians, all involving no recent clinical practice.

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Camille Jones, M.D.

Mr. Browning advised that Dr. Jones has applied for restoration of her license to practice medicine and surgery, which lapsed in 1986. She has not been engaged in the clinical practice of medicine since August 2000.

**DR. STEINBERGH MOVED TO APPROVE DR. JONES' APPLICATION FOR RESTORATION OF HER LICENSE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO HER PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Judy E. Schwartz, M.D.

Dr. Schwartz is applying for licensure in Ohio. She has indicated that she has not been engaged in the clinical practice of medicine since April of 1985.

**DR. STEINBERGH MOVED TO APPROVE DR. SCHWARTZ' APPLICATION FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS, AND CONTINGENT UPON HER PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION. DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

Travis Riemer, M.T.

Mr. Riemer applied for restoration of his massage therapy license in Ohio. Mr. Riemer has indicated on his application for restoration that he has not actively practiced massage therapy since 2002.

**DR. STEINBERGH MOVED TO APPROVE MR. RIEVER'S REQUEST FOR RESTORATION OF HIS MASSAGE THERAPY LICENSE, CONTINGENT UPON HIS PASSING THE LIMITED BRANCH PORTION OF OHIO'S MASSAGE EXAMINATION. DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

PRESCRIBING AND PAIN MANAGEMENT COMMITTEE

Dr. Madia stated that the Committee reviewed a draft version of the Chapter 4731-11, Ohio Administrative Code, Controlled Substance Rules. The final draft version addresses the concerns that were raised both at the Committee and Board levels during the November 2007 Board meeting, specifically related to Rule 4731-11-04, Controlled substances: Utilization for weight reduction. Copies of the changed language was distributed to Board members.

Dr. Kumar referred to Rule 4731-11-04 (B)(1), and asked why the Committee felt it was necessary to delete the previous language that requires the physician to review his or her own records and prior treatment, or the records of prior treatment by another physician to determine that the patient has made a substantial good faith effort to lose weight, etc.

Dr. Steinbergh stated that she had the same concerns. She felt that, during the history taking, the doctor should have documented that the patient has attempted weight reduction, based on caloric restriction, nutritional counseling, behavior modification and exercise, without the utilization of controlled substances, and that the treatment has not been successful.

Dr. Egner stated that the Committee agrees with that.

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Dr. Madia stated that the new paragraph 1 requires the physician to do a thorough history and physical.

Dr. Steinbergh stated that if the paragraph to which Dr. Kumar referred is deleted, she is afraid that there are physicians who will simply say that he or she has done a thorough history and physical, and you can do a thorough history and physical and begin the use of medication without ever documenting those specific things, which are important to document.

Dr. Madia agreed, and he advised that the Committee did discuss that, and it felt that a reasonable physician, seeing a patient for weight reduction, will do a thorough history and physical that will mention what the patient tried or didn't try and why the patient is at the stage where he needs a controlled substance.

Dr. Steinbergh stated that she disagrees with that, adding that it is the unreasonable physicians with which the Board has to deal. The weight reduction clinics that develop may have a medical assistant take the history on a form, and the doctor will do an examination. She just believes that these things have to be documented. There has to be some thought process there.

Dr. Amato suggested that, instead of giving it its own separate paragraph, which he thinks is overly verbose, the new paragraph 1 could be amended to state, ". . . shall obtain a thorough history, which shall include previous weight loss efforts."

Dr. Steinbergh agreed with that amendment. She would take the language from the old paragraph one and include it as part of the history.

Mr. Schmidt explained that the language was changed because a concern expressed over the years by physicians calling the office is that patients often went through "WeightWatchers" or "Jenny Craig" and programs like that, rather than a physician's weightloss program. Nonetheless, it was a real attempt at weight loss and they can't get records of that. The way the rule currently reads, the physician can't just have the history from the patient, but actually has to have the records in the file, and quite often they're not available.

Dr. Steinbergh stated that she doesn't think that you have to have the records in the file. She thinks that, like everything else, you take the patient history and there has to be some respect for that, but there should just simply be documentation that you've asked that question and the patient answered it.

Dr. Kumar asked whether this could be reworded, taking into account Dr. Steinbergh's concerns.

Dr. Steinbergh stated that she doesn't think that she ever thought that you have to have a piece of paper in the chart signed by WeightWatchers.

Mr. Schmidt stated that Dr. Steinbergh is reading the rule the way most physicians in Ohio read it. However, reading the rule the way it was actually written, physicians would be required to get that documentation.

Dr. Varyani stated that he does not disagree with the principle of what should be done, but he does not

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believe that the Board should be telling physicians to do X, Y and Z.

Dr. Steinbergh stated that the problems that are had with prescribing these controlled substances is that you get into these weightloss clinics where there is very little assessment of the patient.

Dr. Buchan commented that the goal there is not weight loss but drug use. The Board wants to speak to that. He felt that Dr. Amato's suggestion is a good one.

Dr. Kumar agreed.

Dr. Amato stated that he thinks that he's seen a little bit of change in this Board over this issue over the last couple of months. He stated that, personally, he feels from a practitioner's standpoint, and primarily from the State Pharmacy Board's standpoint, that there is a world of difference between a clinician trying to help his patient lose weight and the speed clinics that Dr. Steinbergh referred to. Dr. Amato stated that, talking to a number of physicians over the past few months, he found that many physicians totally stay away from using these drugs because of this Board. They're afraid. Dr. Amato stated that the Board wants to shut the speed clinics, but he doesn't think that it wants to get to the point that it is potentially depriving patients of benefit and help because the Board has become overburdensome. It's a tough balance, and he thinks that the Board is moving in that direction.

Dr. Kumar stated that it appears that the Committee has more work to do.

Dr. Varyani asked Dr. Steinbergh for clarification of what she would like the language to say.

Dr. Steinbergh stated that she wants the rule to include language to read ". . .shall obtain a thorough history, which shall include" those questions.

Dr. Varyani stated that just before that determination, he would add "prior history of weight loss."

Dr. Kumar stated that it should read "attempts to lose weight by non-medicinal. . ."

Dr. Varyani stated that he doesn't want to say "attempts," he wants to say "detailed prior history of weight loss."

Dr. Steinbergh stated that she likes the language that is already in the rule because it tells that the patient has tried weightloss and what the patient has tried to do; i.e., previous caloric restriction; appropriate nutritional counseling; behavior modification; and exercise. Those are elements that are important to document, and that the patient is aware that those things need to continue along with the use of these medications.

Mr. Schmidt asked for clarification. If the Board focuses on simply requiring a history of prior attempts, that does not require that any prior attempts actually have been made, only that the doctor document what has been tried.

Dr. Steinbergh stated that, as a primary care physician, she would like to satisfy herself. When a patient

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comes in and says that he or she wants to lose weight, she automatically asks him what he has been doing to attempt to lose weight. Many times the patient comes in with the idea that he should take a weightloss medication. If the patient comes in and details the attempts that have been made, she doesn't have a problem. If the patient falls within the guidelines, the comorbid factors or BMI, she doesn't have a problem starting medication; but she needs to reassure herself that the patient really understands that it's calories in and calories out. You can't just keep eating and think that this pill is the answer. It's not.

Dr. Steinbergh stated that she doesn't think it's overburdensome for a physician to document during the history taking what the patient has already attempted. She's not saying that the physician should not give a controlled substance on the first appointment with all of these parameters in place.

Dr. Madia asked whether a physician can prescribe if a patient hasn't tried all those things.

Dr. Steinbergh stated that she's not saying that.

Dr. Varyani stated it would be sort of saying that.

Dr. Madia stated that it would read that way.

Dr. Steinbergh stated that if a physician properly documented in his or her chart, and made the decision to use a controlled substance and had a legitimate medical reason to do it, that would be in the chart. Dr. Steinbergh stated that medications can be properly used in weightloss. All the Board is saying is that it thinks that the elements of the chart should be satisfied. The physician just needs to document what has been done beforehand.

Dr. Kumar asked whether the Board can approve the rule with the proposed change?

Dr. Steinbergh stated that she would like to see the modification first. She trusts the Committee to change the language, but she thinks that the rule has to be approved by the Board. She added that the Board needs to discuss the rest of the draft.

Dr. Madia asked the Board to concentrate on the three changes the Committee is recommending:

1. Reverting back to current language requiring that a patient meet face-to-face with the physician every thirty days while utilizing controlled substances for the treatment of obesity.
2. Provides for an exception to the "twelve weeks" provision so long as the patient's medical record reflects that a patient continues to exhibit weight loss by requiring monitoring of the patient's weight, body mass index, and waist circumference at least once every thirty days in the physician's office.
3. Reduces the time lapse between treatments utilizing controlled substances from six months to three months.

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Dr. Steinbergh referred to item #1, and asked what happens in the patient doesn't lose weight in 30 days.

Dr. Madia stated that what the rule says is that for the first three months the physician can continue prescribing drugs, even if the patient is not losing weight. After twelve weeks, if the patient is not losing weight, the drugs aren't going to help. If the drugs are helping, the revised rule permits the physician to continue to prescribe as long as he documents that it is working.

Dr. Steinbergh asked whether the prescribing can continue ad infinitum.

Mr. Miller stated that the prescribing can continue as long as the patient continues to lose weight.

Dr. Steinbergh asked what happens when the patient reaches his or her goal weight.

Mr. Miller stated you cannot continue prescribing the drugs that are to be prescribed only for a few weeks if the patient is no longer losing weight. He added that there are two types of drugs: one is for a few weeks and others are for maintenance.

Dr. Steinbergh stated that she would like to see the language about when the physician makes that decision in terms of maintenance of weight.

Dr. Steinbergh stated that clarification of prescribing for maintenance is required.

Dr. Madia stated that the Committee is only focusing on the controlled substances, not maintenance. You can use a controlled substance as long as you document that it is helping patient. There is a time when you'll see that the patient is no longer losing weight and you stop the controlled substance. The Committee hasn't discussed maintenance.

Dr. Steinbergh stated that the Committee needs to address that because doctors are going to want to know what they can use for weight maintenance. It has to be clear.

Mr. Miller stated that it is his understanding that the only drug that's out there for maintenance of weightloss is Meridia.

Dr. Kumar stated that other drugs may reach the market. He added that the rule will be for a long period of time. Instead of being drug specific, there need to be comments about how the maintenance class of drugs are going to be prescribed or not prescribed.

Dr. Madia asked Dr. Steinbergh about # 3.

Dr. Steinbergh stated that she's fine with that.

#### SCOPE OF PRACTICE COMMITTEE

Dr. Steinbergh advised that the Committee reviewed an inquiry from Alan J. Arville, an attorney with the lawfirm, Schottenstein, Zox & Dunn, asking guidance on the following matters:

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1. The definition of “task” as used in Rule 4731-23-01(F), Ohio Administrative Code;
2. A protocol for delegating a task, including circumstances under which a standing protocol for delegation would be permitted;
3. A medical assistant’s ability to change an order for coumadin testing.

Dr. Steinbergh referred to the letter from Mr. Arville and a draft response. Copies of each document shall be maintained in the exhibits section of this journal. She advised that the Committee had some question about including “Collecting strep cultures” in a list of tasks because of the assessment that needs to be done in order to get a proper strep culture. She stated that the Board’s goal is not to make a list of tasks that they can do, but to allow the physician to use a medical assistant appropriately, and to understand what tasks may be appropriately delegated if he or she feels that the medical assistant is appropriate to that task.

Ms. Debolt stated that the letter asks what the physician can have the medical assistant do without doctor or nurse involvement. She stated that the Board can’t address the nurse question, but can as far as physician involvement. Under the delegation rules there always has to be physician involvement.

Ms. Debolt stated that each question asked by the lawfirm was addressed. The conclusion basically is a recitation of what’s in the delegation rule. The physician needs to see the patient, determine that a particular task is appropriate for the patient and then, if it’s a delegatable task, may delegate it to someone who is appropriately trained, and who the physician feels is competent. Ms. Debolt stated that, as a layperson reading this letter from the lawfirm, they were looking for a way of bypassing the delegation rule. The draft response makes it clear that the delegation rule requires physician involvement.

**DR. STEINBERGH MOVED TO APPROVE THE DRAFT LETTER WITH THE AMENDMENT CONCERNING THROAT CULTURES. DR. BUCHAN SECONDED THE MOTION.** All members voted aye. The motion carried.

#### LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed applications for certificates of good standing for a number of schools.

#### **DR. BUCHAN MOVED TO RENEW THE CERTIFICATES OF GOOD STANDING FOR THE FOLLOWING SCHOOLS:**

Antonelli College, Cincinnati, Ohio  
Carnegie Institute of Integrative Medicine, Suffield, Ohio  
Cincinnati School of Medical Massage, Cincinnati, Ohio  
Cleveland School of Medical Massage, Cleveland, Ohio  
Dayton School of Medical Massage, Dayton, Ohio  
Columbus State Community College, Columbus, Ohio

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Cuyahoga Community College, Highland Hills, Ohio  
 Ehove-Ghrist Adult Career Center, Milan, Ohio  
 Healing Arts Institute Perrysburg, Ohio  
 Institute of Therapeutic Massage Ottawa, Ohio  
 Northwest Academy of Massotherapy, Maumee, Ohio  
 Ohio College of Massotherapy Akron, Ohio  
 TriState College, N. Lima, Ohio  
 Washington State Community College, Marietta, Ohio  
 McIntosh College, Dover, New Hampshire  
 The Soma Institute, Chicago, Illinois

**DR. BUCHAN FURTHER MOVED TO GRANT A CERTIFICATE OF GOOD STANDING TO THE FOLLOWING SCHOOL:**

Rainstar College, Scottsdale, Arizona

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

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

The motion carried.

Dr. Buchan stated that the Committee also reviewed a proposal to move the granting of certificates of good standing to the Board's consent agenda.

**DR. BUCHAN MOVED TO DELEGATE BOARD STAFF TO REVIEW LIMITED BRANCH SCHOOLS REQUESTING CERTIFICATES OF GOOD STANDING, AND TO PREPARE A SYNOPSIS FOR APPROVAL VIA THE CONSENT AGENDA. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

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Mr. Browning	- aye
Mr. Hairston	- abstain
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion carried.

#### ADMINISTRATIVE REPORT

Mr. Whitehouse at this time reviewed his written report, a copy of which shall be maintained in the exhibits section of this journal, with the State Medical Board. Among the items he highlighted are his upcoming meeting with the Controlling Board to discuss contracting with hearing examiners.

Mr. Whitehouse added that next month the Board's agenda will include discussion of scope of practice issues. He asked that Board members adjust their schedules to make sure that they can stay on Thursday.

Mr. Whitehouse noted that the disciplinary actions taken by the Board have dropped this year, and he advised that there will probably be a corresponding drop in the Board's national rankings. He advised that much has been done this year to streamline processes and to increase efficiency. Some administrative tasks have been lifted from the enforcement attorneys and the Board has a full complement of committed and experienced people working now. He stated that he thinks that 2008 will be a banner year.

Mr. Whitehouse continued that sometime early in 2008, Ms. Anderson and Ms. Marshall will be presenting some metrics with regard to the enforcement staff, which will have some obvious implications in terms of management. The Board will be able to better judge productivity by the enforcement staff.

#### EXECUTIVE COMMITTEE

Dr. Kumar advised that the Committee reviewed a draft letter to the Federation of State Medical Boards, nominating Diann Thompson for the "Excellence in Service Award." He asked for approval of the letter.

**DR. BUCHAN MOVED TO SEND THE LETTER NOMINATING MS. THOMPSON TO THE FEDERATION. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

Dr. Kumar stated that the Committee also reviewed copies of articles to be published in the next edition of "Your Report," and recommend approval.

**MR. BROWNING MOVED TO APPROVE THE "YOUR REPORT" ARTICLES DISTRIBUTED TO THE COMMITTEE. DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

At this time, Dr. Kumar thanked the Board and staff for the help they have provided him in getting his job as President done. He stated that he really appreciates their help.

At this time Dr. Kumar did a review of the Board's efforts in 2007. He noted that the Board has focused more on being proactive than reactive. He noted one success has been the project involving the Ohio University College of Osteopathic Medicine. He stated that he hopes that the Board will extend this program to the other medical schools in Ohio.

Dr. Kumar also noted that one change he has implemented is having the enforcement attorneys present the proposed consent agreements, giving the Board members some background on each agreement.

Dr. Kumar stated another implementation is online licensure renewal for all licenses. Dr. Kumar thanked Ms. Thompson and Ms. Rieve for their work on this project.

Dr. Kumar stated that Ohio has also become the first Board in the country to implement the new on-line application process for medical and osteopathic physicians called the "Common License Application Form" or "CLAF." He stated that this has been a very successful program and will work towards creating faster licensure in multiple states.

At this time Dr. Varyani presented Dr. Kumar with a framed letter, signed by Governor Strickland, thanking him for his work during the past year.

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

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Thereupon at 10:20 a.m. on December 13, 2007, the December 12-13, 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 December 12-13, 2007, as approved on January 9, 2008.



Deepak Kumar, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

