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MINUTES**THE STATE MEDICAL BOARD OF OHIO****February 11, 2009**

Dalsukh Madia, M.D., President, called the meeting to order at 1:00 p.m., in the Administrative Hearing Room, 3rd Floor, the James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Jack C. Amato, M.D., Vice-President; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Marchelle L. Suppan, D.P.M.; Nandlal Varyani, M.D.; W. Frank Hairston; Susan E. Stephens, M.D.; Darshan Mahajan, M.D., and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Jeffrey M. Jacobson, Esq.; The following did not attend the meeting: Lance A. Talmage, M.D., Secretary,

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, David P. Katko, Angela S. McNair, Karen H. Mortland, Marcie P. Pastrick, Cheryl D. Pokorny, Sheldon Safko 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, General Counsel; 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; and Jacqueline A. Moore, Disciplinary Information Assistant.

MINUTES REVIEW

MR. ALBERT MOVED TO APPROVE THE MINUTES OF JANUARY 14-15, 2009.

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

EXECUTIVE SESSION

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

VOTE:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye

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Dr. Steinbergh - aye
Dr. Madia - 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.

REPORTS AND RECOMMENDATIONS

Dr. Madia announced that the Board would now consider the Reports and Recommendations appearing on its agenda.

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of David Carl Ernst, M.D.; Gary Charles Gelesh, D.O.; Mark Stephen McAllister, M.D.; and Kerrie Van Wagoner, P.A. A roll call was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

Dr. Madia 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. Suppan	- aye
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye

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Dr. Steinbergh - aye
Dr. Madia - aye

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

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

DAVID CARL ERNST, M.D.

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

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

Dr. Ernst read the following statement into the record:

I would like to express my gratitude to you for the opportunity to speak with you today. My purpose in requesting a Hearing and a Board visit is not to defend or contest any of my actions. In fact, quite the contrary, I fully understand the lapse in judgment, momentary complacency, and potential ramifications of my actions and I deeply regret and am sorry for them. Consequently, I have proactively taken responsibility, been cooperative in working with the Board, and made the necessary changes to prevent a reoccurrence of this behavior. The main purpose for my requesting a hearing was not to defend myself for my actions but rather point out to the Board 2 things that concern me regarding this process.

First, I feel there is an inherent unfairness present in the Board's definition and treatment of relapse. I fully understand the Board's need for clear definitions and structure to convey consistency and fairness in managing the many professionals you deal with. However, please realize there are unique circumstances that fall outside of the realm of what these definitions can fairly address and I hope you will give them special consideration. The Board's definition of Relapse, which in turn determines the course of action the Board's Attorney has to take in following the Disciplinary Guidelines laid out for them, changes depending upon one's action after an episode of potential relapse. This doesn't seem to me to provide a fair approach in certain circumstances.

In my case, had I notified the Board and seen a Board Certified Treatment Provider

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within 24 hours of ingesting the Ultram, I would have qualified for the "Slip Rule," which recommends that no disciplinary action be taken at all. Since it never occurred to me that my actions could be considered a relapse by the Board and since I was unaware that the "Slip Rule" existed, even after asking the Board's Attorney specifically about it and being told there was no such rule, how could I carry out these actions?

As a result, the Board's definition of a "Slip" changes to a Relapse simply by a lack of carrying out these actions after the fact and recommends, through the Board's Disciplinary Guidelines, a 3 month suspension and new 5 year consent agreement. How can this be that simply not being able to contact a doctor due to my lack of awareness of what might be considered a relapse changes the view of the Board from being a "Slip," requiring no action, to a full blown Relapse that requires significant punitive action? That does not seem fair or reasonable to me.

Second, I have in fact gone beyond what the Board would have done to me in disciplinary action by voluntarily increasing my UDS [urine screens] to weekly for the last year, voluntarily not practicing for 8 months, adding a weekly Aftercare counseling to my program for the last year, seeing a new Addictionologist, Dr. Collins, on a quarterly basis, completing a voluntary 7-day intensive outpatient program at CCF, and enduring the financial hardship associated with these changes, all totaling well over \$40,000.

I trust that you have read the entire summary of my Hearing by Ms. Petrucci and my written objections. I feel it conveys both the positive and proactive stance that I have tried to take in my past and present recovery, as well as in handling this isolated incident. Entering recovery is the best thing that has happened to me in my life and has allowed me the capacity to have a life I never would have otherwise enjoyed. I value my recovery deeply and have made many necessary changes as a result of this episode to ensure that my actions don't jeopardize it again.

I urge you to thoroughly consider the testimony you read from Dr. Gregory Collins as well. Dr. Collins started the Cleveland Clinic program for addiction over 25 years ago, is a Board-approved Addictionologist, and has treated thousands of doctors over the years.

Please ask yourself why would Dr. Collins, who has undoubtedly had many patients try to manipulate and fool him over the years, bother to take the time and risk his reputation to testify on my behalf and express his opinion that in my case no relapse occurred, this was a slip, and no further intervention is necessary for someone he has known from treatment for 6 months? He would not, unless he truly believed this to be the case. And further, if the Board places such importance on contacting a Board-approved provider within 72 hours as a criteria for avoiding disciplinary action for a relapse, then why aren't the recommendations of that provider considered heavily in the decision of what action to take?

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In closing, I would just like to thank the Board for providing this opportunity to express my concerns and hope that consideration be given to my unique circumstance.

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

Ms. Pfeiffer advised that she didn't represent the Board in this case. Ms. Unver, who represented the Board is out on medical leave at this time. Ms. Pfeiffer stated that she did not read the hearing transcript or view the exhibits, as the Board members have; however, she did review the Report and Recommendation and would like to respond in Ms. Unver's place.

Ms. Pfeiffer stated that she would submit that Dr. Ernst has done a tremendous amount of damage control in this matter and has demonstrated great effort to get back into compliance. She added that she would like to focus on a couple of things.

Ms. Pfeiffer stated that Dr. Ernst testified at hearing that he didn't realize that taking the Ultram or the Tramadol would be a violation. He was also cited for violating his consent agreement. One paragraph in that consent agreement provides as follows:

Dr. Ernst shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Ernst's history of chemical dependency.

Ms. Pfeiffer stated that the prohibition is as to "drugs." It's not drugs of abuse, narcotics, controlled substances, etc.; it's "drugs." Ms. Pfeiffer stated that, with all due respect, Dr. Ernst knew that this particular drug ~~that~~ required a prescription. When he first entered into his Step I agreement in 2004, he admitted that he had ordered Tramadol (Ultram), along with Librium and Metroclpromide with the intent to start using them to help wean himself off hydrocodone. Then he also claimed that he had flushed those drugs down the toilet before he had entered Glenbeigh for his treatment. Ms. Pfeiffer advised that, during the hearing, Dr. Ernst was questioned about how he came to have the Tramadol in the house, and he claimed that he didn't know he had it until he went to take some Motrin in February 2008 after hurting his back, and there were Tramadol samples in the Motrin bottle. On further questioning, he said that those samples were probably from seven to eight years old, and possibly obtained prior to the addiction. She noted that he had testified that he didn't even remember that they were in the house, but he's sure that they came from the emergency room.

Ms. Pfeiffer stated that there is clearly a violation here. She added that she doesn't want to take away from Dr. Ernst's great efforts that he's made. She commented that he's to be commended for that. She added, however, that she doesn't see an inherent unfairness here. She stated that Dr. Ernst was clearly put on notice when he entered that consent agreement that he's not to take any drugs unless he has a prescription from or issued by someone with full knowledge of his addiction. That didn't happen here.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF

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FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF DAVID CARL ERNST, M.D. DR. STEINBERGH SECONDED THE MOTION.

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

Dr. Steinbergh stated that, although she would agree with Dr. Ernst that he is now working harder on his recovery program, he has clearly violated his consent agreement. He's not allowed to take drugs unless prescribed by another physician. Tramadol, or Ultram, is a centrally acting synthetic opioid analgesic. Side effects can cause dizziness, somnolence, nausea, and a variety of other things. Dr. Steinbergh stated that some years ago doctors really didn't understand the potential for abuse with Ultram or Tramadol. She stated that that's true, but in 2008 physicians know what the ramifications are. She added that she also believes that Dr. Ernst knows that he's not supposed to be using it. She noted that he's someone who is working hard at his sobriety. He's an intelligent man and every physician needs to know the potential for abuse of Ultram or Tramadol.

Dr. Steinbergh stated that she finds the argument that he didn't violate the consent agreement to be a non-argument, because he did violate the consent agreement. She stated that the issue then is whether it's impairment or a slip. Dr. Steinbergh stated that by the Board's definition it is impairment. She stated that the Board can take a look at levels of impairment. Clearly, he went off and was doing his thing. He wasn't working any day. She doesn't believe that he put any patients at risk. He doesn't fall under the "slip" guidelines. He didn't report it immediately. Dr. Steinbergh stated that, in her mind, there had to be some knowledge that he knew what he did and that it was bad judgment. She stated that the issue for her was how bad the slip was. Dr. Steinbergh stated that she finds the Hearing Examiner's Proposed Order to be appropriate. The Order proposes an additional three years of probation and an indefinite suspension of not less than 90 days, dated from November 18, 2008.

Dr. Steinbergh stated that she thinks that it's time for Dr. Ernst to refocus his recovery. She thinks that he's doing that appropriately. Dr. Steinbergh noted that Dr. Ernst's current consent agreement puts his license on probation until May 2010. This Order extends that probationary period two additional years. Dr. Steinbergh stated that she thinks that the extension is appropriate.

Dr. Steinbergh stated that the question for her is whether or not this is defined as a relapse or as a slip. Dr. Steinbergh stated that she finds that this was a relapse. By definition it's a relapse. She stated that, fortunately, there is no evidence of patient harm, and she does think that Dr. Ernst is very earnest in his desire to heal.

Dr. Varyani stated that he would define this as a relapse. He indicated that Dr. Ernst's argument that it wasn't a relapse is damage control. He stated that the fact that Dr. Ernst had not understood what constitutes a relapse is a fault with him, and not with the Board's Impairment Committee or the definition. Dr. Varyani stated that Dr. Ernst knew, when he signed his consent agreement, what a slip is; and if he didn't, he should have. Dr. Varyani stated that when impaired physicians make their first appearance before the Board, they are asked whether they have any questions about their probationary terms. If he didn't read the part that says what he should do if he has a slip, it's his fault. Dr. Varyani stated that

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Dr. Ernst's arguments are wrong on his part. He added that he had come to this meeting, thinking that he would be more lenient, but now he agrees with the Proposed Order, extending the probation by two years.

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

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

MARK STEPHEN MCALLISTER, M.D.

Dr. Madia directed the Board's attention to the matter of Mark Stephen McAllister, M.D. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members. He added, however that these objections were not filed in a timely manner. He asked whether the Assistant Attorney General objected to the admission of these objections into the record.

Mr. Wilcox stated that he does not.

**DR. STEINBERGH MOVED TO ADMIT THE OBJECTIONS INTO THE HEARING RECORD.
DR. VARYANI SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Madia advised that the objections will be admitted into the record.

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

Dr. McAllister was accompanied by his attorney, John R. Irwin, M.D. Dr. Irwin thanked the Board for the opportunity to address it. He stated that Dr. McAllister would address the Board.

Dr. McAllister read the following statement into the record:

First allow me to thank the Board for the opportunity to stand before you today. It is my hope that you can not only have compassion for what I have faced, but also appreciate

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that this is the first opportunity that I've had to confront it. Probably much like yourselves, I have little insight into why I seem doomed to a path of continuous destruction, given so much potential and so many opportunities. I had no idea why I relapsed, why I secretly feared other men, why I had no self esteem, why I couldn't trust anyone or why I never allowed God into my life. All these things have posed serious and previously insurmountable roadblocks to my recovery. Today, I finally have the answer to these questions and, more importantly, a clear-cut path to their resolution.

I was abused by a Catholic priest. I endured beatings, sodomy, forced oral sex and countless other acts of humiliation, and threats of disclosure throughout my entire adolescence. Being merely a child, I had neither the courage nor the maturity to question what was happening to me. The only tool I was given by this man to assist in his seductions was illicit drugs, and I quickly learned to apply that tool in blotting out reality. Drug use and a self-protective amnesia were how I coped for the next 20 years.

I can't explain to you the phenomenon of recovered memory. What I can tell you is that no professional I've seen in the past year and a half has found it at all surprising that such a period of devastating injury could be completely repressed. You might ask, "why did it happen now?" I've posed the same question many times. I can only provide you with what I've learned. Most importantly, it is not a matter of choice, and it cannot be provoked. It simply happens when it happens. Furthermore, my life's circumstances, most notably bearing the responsibility of protecting my own newborn son were significant catalysts in bringing these issues forward. What I endured was tragic and humiliating. To stand here and publicly disclose these events is not something I would normally choose to do. Unfortunately, this very real sense of indignity and a fear of dismissal is what keeps many victims silent and perpetuates their sickness.

As knowledgeable health professionals, you might understand how such an experience would manifest in a fear of people that are supposed to help you, or a lack of faith in God, or an unwillingness to ever place reliance again upon anything outside of oneself. Recovery can only occur through becoming a member of the group, through faith and reliance on a higher power, through trust in a way of living that doesn't come naturally, and through a sincere desire to help others along the way. I had no concept of the scars blocking my path to these things until now. Finally, though, I can acknowledge that all my struggles have a cause, a treatable cause.

What I hope is most evident to you today is not the dramatic nature of what I've been through, but rather what I'm doing about it now. My claims to these revelations have been backed up by action, and the actions I have taken have produced tangible results. The testimony of my therapist and my wife, as well as the many letters written by men on my behalf should demonstrate this to you. I've made use of every available modality because I finally understand why I've struggled for so long, not only in recovery but in my relationships, parenting and self-confidence. To expect a seamless transition to a

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better way of life when confronting such demons would be unrealistic. It has been difficult for me. At last, however, there is a healing path for me to follow to the freedom I've been searching for my entire adult life.

I'm not asking you to overlook my troubled history with this Board, only to consider it in the context that a major source of my difficulties was, until recently, unidentified, and that same source is eminently treatable. Also consider the courage and the diligence in my efforts thus far, and the overwhelming optimism I now have for myself as a result.

Dr. Madia advised Dr. McAllister that he has one minute to conclude his address.

It would be extremely regrettable to me if my potential as a physician could not be met, given I now have a fighting chance at living up to what others have always expected. Having survived one of the worst experiences a human being can be dealt, I am confident in my ability to now overcome it.

Again, I sincerely thank the members for your thoughtful consideration of where I've been and where I'm going today. I'm grateful for the support I've been given by this Board through the years, and I humbly ask that you continue that support as I am finally dealing with the true source of my troubles. I am confident that with ongoing therapy and a period of probationary monitoring, I can again competently practice medicine, and can do so according to acceptable standards of care.

Thank you.

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

Mr. Wilcox advised that he did. He stated that he supports the Report and Recommendation of the Hearing Examiner in this matter. He believes that it does a thorough job of examining the issues in this case. He also noted that this hearing took place on December 19, and he commended the Hearing Examiner on a quick turn around.

Mr. Wilcox stated that he thinks that the proposed discipline in this matter is appropriate. He added that, if you look at this Report and Recommendation, specifically pages four and five, it outlines an incredibly long history of Dr. McAllister with this Board, going back to 1997. He stated that he feels that that is telling and also alarming. The fact that supports this Proposed Order is the diversion from patients. Obviously, Dr. McAllister came forth with some compelling information at this hearing, but the bottom line is that this is a relapse, and a second relapse where he has diverted medication from seriously or critically ill patients. Mr. Wilcox stated that he thinks the Hearing Examiner summed it up appropriately on page 20 of her Report and Recommendation wherein she stated:

Dr. McAllister has been given several opportunities by this Board to maintain his sobriety and his Ohio certificate to practice medicine. He not only has relapsed multiple times

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and failed to comply with Board requirements, but he has put patients at risk multiple times. Even when Dr. McAllister received treatment anew in 2008 [Mr. Wilcox at this time noted that this was after Dr. McAllister's revelations], he struggled to comply with the requirements of the two treatment programs. The Hearing Examiner is not convinced that the public in Ohio will be free from the risk of harm if Dr. McAllister is again allowed to practice medicine and surgery in Ohio.

Mr. Wilcox stated that he thinks that this is the most appropriate statement one could make in this case, and he does support the Report and Recommendation.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MARK STEPHEN MCALLISTER, M.D. MR. HAIRSTON SECONDED THE MOTION.

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

Dr. Egner stated that this was a difficult case. The Board is looking at a young man who was a surgery resident, then an anesthesia resident, and then returned to surgery. He's had three relapses. His diversion of drugs from patients was so serious. Another problem was that on one occasion, Dr. McAllister took Fentanyl just prior to going into surgery.

Dr. Egner stated that she can't, however, get past his underlying issue. She stated that she's not in agreement with permanent revocation. Dr. Egner stated that Dr. McAllister has to have treatment for his years and years of abuse. Dr. Egner stated that she thinks that the Board has to give him the chance to do that.

Dr. Egner stated that she has prepared an alternative order. She stated that she doesn't take this case lightly, but she does feel that Dr. McAllister was set up for failure without ever having truly addressed his underlying problem. She stated that she believes that her Proposed Order is fairly strict.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MARK STEPHEN MCALLISTER, M.D., BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Mark Stephen McAllister, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. McAllister's certificate shall be SUSPENDED for an indefinite period of time, but not less than three years.
- B. **INTERIM MONITORING:** During the period that Dr. McAllister's certificate to practice medicine and surgery in Ohio is suspended, Dr. McAllister shall comply

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with the following terms, conditions, and limitations:

1. **Obey the Law**: Dr. McAllister shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Personal Appearances**: Dr. McAllister shall appear in person for interviews before the Board or its designated representative. The first such appearance shall take place during the third month following the effective date of this Board Order. 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.
3. **Quarterly Declarations**: Dr. McAllister 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 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.
4. **Abstention from Drugs**: Dr. McAllister shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. McAllister's history of chemical dependency. Further, in the event that Dr. McAllister is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. McAllister shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. McAllister received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. McAllister shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
5. **Abstention from Alcohol**: Dr. McAllister shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Drug Testing Facility and Collection Site**: Dr. McAllister shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. McAllister shall ensure that all screening reports are forwarded directly to

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the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. McAllister's drug(s) of choice.

Dr. McAllister shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. McAllister acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand-cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, except as provided in Paragraph 7 below, and the screening process shall require a daily call-in procedure.

Dr. McAllister shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. McAllister shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Board Order. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Board Order.

Further, within thirty days of the effective date of this Board Order, Dr. McAllister shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Board Order. Further, Dr. McAllister shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. McAllister and the Board-approved drug testing facility and/or collection site. Dr. McAllister's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Board Order.

Dr. McAllister shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; 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, Dr. McAllister and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall

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immediately inform the Board of any positive screening results.

Dr. McAllister shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Board Order, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Board Order, Dr. McAllister must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 7 below, as soon as practicable. Dr. McAllister shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefor.

Dr. McAllister acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

7. In the event that utilizing the Board-approved drug testing facility and/or collection site as set forth in Paragraph 6 above creates an extraordinary hardship upon Dr. McAllister, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. McAllister:
 - a. Within thirty days of the date upon which Dr. McAllister is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. McAllister, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. McAllister shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. McAllister's residence or employment location, or to a physician who practices in the same locale as Dr. McAllister. Dr. McAllister shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and

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that the giving of the specimen is witnessed by a reliable person. In addition, Dr. McAllister acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. McAllister shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Board Order, and whether all urine screens have been negative.
 - c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. McAllister must immediately notify the Board in writing. Dr. McAllister shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. McAllister shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. McAllister.
 - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. McAllister's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
8. All screening reports required under this Board Order from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. McAllister's quarterly declaration. It is Dr. McAllister's responsibility to ensure that reports are timely submitted.

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9. **Submission of Blood or Urine Specimens upon Request:** The Board retains the right to require, and Dr. McAllister agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. McAllister, or for any other purpose, at Dr. McAllister's expense upon the Board's request and without prior notice. Dr. McAllister's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

10. **Rehabilitation Program:** Dr. McAllister shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than four times per week, unless otherwise determined by the Board. Substitution of any other specific program must receive prior Board approval. Dr. McAllister 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 Dr. McAllister's quarterly declarations.

11. **Psychiatric Assessment/Treatment:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. McAllister shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. McAllister's choice. Upon approval by the Board, Dr. McAllister shall obtain from the approved psychiatrist an assessment of Dr. McAllister's current psychiatric status. Prior to the initial assessment, Dr. McAllister shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, and Conclusions, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. McAllister shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. McAllister's current psychiatric status and condition;
- b. A detailed plan of recommended psychiatric treatment, if any, based upon the psychiatrist's informed assessment of Dr. McAllister's current needs;
- c. A statement regarding any recommended limitations upon his practice, and

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- d. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend psychiatric treatment, and upon approval by the Board, Dr. McAllister shall undergo and continue psychiatric treatment weekly or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. McAllister shall comply with his psychiatric treatment plan, including taking medications as prescribed for his psychiatric disorder.

Dr. McAllister shall continue in psychiatric treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. McAllister's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. McAllister's compliance with the treatment plan; Dr. McAllister's psychiatric status; Dr. McAllister's progress in treatment; and results of any laboratory or other studies that have been conducted since the prior report. Dr. McAllister shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. McAllister's quarterly declaration.

In addition, Dr. McAllister shall ensure that his treating psychiatrist immediately notifies the Board of Dr. McAllister's failure to comply with his psychiatric treatment plan and/or any determination that Dr. McAllister is unable to practice due to his psychiatric disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. McAllister must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. McAllister shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. McAllister's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. McAllister shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.

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2. **Compliance with Interim Conditions**: Dr. McAllister shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
3. **Demonstration of Ability to Resume Practice**: Dr. McAllister shall demonstrate to the satisfaction of the Board that he can resume 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 Dr. McAllister has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance, if applicable, 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. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. McAllister's ability to practice has been evaluated for chemical dependency and/or impairment and that he has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. McAllister's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. McAllister has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
 - e. Two written reports of evaluation by two psychiatrists acceptable to the Board indicating that Dr. McAllister's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such evaluations shall have been performed within sixty days prior to Dr. McAllister's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. McAllister has been found capable of practicing according to acceptable and prevailing

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standards of care and shall include any recommended limitations upon his practice.

4. **Additional Evidence of Fitness To Resume Practice:** Prior to submitting his application for reinstatement or restoration, Dr. McAllister shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess Dr. McAllister's clinical competency.
- D. **PROBATION:** Upon reinstatement or restoration, Dr. McAllister's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least six years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. McAllister shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order, and shall continue to comply with the terms of any aftercare contract as specified in Paragraph C.3.b of this Order.
 2. **Absence from Ohio:** Dr. McAllister 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.
 3. **Violation of Terms of Probation:** If Dr. McAllister violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. McAllister's certificate will be fully restored.
- F. **RELEASES:** Dr. McAllister 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 Dr. McAllister's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. 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

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to statute.

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

G. REQUIRED REPORTING AND DOCUMENTATION OF REPORTING:

1. **Required Reporting to Employers and Hospitals:** Within 30 days of the effective date of this Board Order, Dr. McAllister shall provide a copy of this Board Order to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. McAllister shall promptly provide a copy of this Board 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. In the event that Dr. McAllister provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Board Order, Dr. McAllister shall provide a copy of this Board Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

This requirement shall continue until Dr. McAllister receives from the Board written notification of his successful completion of probation as set forth in Paragraph E, above.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Board Order, Dr. McAllister shall provide a copy of this Board Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. McAllister further shall provide a copy of this Board Order at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license.

This requirement shall continue until Dr. McAllister receives from the Board written notification of his successful completion of probation as set forth in Paragraph E, above.

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3. **Documentation that the Required Reporting Has Been Performed:**

Dr. McAllister shall provide the Board with **one** of the following documents as proof of each required notification within 30 days of the date of each notification required above: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Board Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Board Order to the person or entity to whom a copy of the Board Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Board Order to the person or entity to whom a copy of the Board Order was emailed.

This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

Dr. Egner reviewed the terms of her Proposed Order, stating that the one thing that is different about this proposal is that Dr. McAllister needs psychiatric care. He needs an assessment, and he needs treatment. Dr. Egner stated that she personally believes that Dr. McAllister needs intensive treatment, so much so that he couldn't be a resident right now anyway. Dr. Egner stated that she thinks that Dr. McAllister needs to devote all of his time to treatment. The Board needs an assessment by a professional to advise the Board as to what type of treatment Dr. McAllister needs. If and when he can return to practice, he would be on probation for six years. Dr. Egner stated that that's a little bit longer than the Board usually requires.

Dr. Egner stated that one of the big considerations in this case is that Dr. McAllister was not charged with a (B)(19) violation of mental or physical impairment. In order for this proposed order to be accepted, Dr. McAllister and his attorney must also accept the psychiatric requirements. She commented that, since they used this as his defense as to why this is all happening, she would think that Dr. McAllister would want to be treated. Dr. Egner stated that, in accepting that, Dr. McAllister and Dr. Irwin would need to waive any right to appeal on the basis that the state did not include such a charge in the notice of opportunity for hearing.

Dr. Egner stated that even though Dr. McAllister is presently out of state, no one knows where he'll be located at the time he requests reinstatement. Therefore, she's included a probationary condition that his being out of state tolls the time unless he specifically requests otherwise. That provides the Board with more control over the process of monitoring his probation. Dr. Egner stated that the Board should keep a close eye on Dr. McAllister while his license is suspended in Ohio.

Dr. Stephens agreed with Dr. Egner. She stated that the injury Dr. McAllister sustained was devastating, and she thinks that he shouldn't feel ashamed anymore. Part of his recovery is talking about it. Dr. Egner stated that she thinks that Dr. McAllister deserves a second chance, and she thinks that he needs to really focus on his mental recovery and treatment. Dr. Stephens stated that she thinks that he can do it, and she

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encouraged him to reach out to other people who have been similarly affected.

Dr. Suppan stated that she supports both Dr. Egner's and Dr. Stephens' positions. She stated that the thing that really struck her in Dr. McAllister's story is that the Board is really dealing with two people here: the old Dr. McAllister who went through all of this, and now the enlightened individual who has recovered these memories. She stated that this is a new start for Dr. McAllister, and she thinks he deserves another chance.

DR. VARYANI SECONDED DR. EGNER'S MOTION TO AMEND.

Dr. Steinbergh stated that she agrees with not permanently revoking Dr. McAllister's license. She stated that when she came to this meeting, she was of the same mindset as Dr. Egner regarding the revocation. She stated that she does not disagree with the proposed motion at all, but she added that the seriousness of Dr. McAllister's actions cannot be removed. He's had multiple relapses and multiple difficulties, he's had to leave surgical programs, and he's had problems for many, many years. Dr. Steinbergh stated that she is extremely sensitive to the fact that Dr. McAllister has obviously been mentally injured. There's no question about that. She added that she thinks that the Board can understand where part of his chemical dependency comes from. Dr. Steinbergh stated that Dr. McAllister is an ill man and needs to be out of practice for a long time. He needs to recover on several levels. Dr. Steinbergh stated that Dr. McAllister is simply not appropriate to practice medicine, and that's something the Board has to continue to remember. She stated that this is not a dispassionate thing the Board is doing. But it recognizes the Board's responsibility to the State of Ohio. Dr. Steinbergh stated that she does agree with the proposed amendment.

Ms. Debolt suggested that, before the Board continues more discussion about the proposed amendment, it have on the record a statement from Dr. McAllister and his attorney that they would agree to the amendment.

Dr. Irwin stated that he and Dr. McAllister have reviewed the proposed amended order, and he has discussed the matter with his client. They are both in agreement with the terms proposed in that order recognizing the (B)(19) issue.

Dr. McAllister stated that he concurs with Dr. Irwin.

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

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye

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Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- 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 MARK STEPHEN MCALLISTER, M.D. MR. HAIRSTON SECONDED THE MOTION. A vote was taken

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

Mr. Albert left the meeting at this time.

KERRIE VAN WAGONER, P.A.

Dr. Madia directed the Board's attention to the matter of Kerrie Van Wagoner, P.A. He advised that no objections were filed to Hearing Examiner Petrucci's Report and Recommendation.

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

Ms. Van Wagoner stated that she doesn't have a lot to say. She just wants to let the Board know what she's been doing lately. She thanked the Board for the opportunity to speak today.

Ms. Van Wagoner stated that, as of two weeks ago, she has a stable job, and added that this has been difficult to find. She works part time in a financial services company. This has helped her get on her feet. She's able to pay her rent. She advised that her church had been supporting her quite a bit, but now she's able to support herself much more, which is helping.

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Ms. Van Wagoner stated that she has an appointment on February 23rd with a neurologist to discuss her headaches and to change the medication she's currently prescribed. Ms. Van Wagoner stated that she thinks that it's in her best interests that she change that and address that issue.

Ms. Van Wagoner stated that she will continue to do what she can to regain the Board's trust.

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

Ms. Pfeiffer stated that there were two parts to this case: the easy part and the hard part. The easy part relates to the allegations and the proof of those allegations. Ms. Van Wagoner entered into a Step 1 Consent Agreement in June 2007 that took her out of practice. Her drug of choice at that time was Vicoprofen. From the time she entered the consent agreement until the time the Board issued its citation in January 2008, Ms. Van Wagoner was, basically, non-compliant with the agreement. Ms. Pfeiffer noted that Ms. Van Wagoner readily admitted this.

Ms. Pfeiffer stated that the tough part is what the Board should do. This is a licensee who is dependent upon Vicoprofen. She attempted to get urine screens done through her general practitioner, Dr. Kaiser, who was, at least at the time of the hearing, prescribing Vicoprofen. Ms. Pfeiffer stated that she's not sure what the Board should do at this point in time. Ms. Van Wagoner hasn't adequately addressed her opiate dependence. Ms. Pfeiffer stated that she thinks what may be best to do is follow the recommendation of the Hearing Examiner, issue a non-permanent revocation, and at some point in the future, when she's more together, she can seek licensure again. Ms. Pfeiffer stated that she doesn't say that lightly, but she asked why the Board would want to keep someone under its thumb when that person isn't in compliance.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF KERRIE VAN WAGONER, P.A. MR. HAIRSTON SECONDED THE MOTION.

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

Dr. Steinbergh stated that she absolutely agrees with the Proposed Order of revocation in this case. She stated that Ms. Van Wagoner has never been in compliance with her consent agreement. As she read through the Report and Recommendation, her only comment is that right now Ms. Van Wagoner is only going to do certain things that are convenient for her. She's still taking the same drugs that she had abused. What would be the point of ongoing monitoring by the Board when you can't meet the stipulations of a consent agreement? Dr. Steinbergh stated that she doesn't believe that Ms. Van Wagoner intends to comply with the Board's terms.

Dr. Steinbergh stated that if Ms. Van Wagoner really wants to be a P.A., she'll refer back to the consent agreement that the Board put in place at the beginning, begin to learn how to comply, and present to the Board at some point that she can come back to practice. Dr. Steinbergh stated that she appreciates the Ms. Van Wagoner's desire not to throw away her education, but in light of the testimony, she has no reason to

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believe that Ms. Van Wagoner can comply with the consent agreement.

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

VOTE:	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

GARY CHARLES GELESH, D.O.

Dr. Madia directed the Board's attention to the matter of Gary Charles Gelesh, D.O. He advised that counsel for Dr. Gelesh has arranged to have a court reporter present during the Board's consideration of this case. He reminded Dr. Gelesh's attorney, Eric J. Plinke, that the Board's minutes serve as the official record.

Dr. Madia advised that objections to the Report and Recommendation were filed by both the Respondent and the State. Respondent also filed a *Motion to the President of the State Medical Board to strike the State's objections, to abstain from the proceedings, and to not disseminate the State's objections to the voting Board members*. The State filed a memorandum in opposition to Respondent's motion. Dr. Madia advised that he denied the Respondent's motion.

Dr. Madia continued that two additional motions were filed and are pending: The State filed a *Motion to place proffered evidence and argument before the Board*, and the Respondent filed a *Motion to the President of the State Medical Board to strike the State's motion to proffer, to abstain from the proceedings, and to not disseminate the State's motion to proffer to voting Board members*. He advised that, upon consideration, it was his decision to defer ruling on the motions to the full Board. This decision effectively denied the portion of the Respondent's motion asking that the State's motion to proffer not be disseminated to the voting Board members. Dr. Madia added that he finds that the request for him to abstain from the proceedings is not well taken and is hereby denied.

Dr. Madia advised that, to aid the full Board in its consideration of the motions, the State and the Respondent will each be given the opportunity to present a five-minute oral argument in support of their respective motion. He advised Mr. Plinke that at this time he may present oral argument concerning his motion to strike the State's motion to proffer. He added that the argument may not be longer than five

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minutes in length.

Mr. Plinke stated that it is the State's motion to proffer, and he believes that the State should address the Board first.

Ms. Debolt stated that because the first motion the Board will be considering is whether to strike the State's motion, the motion made on behalf of the Respondent, the Respondent's motion is the first motion that must be considered. Therefore, the argument from the Respondent is heard first.

Mr. Plinke asked whether they will each have five minutes on each motion.

Dr. Madia stated that each will have five minutes to address the issues, and then the Board will consider the motions.

Mr. Plinke asked what the status is on the motion to proffer. He stated that that is unclear to him. He stated that the State filed a motion to proffer. He's unaware of a ruling on that motion.

Dr. Madia stated that the Board has not ruled yet. The Board will rule on both motions.

Mr. Plinke asked whether he is addressing both motions now.

Dr. Madia stated that he is. He will have five minutes to address both motions.

Mr. Plinke asked whether he is addressing the Board in support of his own motion and in opposition of the State's motion.

Dr. Madia stated that that is correct.

Mr. Plinke stated that, in support of his motion to strike the State's motion to proffer, and in opposition to the State's motion to proffer, he would first submit that the Board's entertainment of these motions is actually inconsistent with Rule 4731-13-15 OAC. That being said, he understands the Board's ruling, and he will proceed.

Mr. Plinke stated that, as he had argued in his motion to strike, the very content of the State's motion to proffer and its objections makes improper references to excluded materials. The reason he asked to strike the State's motion is because of that. He stated that there was an extraordinarily long and arduous hearing – probably the most adversarial hearing in which he's ever participated with this Board. The Hearing Examiner did an excellent job in making the rulings, issuing a Report and Recommendation, setting forth the summary of the evidence, and giving a Proposed Order. They came to defend the case that was presented in the citation letter. It's a very short letter. There are two material paragraphs regarding the factual allegations. When the hearing started, the State started pursuing two surprise allegations: (1) that Dr. Gelesh had, essentially, committed a homicide on a patient; and (2) in doing that, he also intended to administer morphine at such levels that would "guarantee the patient's death." Mr. Plinke stated that those

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aren't in the citation letter. There's nothing in the citation letter about either of those allegations. That is why the Hearing Examiner correctly ruled that those items are not appropriate issues for this hearing. She struck the material that had initially been mentioned in the State's opening statement and thereafter. Once those rulings were made, the case proceeded for days and weeks, witness after witness – none of whom addressed these two issues because the Hearing Examiner had correctly said that this is not part of this case. You did not allege this. You can't pursue this.

Mr. Plinke stated that here's real prejudice with the motion to proffer. The Board has now seen that information. There wasn't a hearing about it, he didn't defend it, none of his witnesses were permitted to testify about it because it wasn't part of the case, and the Respondent complied with the Hearing Examiner's ruling. The State has not. The way the State phrases the motion to proffer, and he frankly understands Dr. Madia's ruling on his motion to strike the objections, but the way the State phrases its objections is in contempt of the Hearing Examiner's rulings. Mr. Plinke stated that they all play by the same rules – if it's in the record, that's where they argue from. You can't make an end run around a four-month hearing process by submitting objections and a motion to proffer that gets in the back door the evidence that this Hearing Examiner rightly excluded.

Mr. Plinke stated that, in addition, he thinks that the Board has to consider this effort in the context of this hearing. In this hearing, when the Board members issued the citation letter, they had a statement from the nurse (Exhibit KK), that said, "I went in, asked Dr. Gelesh if he really wanted Anectine, and he said, 'yes.'" That's what the nurse put in writing to Pete Vitucci. She later said, "He said 'yes.' He confirmed the order." That's what she says before the hearing. The Secretary and Supervising Member rely on this. This was part of preparing the case for citation. She comes to hearing, and what does she say? She says "He didn't answer me . . . must not have heard me . . . didn't have eye contact with him . . . he didn't confirm the order, I honestly didn't believe that's what he said." Mr. Plinke stated that he's tagged all the transcript pages in which she said that. He added that he could read them to the Board, but he would exceed his five minutes.

Mr. Plinke stated that, in the context of this case, where the Board members were misled by a nurse in a material manner, the State now wants to present information to the Board via a back door. He asked where the surprise was by the State for being misled by the nurse. He asked where the shock is. He asked why, when the Respondent tried to get this document into the record, the State doesn't want the Board to see it. Mr. Plinke stated that he thinks that if he were a Board member, that would bother him.

Mr. Plinke stated that it would also bother him that, when they called Pete Vitucci to the stand, he's not there and the State doesn't want him to testify. He asked why, noting that Mr. Vitucci is the State's investigator. Shouldn't the Board members know what the investigator has to say about this case? Mr. Plinke stated that he can't remember a time when that has happened. He can't remember a time when the Board has wanted its members to not know things about a case, and then in the same case bring information that was stricken from the record to the Board's attention at the eleventh hour. He stated that he thinks that that's fundamentally unfair. Even the Board having reviewed the motion to proffer and the State's objection has essentially prevented his client from having a fair hearing, consistent with the basic notions of due process. The Respondent wasn't given notice, he didn't have a hearing on these two issues,

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he proceeded in good faith in accordance with the Hearing Examiner's appropriate rulings and now the Board gets to see what they didn't get to have a hearing about. Mr. Plinke stated that he doesn't know how any Board member could vote on this case because the record has been soiled.

Dr. Madia stated that at this time the State may present oral argument concerning its motion to place proffered evidence and argument before the Board. The argument may not be longer than five minutes in length.

Mr. Wilcox stated that he will first briefly respond to Dr. Gelesh's motion to strike the State's motion to bring forth the additional evidence before the Board. Mr. Wilcox stated that, in spite of what Mr. Plinke has just said in his attempt to divert the issues here, the Board is the ultimate arbiter of evidentiary rulings in this matter. That's under Chapter 119., which governs these cases. It is also under the Ohio Administrative Code. The arguments that were proffered must be brought before the Board because it is the ultimate decision maker on evidentiary rulings in a case. If the Board rules as Dr. Gelesh wants, it would be in violation of the law.

Mr. Wilcox stated that, as for the State's motion to proffer and place this evidence before the Board, the main thrust of this motion relates to testimony that, for the most part, was given on the first day of hearing. On that day the State called Dr. Gelesh and the State's expert, Dr. Fraser, to testify regarding the events of the evening of February 7, 2002, in Akron General Hospital. The examination encompassed the whole drug regimen utilized in the ER that evening in caring for Patient 1, with the goal of ascertaining whether the administration of Anectine was merely an accident or something more. Dr. Gelesh's state of mind in administering the Anectine is relevant, not only to the charge itself, but also to the other critical issues in this case, including the application of the Board's disciplinary guidelines, and the application of the immunity defense for comfort care, which Dr. Gelesh, himself, asserted under R.C. 2133.11.

Mr. Wilcox stated that the examination of these two witnesses addressed two extremely high doses of morphine, administered to the patient immediately before the Anectine. The topic of the examination could not have come as a surprise to the Respondent, as he indicates today, because it had been included in the expert reports that both parties had exchanged prior to commencement of hearing. Nevertheless, during the testimony of Dr. Fraser and Dr. Gelesh, Respondent objected to questions regarding the amount of morphine administered. The Hearing Examiner initially overruled these objections and allowed the testimony to go on for the entire first day, but the second day she came back, reconsidered, and reversed her ruling, and said that the State was required to include the factual allegation in the notice regarding the administration of morphine. The Hearing Examiner essentially ruled that the State was prohibited from presenting evidence from which one can infer from the surrounding facts that Dr. Gelesh's act in ordering the Anectine amounted to intentional conduct, unless those surrounding facts were written out in the notice letter, and the State had alleged a mindset in that notice letter. As a result, lines and lines of testimony from the first day of hearing were redacted from the transcript and they were placed under a proffer and sealed. Under this ruling by the Hearing Examiner, even the legal arguments of counsel would be kept from this Board.

Mr. Wilcox stated that the State believes that the Hearing Examiner's evidentiary rulings on the morphine

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issue and the exclusion of a police report that impeaches Dr. Gelesh were wrong and that these issues should be fully examined by this Board before it makes its decision.

Mr. Wilcox advised that he would briefly discuss why the State believes that the Hearing Examiner erred in her rulings. First, the state of mind or intent is important for a couple of reasons: Dr. Gelesh brought forth an affirmative defense, in which his actions in the ER will be judged as to whether or not they were in good faith. The morphine issues goes directly to the element of intent. Dr. Gelesh opened the door to this evidence when he raised the “good faith” defense, and intent and state of mind go directly to whether he acted in good faith. Second, “intent” is always a factor the Board needs to consider. The “intent” analysis should not be excluded from the Board’s review because the State believes that, in this case, it clearly shows a pattern of conduct and helps the Board determine whether Dr. Gelesh’s conduct was willful. The disciplinary guidelines specifically list willful or reckless misconduct and a pattern of misconduct as aggravating factors that this Board can consider in deciding what penalty to impose.

Mr. Wilcox stated that the exclusion of a police report that bears on Dr. Gelesh’s credibility by the Hearing Examiner, particularly when the Hearing Examiner elected to believe Dr. Gelesh over the testimony of other eyewitnesses, is also of concern to the State. He stated that the excluded police report directly impeaches Dr. Gelesh’s credibility. In that report, a few weeks after the event in question, Dr. Gelesh professed a total lack of recall compared with the statement that he made at hearing that his memory of events was clear. The report was clearly not a peer review document and was improperly excluded from the record.

Mr. Wilcox stated that, finally, the decision to exclude the arguments of counsel on the morphine issue was wrong because the Board has to be able to review these arguments to do its job. The decision of the Hearing Examiner to exclude arguments on these issues was in violation of Administrative Code 4731-13-03(G), which provides: “

All rulings on evidence and motions and on any other procedural matters shall be subject to review by the board upon presentation of the proposed findings of facts and conclusions of law of the hearing examiner. When such rulings warrant, the board may remand the matter to the attorney hearing examiner.

Mr. Wilcox stated that by proffering and sealing the evidence and the arguments, the Board is prevented from doing its job. The Hearing Examiner is not the final arbiter in this matter. That is the exclusive province of this Board.

Mr. Wilcox stated that, finally, he would like to discuss why this is important to the State. He advised that the morphine issue clearly bears on the intent of Dr. Gelesh and is crucial to the Board’s decision of how to properly consider an issue of discipline in this case. The Report and Recommendation proposes light discipline in this matter. He advised that the State wants the Board to be able to see the whole picture without the Hearing Examiner filtering the evidence upon which the Board has the duty to ultimately rule and deliberate. The Hearing Examiner has recommended discipline in this matter, but that discipline is only the result of a finding that Dr. Gelesh’s failure to verify medication before injecting it was below the

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standard of care. Mr. Wilcox stated that the State believes that there are bigger issues at stake.

Mr. Wilcox stated that you can sum this case up as follows: as presented, without the additional morphine evidence, arguments and documents, one may conclude that this is a physician who failed to double-check medication he was giving to his patient before administering it. On the alternative, when considering that the drug Anectine was used and a morphine regimen ordered by Dr. Gelesh in dosages described as “phenomenally large” by the State’s expert, one may reasonably conclude that this is a physician who engaged in a pattern of conduct that willfully ended the life of a patient under his care. The State believes that this evidence is crucial to the Board’s determination and discipline. As such, the State would request that the full Board rule the proffered evidence and argument by the State be unsealed and presented to the Board.

Dr. Madia stated that he will now entertain a motion from the Board concerning the motion to strike filed by the Respondent.

DR. EGNER MOVED TO DENY RESPONDENT’S MOTION TO STRIKE THE STATE’S MOTION TO PROFFER. DR. AMATO SECONDED THE MOTION.

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

Mr. Jacobson asked whether, if the Board passes this motion, it will be asking the Hearing Examiner to reconsider the information, or would it be taking it over itself.

Dr. Madia advised that the Board might go either way.

Mr. Jacobson stated that the Board doesn’t have to remand the case to the Hearing Examiner for a fuller hearing. Mr. Jacobson stated that the underlying question of whether the denial of the evidence at the time of the hearing was improper or not need not be addressed if the Board members just want to listen to all of the evidence themselves.

Dr. Madia stated that that is correct.

Ms. Debolt stated that the first question is, does the Board want to strike, do away with, deny the State’s motion to proffer without even considering it. That’s what the doctor has asked the Board to do. If the Board says, “yes, we want to do that,” that ends everything. If the Board denies the doctor’s motion to strike, then it will consider whether it wants to let this evidence in. If the Board lets the evidence in and, given that the Board does not hear additional evidence on its own, if it wants additional evidence to be taken on the matter, it would remand it back to the Hearing Examiner to take additional evidence.

Mr. Jacobson stated that that answers his question.

Dr. Madia stated that the Board can consider the evidence that it has.

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Ms. Debolt stated that if the Board wants to just take in the evidence that's proffered, it can do that, as well; but if it wants evidence beyond what is actually proffered and is part of the State's motion, it would remand it for the actual testimony to be taken before the Hearing Examiner.

Dr. Varyani asked, if the Board denies Dr. Gelesh's motion and accepts the State's motion, it wouldn't be hearing everything that it is supposed to hear.

At this time Ms. Debolt introduced Tracy M. Greuel, Assistant Section Chief, Health and Human Services Section.

Ms. Greuel stated that, because she was not involved in the hearing, she's been asked to advise the Board on procedure.

Ms. Greuel stated that if the Board does not grant Dr. Gelesh's motion and allows the State's proffered evidence to come in, it looks to her as though the Board has two choices: (1) because the Board controls the evidence of the case, ultimately, it has the right to say that is enough evidence, that's all we want to hear, we can consider it, we can amend the ruling of the Hearing Examiner and issue our decision right now; or (2) the Board could remand it back to the Hearing Examiner with specific instructions to consider this evidence admitted and revise her Report and Recommendation accordingly. She stated that it would also be within the Board's power to put a time limit on the Hearing Examiner in doing that.

Dr. Steinbergh referred to Mr. Plinke's argument on fairness. She stated that this Board, in general, has always allowed all the information that it can possibly have when it needs to determine disciplinary action. Mr. Plinke's argument is that, because the citation letter said what it said, it's not fair that the Respondent came defending "this" and the Board later admitted other evidence that he should have been prepared to address. She asked whether remanding this matter would allow Mr. Plinke to develop a different defense? She stated that she understands about the proffered information and what a remand does, but she would like to know what it would do to Dr. Gelesh's ability to defend this information if he feels that he has not had the chance to do so.

Ms. Greuel stated that, on that point, she thinks that the Board also has two options. If the Board chooses to remand, it can review the evidence that was proffered. She added that she believes that Mr. Plinke also made some proffers during this hearing. Certainly, he can be given the opportunity to ask to reopen the record for the submission of specific evidence in response to this proffered evidence. She advised that the Board could also give specific instructions to consider the proffered evidence, consider whatever subsequent motion Mr. Plinke might make with regard to admission of additional evidence, and keep it entirely without taking new testimony, or it can give specific instruction to the Hearing Examiner to give a time certain by which the parties have to submit whatever additional rebuttal evidence they would have to the State's proffered evidence and then another time certain by which the Hearing Examiner has to make a new report and recommendation.

Dr. Amato stated that he's having a real problem with some of this. This is a physician who, from what he could get from the record, never had a blemish on his record in 30 plus years of practice. There is a

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citation letter that focuses on one issue and now a stack of information is focusing on another issue.

Dr. Amato stated that the Board's investigator, a public servant, should be available to the defendant to call at hearing. That didn't happen, and he's never heard of that not happening. It seems to him that if the Board remands this back and goes through with further hearings, it sounds like a double jeopardy situation for this practitioner.

Dr. Egner stated that she thinks that those are two separate issues, and she feels like the Board members are being treated as if they are ignorant – and she really resents having all of these attorneys act as if the Board members don't have the knowledge or experience to be able to read a record, the Report and Recommendation, the medical record, the testimony, and not come to an intelligent conclusion. She doesn't feel that the Board should be deciding right now whether to remand the case back to the Hearing Examiner. Instead, what the Board should look at now is whether or not it wants to vote on Mr. Plinke's motion to strike. She noted that there is a motion to deny that motion.

Dr. Egner stated that Mr. Plinke is not saying that he has new evidence to give the Board. What he would want to give the Board is his argument about the State's objections.

Dr. Madia asked that the Board focus first on the motion to strike.

Mr. Jacobson stated that he realizes that the Board has to take this one step at a time, but he would be much more comfortable letting this evidence in if he knew that the case would have the opportunity to go back to the Hearing Examiner, rather than the Board trying to decide it all at this time.

Dr. Madia stated that the Board will have the chance to discuss that.

Dr. Egner clarified her motion, which was to deny Mr. Plinke's motion to strike the State's proffer of evidence.

Dr. Amato stated that he didn't second that motion, and Mr. Hairston didn't make that motion.

Dr. Egner stated that she made the motion.

Dr. Suppan asked whether, if the Board votes, "yes," the State's evidence is in.

Several Board members responded in the negative. Mr. Jacobson explained that then the Board would consider the State's motion to admit the proffered evidence.

Mr. Albert returned to the meeting during the previous discussion.

A vote was taken on Dr. Egner's motion to deny Respondent's motion to strike:

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

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Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- nay
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

DR. SUPPAN MOVED TO ALLOW THE STATE'S EVIDENCE.

Mr. Jacobson asked Dr. Suppan to amend her motion to include a direction to the Hearing Examiner to consider the evidence.

Dr. Egner stated that she would really like to vote on those two things separately.

Mr. Jacobson stated that he's not comfortable just granting it and not sending it back. If the Board doesn't send it back, he's voting no. He stated that to let it be voted on so that the Board becomes this panel without the opportunity for both sides to be able to argue it at the right place, he's not comfortable doing that and the problem with doing these motions one at a time is that you're asking the Board to take a lot on faith and not know what happens. He stated that, personally, he would have made one motion that disposed of everything.

DR. SUPPAN'S MOTION DIED FOR LACK OF A SECOND.

Dr. Madia asked whether there is a motion concerning the State's motion to place proffered evidence and argument before the Board.

DR. VARYANI SO MOVED. DR. EGNER SECONDED THE MOTION.

MR. JACOBSON MOVED TO AMEND THE MOTION TO STATE THAT THE STATE'S MOTION IS GRANTED AND THE MATTER IS REMANDED TO THE HEARING EXAMINER FOR FULL CONSIDERATION OF THE EVIDENTIARY ISSUES WITHIN AND TO REPORT BACK TO THE BOARD AT ITS MARCH MEETING.

Dr. Madia stated that setting the date as the March meeting would be too short a time. He suggested that it be reported to the Board in 90 days.

MR. JACOBSON ACCEPTED DR. MADIA'S SUGGESTION OF A REPORT TO THE BOARD IN 90 DAYS. DR. SUPPAN SECONDED THE MOTION TO AMEND.

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

Dr. Egner stated that she understands all of these amendments, adding that she personally thinks that it is unnecessary to remand the case back to the Hearing Examiner. Dr. Egner stated that she was able to read the Report and Recommendation, to go through the testimony and to make a conclusion. She stated that she did read the State's objections, she had already reached a conclusion prior to reading those objections, and those objections didn't change her conclusion or give her anything new that she hadn't already found in the record. Dr. Egner stated that, as far as she's concerned, she's ready to vote on this matter. She feels that she is very well apprised of what happened here. She's gone through the record extremely thoroughly. Dr. Egner stated that the process has worked. There's been a hearing, there's been testimony, and there is a recommendation before the Board. She has no questions that she feels needs to be answered, there has been nothing to warrant the presentation of new evidence – it's just been reaction to the evidence. Dr. Egner stated that she feels prepared to vote on this matter. For that reason, she would not like to see it remanded. It has been going on long enough, and she feels ready.

Dr. Varyani stated that he totally agrees with Dr. Egner. Nothing has changed, nothing is new. He stated that he doesn't think anything new has been added, and he doesn't think that there would be anything gained by remanding the case to the Hearing Examiner.

Dr. Steinbergh agreed, stating that this was a huge record, and she's been through it. She's been through the objections, she understands the case, and she's prepared. Dr. Steinbergh added that she also agrees with Dr. Egner that there isn't anything new in any of this proffered information. She stated that she understands the case and she understands the objections. To continue this is exhausting.

Dr. Steinbergh stated that she appreciates that Mr. Jacobson is a public member and that he is recently appointed to the Board. She stated that if he is unable to come to a determination and is not prepared to vote, then the Board does need to look at how the members of the Board feel about their preparedness to participate in discussion. If it's not been thorough enough, then the Board needs to consider that, because it does need to vote as a Board. Everybody's vote is important.

Dr. Mahajan stated that he went through this case and he doesn't find anything is added by the proffered evidence. He agreed with Dr. Egner that the Board has enough information. This case has been going on for six and a half years and it's time for the Board to make a decision.

Mr. Jacobson stated that in his 16½ years in the Legislature, he's used to being outvoted. His only concern with this is that, as he understands the record, what happened is that the Hearing Examiner cut off the discussion, and when she cut off the discussion, at that point both sides couldn't present anymore. If the State's motion were not granted at all, if the Board denies the motion, nobody's been harmed. He expressed concern over the unfairness of the Board saying that the State gets to put its stuff in and the doctor does not. He stated that if the Board allows this, he believes that the Board has created potentially a procedural due process issue.

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Dr. Stephens agreed with Mr. Jacobson. Due process and fairness is her whole problem with this.

Mr. Hairston also agreed.

Dr. Amato stated that he agrees with Dr. Egner and Dr. Steinbergh. Reading what the State has proffered does not change his opinion after having read the whole record. That's why he tried to raise the issue earlier, just as Mr. Jacobson's said. He thinks that the Board has created a due process issue.

Dr. Steinbergh stated that the Board hasn't accepted the proffer yet. The Board is discussing it now.

Dr. Amato stated that if the Board accepts the proffered evidence, it has created a potential due process issue, and it has to go back. Dr. Amato stated that, if it goes back, he would like to see all evidence produced by the State that Respondent is asking for, including the Board's investigator. If, in fact, the proffered evidence is not put into the record, he's ready to vote on it. It doesn't change his point of view.

Dr. Suppan stated that when she read the State's proffered evidence, she felt that it did change how she looked at things. She added that it's like when you ring a bell, you can't unring it. She feels that she has been influenced by that, and at this point it's only logical that it be part of the Board's considerations, and that Dr. Gelesh have the opportunity to respond. Dr. Suppan stated that at this point she supports the amended motion, and would vote positively for that.

Dr. Egner stated that this is not really an unusual issue. There will be objections that the Board has read on quite a few occasions and that are then not accepted. She stated that she will take Dr. Suppan at her word that she was influenced by them; however, Board members, need to be able to read objections and not be influenced by them. If someone says something in Court and the judge says, "that's not going to be allowed," the jury has to not consider it. It happens all the time. The Board members have the ability to read something and say that when they make a decision, they will make it based on the materials that they are allowed to consider. She stated that this Board has done that on many occasions.

Dr. Egner stated that a Hearing Examiner has the right, the experience, and the Board must trust that she has the knowledge to make rulings as to what they will and will not allow into the record. The upshot of that is that it can be the argument on appeal. She doesn't hear anybody saying that they feel that they have a need for more information. If it's only so that the Board doesn't lose on appeal, she wishes someone would say that clearly.

Mr. Hairston stated that it's due process. He feels, personally, that there's due process, and that this needs to go back to the Hearing Examiner.

Dr. Amato suggested tabling this to write a motion.

DR. JACOBSON WITHDREW HIS MOTION TO AMEND.

DR. VARYANI WITHDREW HIS MOTION.

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Mr. Plinke asked for direction as to what he is responding.

DR. STEINBERGH MOVED TO TABLE. DR. MAHAJAN SECONDED THE MOTION. All members voted aye. The motion carried.

When the matter was removed from the table, later in the meeting, Mr. Jacobson advised that there may be an issue as to the investigator being beyond the State's subpoena authority. He suggested that there are steps the Board's Executive Director can take to assist in the process.

MR. JACOBSON MOVED, PURSUANT TO SECTION 119.09, OHIO REVISED CODE, TO ADMIT INTO THE RECORD THE STATE'S PROFFERED EVIDENCE CONCERNING THE ADMINISTRATION OF MORPHINE AS IT RELATES TO THE DEVIATION FROM THE MINIMAL STANDARD OF CARE AND THE DOCTOR'S STATE OF MIND, AND THE POLICE REPORT AS IT RELATES TO THE DOCTOR'S CREDIBILITY. MR. JACOBSON FURTHER MOVED TO REMAND THE MATTER TO THE HEARING EXAMINER FOR THE TAKING OF ADDITIONAL EVIDENCE THAT DIRECTLY REBUTS THE PROFFERED EVIDENCE ONLY, AND THAT THE ENTIRE PROCESS BE COMPLETED AND A NEW REPORT AND RECOMMENDATION BE ISSUED BY THE HEARING EXAMINER WITHIN NINETY (90) DAYS. MR. JACOBSON FURTHER MOVED THAT THE EXECUTIVE DIRECTOR BE DIRECTED TO MAKE ALL REASONABLE EFFORTS TO PROVIDE, TO THE EXTENT NOT PROHIBITED BY LAW, CURRENT CONTACT INFORMATION FOR THE BOARD'S INVESTIGATOR, TO CONTACT THE INVESTIGATOR TO ENCOURAGE HIS TESTIMONY, AND TO MAKE ALL NECESSARY ARRANGEMENTS TO PERMIT AND ENCOURAGE HIS TESTIMONY BY TELEPHONE IF REQUESTED BY EITHER PARTY, IF HE IS NOT OTHERWISE SUBJECT TO SUBPOENA. MR. HAIRSTON SECONDED THE MOTION. A vote was taken

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- nay
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- nay
	Dr. Madia	- aye

The motion carried.

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FINDINGS, ORDERS AND JOURNAL ENTRIES

Dr. Madia advised that in the following matters, the Board issued Notices of Opportunity for Hearing, and documentation of service for each was received. There were no requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. The matters are therefore before the Board for final disposition. He added that Dr. Talmage and Mr. Albert may participate in the discussion and vote, as these cases are not disciplinary in nature and concern only the individuals' qualifications for licensure.

CARLOS ARMANDO AVELLANET, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 30, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. AVELLANET'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO, SUBJECT TO HIS PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF DECEMBER 30, 2008. DR. AMATO SECONDED THE MOTION. A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

IMAN J. ELTAY, P.A.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE JULY 29, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING MS. ELTAY'S APPLICATION FOR A PROVISIONAL CERTIFICATE TO PRESCRIBE AS A PHYSICIAN ASSISTANT. DR. MAHAJAN SECONDED THE MOTION.

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

Dr. Steinbergh noted that Ms. Eltay is not eligible for a provisional certificate to prescribe because she has

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not practiced as a physician assistant for at least ten years and she does not hold a master's degree or a higher degree from a program accredited by an appropriate entity.

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

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

ALAN E. KOHRT, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 30, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. KOHRT'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO, SUBJECT TO HIS PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF DECEMBER 30, 2008. DR. VARYANI SECONDED THE MOTION.

Dr. Madia stated that he would now entertain discussion in the above matter. There was no discussion of this matter.

A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye

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Dr. Steinbergh - aye
Dr. Madia - aye

The motion carried.

TERI POLLOCK SAVEANU, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 30, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. SAVEANU'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO, SUBJECT TO HER PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF DECEMBER 30, 2008. DR. VARYANI SECONDED THE MOTION. A vote was taken:

VOTE:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

JENNIFER THOMAS, M.T.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 30, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING MS. THOMAS' REQUEST FOR RESTORATION OF HER CERTIFICATE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF DECEMBER 30, 2008. DR. VARYANI SECONDED THE MOTION. A vote was taken:

VOTE:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Suppan	- aye
Dr. Varyani	- aye

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Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

DAVID LEE TOLLIVER, D.O.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 10, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, REVOKING DR. TOLLIVER'S LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY IN THE STATE OF OHIO.

Dr. Steinbergh noted that Dr. Tolliver was cited following a felony conviction for filing a false tax return, and for entering into a Consent Order with the West Virginia Board of Osteopathy. Dr. Tolliver didn't request a hearing following receipt of the Board's citation letter. A revocation of his license leaves open the possibility that he may at some point reapply for his Ohio license.

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

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

KATHLEEN ZINNECKER, M.T.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 30, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE

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OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING MS. ZINNECKER'S REQUEST FOR RESTORATION OF HER CERTIFICATE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF DECEMBER 30, 2008. DR. AMATO SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSION

JOSEPHINE CLARA ARONICA, 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. ARONICA. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

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The motion carried.

WILLIAM GERALD BESAW – CITATION LETTER

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

DR. VARYANI MOVED TO SEND THE CITATION LETTER TO MR. BESAW. DR. SUPPAN SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

DAVID LEE CARR, D.O. – CITATION LETTER

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

DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. CARR. DR. VARYANI SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

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The motion carried.

NAKISHA SHWAINA SIMONE HINES – LETTER OF PROPOSED DENIAL

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

**DR. VARYANI MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MS. HINES.
DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

KATHY LYNN KRUGER, D.O. – CITATION LETTER

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

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

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye

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Dr. Madia - aye

The motion carried.

CHRISTINE C. MCKAIN, 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. AMATO MOVED TO SEND THE CITATION LETTER TO DR. MCKAIN. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

ROBERT T. MCKINNEY, 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. AMATO MOVED TO SEND THE CITATION LETTER TO MR. MCKINNEY. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye

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Dr. Steinbergh - aye
Dr. Madia - aye

The motion carried.

RANDALL JAY SMITH, D.O. – CITATION LETTER

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

DR. AMATO MOVED TO SEND THE CITATION LETTER TO DR. SMITH. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

VOTE:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

ROBERT L. TURTON, 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.

MR. HAIRSTON MOVED TO SEND THE CITATION LETTER TO DR. TURTON. DR. SUPPAN SECONDED THE MOTION. A vote was taken:

VOTE:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye

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Dr. Mahajan	- aye
Dr. Steinbergh	- abstain
Dr. Madia	- aye

The motion carried.

DR. STEINBERGH MOVED TO TABLE THE TOPIC, CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSION, UNTIL THE THURSDAY MORNING SESSION. MR. HAIRSTON SECONDED THE MOTION. All members voted 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.

NANCY JAYNE LISCH, M.D. – STEP I CONSENT AGREEMENT

DR. VARYANI MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. LISCH. MR. HAIRSTON SECONDED THE MOTION.

Dr. Steinbergh stated that she will agree to this, but she really feels that this is a second relapse. She stated that she understands the low level positivity and so forth, but she was disappointed that this particular practitioner chose to use the medication that she used. She stated that it was a drug that was not prescribed by a physician. This was self-medication. Dr. Steinbergh stated that she's disappointed to see that the proposed suspension period is less than 180 days.

A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

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The motion carried.

STEVEN TODD PATTERSON, D.O. – STEP I CONSENT AGREEMENT

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

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- nay
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

KURT J. PALAZZO, M.D. – STEP I CONSENT AGREEMENT

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

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

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SILAS M. CHIKUNGUWO, M.D. – PERMANENT WITHDRAWAL OF APPLICATION

DR. STEINBERGH MOVED TO RATIFY THE PERMANENT WITHDRAWAL OF DR. CHIKUNGUWO'S APPLICATION TO PRACTICE MEDICINE AND SURGERY. DR. MAHAJAN SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

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

PROBATIONARY APPEARANCES

ERICA R. BROWN, M.D.

Dr. Brown appeared before the Board pursuant to her request for release from the terms of her June 13, 2007 Consent Agreement.

Ms. Bickers reviewed Dr. Brown's history with the Board.

In response to Board members' questions, Dr. Brown stated that she's feeling well. She stated that she's a third-year emergency medicine resident at OSU. She only has a few more months before she'll have completed her residency. She advised that her residency is going very well. Provided that everything goes as she anticipates, she's accepted a job at Marion General's emergency department, as a staff physician there. She will also be on the educational staff at OSU.

Dr. Brown did not have any questions for the Board.

Dr. Suppan complimented Dr. Brown on the essay she wrote on her ethics course experience. She asked whether Dr. Brown felt, overall, that the experience was beneficial to her.

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Dr. Brown stated that she thought it was great. She stated that she's glad that she had the opportunity. She added that she's pleased that it was an option because it ended up being not only applicable to her situation, but also applicable to what happens every day, all the time. She stated that she thought it was great.

Dr. Steinbergh asked whether Dr. Brown would say that, when she's confronted with emotional issues as a physician or personally, she would tend to take a time out.

Dr. Brown stated that she would, absolutely, adding that she pretty much does that all the time. The emergency department always gets kind of crazy, so she thinks that it is especially appropriate for emergency medicine physicians.

Dr. Suppan asked what she learned about taking care of herself, taking a time out.

Dr. Brown stated that she learned a lot. She added that probably one of the tenets of the course is that sometimes you can't make a decision right away. Even a few minutes to collect your thoughts, rather than making an irrational decision that is not characteristic of who you are. That was probably a big part of the course.

DR. VARYANI MOVED TO RELEASE DR. BROWN FROM THE TERMS OF HER JUNE 13, 2007 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

STEVEN W. CRAWFORD, M.D.

Dr. Crawford appeared before the Board pursuant to his request for release from the terms of the Board's Order of June 11, 2003.

Ms. Bickers reviewed Dr. Crawford's history with the Board.

In response to Board members' questions, Dr. Crawford stated that he's been doing well. He advised that his recovery program is essentially staying engaged with people. He used to prefer to isolate, even in a room of people. He works a lot with recovering addicts. He sees patients at a women's recovery center without regard to their ability to pay. He works a lot with them, adding that there are a lot of pregnant patients who use drugs and alcohol. He works with his sponsor and attends meetings. He also takes people to meetings. He tries to stay engaged in the whole process and work the steps as well. He stated that this whole process has been worth it. He was miserable before he even started using drugs, and he sees that now when he looks back. Working a few of the steps has really allowed him to develop a spirituality that he doesn't think that he had before. When he listens to other people, he's honest, open-minded and he thinks he does much better every day with everything.

Dr. Steinbergh asked whether Dr. Crawford can commit that he won't be back.

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Dr. Crawford stated that he won't be back.

DR. STEINBERGH MOVED TO RELEASE DR. CRAWFORD FROM THE TERMS OF THE BOARD'S ORDER OF JUNE 11, 2003. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

AMANUEL AMBAYE DANIACHEW, M.D.

Dr. Daniachew appeared before the Board pursuant to his request for release from the terms of his February 11, 2004 Consent Agreement.

Ms. Bickers reviewed Dr. Daniachew's history with the Board.

In response to Board members' questions, Dr. Daniachew stated that he is not taking any medication, and he has not taken any medicine. Concerning how he copes with anxiety now, he stated that his anxiety is a lot easier to deal with now. He stated that at the very beginning of his consent agreement, if Ms. Bickers gave him a call on Friday and he missed the call, he would worry all weekend wondering what the call was about. It would interfere with his time with his children. He'd call her on Monday, and it would be about nothing. It's easier to adjust to now. He stated that he can see the anxiety coming on, and he can address it. He can talk to people, also. He doesn't have a support group. He talks to his wife, who is probably the biggest support group he has. To burn off the stress, he exercises. He's been cycling, which he took up about four years ago. He does feel like he's on a more even keel.

DR. STEINBERGH MOVED TO RELEASE DR. DANIACHEW FROM THE TERMS OF HIS FEBRUARY 11, 2004 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Daniachew thanked the Board, Mr. Albert and Ms. Bickers.

RICHARD R. DE LA FLOR, M.D.

Dr. De La Flor appeared before the Board pursuant to his request for release from the terms of the Board's Order of March 26, 2002.

Ms. Bickers reviewed Dr. De La Flor's history with the Board.

In response to Board members' questions, Dr. De La Flor stated that he is doing pretty well. He did undergo evaluations by both a psychiatric and an addictionologist. He had to go through all the hoops. He is not currently seeing a psychiatrist for depression. He is taking medication at this time, prescribed by his primary care physician, who is an internist. He's taking Wellbutrin and Celexa. The medications were previously managed by a psychiatrist, but he was then referred to his primary care physician. He did have counseling for over five years. This is his eighth year now. He's been sober since April 30, 2000.

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In response to further questions, Dr. De La Flor stated that he wasn't sure that he wanted to go back to practice in the first two or three years. As a result of his actions, he not only lost his license, but he lost his wife, his home, and his freedom. It almost ruined his life. For the first three or four years he dedicated himself to absolute recovery-related activities. After almost three or four years of that, with his sponsor and his support group, he made the decision that it may be reasonable for him to reapply for his license. By the time he reapplied, he was required to pass the SPEX. He did all the things he had to do for restoration of his license. Dr. De La Flor stated that he and his psychiatrist felt it was reasonable for him to go back to practice. At that time he had three years of monitoring, but because his license was reinstated in 2004, another five years was added. This is the end of his eighth year of monitoring.

Dr. De La Flor stated that he's doing very well. His commitment to sobriety has been and will be his first priority. He's very active in his support group with his sponsor. He's very active at the Toledo Hospital Caduceus meetings. He stated that he doesn't know which ones keep him sober, but he's not going to take a chance.

Dr. De La Flor advised that he resides in Michigan, but he practices in Toledo. He's in a two-man practice.

DR. STEINBERGH MOVED TO RELEASE DR. DE LA FLOR FROM THE TERMS OF THE BOARD'S ORDER OF MARCH 26, 2002. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. De La Flor stated that he would like to thank the Board for saving his life.

ALEXIS D. PARKS-MYTON, M.D.

Dr. Parks-Myton appeared before the Board pursuant to her request for release from the terms of her August 13, 2008 Consent Agreement. If approved, release from probation would become effective February 13, 2008.

Ms. Bickers reviewed Dr. Parks-Myton's history with the Board.

In response to Board members' questions, Dr. Parks-Myton stated that she's doing well, adding that it's a great relief to be done. She is currently employed at Community Urgent Care in Springfield, Ohio. The job is going well for her. She advised that she has no questions or comments on how the Board could have done things differently for her.

DR. STEINBERGH MOVED TO RELEASE DR. PARKS-MYTON FROM THE TERMS OF HER AUGUST 13, 2008 CONSENT AGREEMENT. DR. SUPPAN SECONDED THE MOTION. All members voted aye. The motion carried.

PAUL LEWIS BLANCHARD, M.D.

Dr. Blanchard made his initial appearance before the Board, pursuant to the terms of his November 12,

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2008 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Blanchard's history with the Board.

In response to Board members' questions, Dr. Blanchard stated that he completed six weeks of inpatient treatment at Shepherd Hill. He stated that he recognized, after he was confronted by his addiction, that he needed help. He did not wait for the Board to suggest that he go into inpatient therapy, although he anticipated that the Board would suggest that. He entered Shepherd Hill in October and finished his inpatient therapy in November. Since that time, he's in outpatient aftercare treatment at Bethesda Hospital in Cincinnati. He attends A.A. meetings and Caduceus meetings every week. He does have a local sponsor, and they are progressing through the steps.

Dr. Blanchard indicated that he has no questions about his consent agreement.

In response to further questions, Dr. Blanchard stated that he trained in both internal medicine and aerospace medicine. He's utilized his aerospace medicine training in the FAA. He explained that he's an FAA aviation medical examiner. That's the extent to which he's used his training in aerospace medicine.

DR. STEINBERGH MOVED TO CONTINUE DR. BLANCHARD UNDER THE TERMS OF HIS NOVEMBER 12, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION. All members voted aye. The motion carried.

WILLIAM B. CULLEN, M.D.

Dr. Cullen made his initial appearance before the Board, pursuant to the terms of his November 12, 2008 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Cullen's history with the Board.

In response to Board members' questions, Dr. Cullen stated that he's doing well. He has been going every week to the aftercare set up by Glenbeigh Hospital. He has a sponsor, a hospice physician who has spent two years at Glenbeigh. Dr. Cullen stated that his sponsor knows the twelve-step program very well, so he's a good resource for him. He attends weekly Caduceus meetings, and commented that he has one tonight in Cleveland. The aftercare group is a very good resource for him because it's all doctors and dentists. He's the junior member of the group, so they've kind of taken him under their wing and mentored him. Dr. Cullen stated that he's also seeing a psychiatrist, as well as a psychologist, who is his aftercare doctor. The psychiatric medications he takes are Wellbutrin and Trazodone.

Dr. Stephens asked whether, instead of taking drugs for the high, Dr. Cullen's skydiving was a result of his looking for other risky activity to do.

Dr. Cullen stated that it probably was. He added that, probably, almost every skydiver is either a

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recovering addict or working on his addiction. He no longer skydives because he can't afford it since he's not working. He still has his gear and maybe some day he'll take it up.

Dr. Stephens asked whether that's part of his psychological profile.

Dr. Cullen stated that he imagines that it is because he does a lot of risky things. He ice climbs, glacier climbs and scuba dives. Dr. Cullen advised that he does talk about that with his psychiatrist.

In response to questions about his family support, Dr. Cullen stated that he's been married to his wife, Sandy, since 1986. They have two children: one at Ashland University and one a senior at Wadsworth High School. He stated that his marriage is a little bit rocky now because of this, but his wife is supportive, and hopefully they'll work things out.

Dr. Cullen advised that he does understand his consent agreement, and doesn't have any questions of the Board.

DR. STEINBERGH MOVED TO CONTINUE DR. CULLEN UNDER THE TERMS OF HIS NOVEMBER 12, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

PAUL E. DUNCAN, M.D.

Dr. Duncan made his initial appearance before the Board, pursuant to the terms of his October 8, 2008 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Duncan's history with the Board.

Dr. Steinbergh commented that Dr. Duncan has a rough way to go. He has a very difficult problem, not only with the cocaine, which is so significant, but with multiple drugs and a diagnosis of bipolar disorder. She commented that he's high-risk. She asked what's different this time.

In response to Board members' questions, Dr. Duncan stated that with his first consent agreement, he doesn't think that he really ever accepted A.A.'s Step 1 – that he was powerless. He thought he could cheat the system. He could lie to the Board, to people who have done so many nice things for him, and to his sponsor. He could continue to go to meetings and cheat the system. He didn't think he'd get caught. This time, the 28 days of inpatient treatment he did at the Center for Chemical Addiction Treatment in Cincinnati was an excellent experience. He thinks he's embraced the first step – he's powerless. He can't do anything about this. Only God and his spiritual conditioning can make him whole again. He went to 26 meetings the first week after OPHP called him and asked him to come in for a hair test. He's just immersed himself in A.A., and he thinks that that's been productive. He's redoing the steps, and hopefully he'll do them right. Obviously, it's one day at a time, but he's very hopeful.

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Mr. Albert stated that Dr. Duncan got off to kind of a rocky start when he first came to the Board, but then he straightened out and was doing really well. Mr. Albert stated that he thinks that, basically, Dr. Duncan is a good man and a good doctor. Dr. Duncan had a hard time finding a job, but he did find a job. Then one day, Ms. Bickers called him with the bad news that Dr. Duncan had relapsed.

Concerning family support, Dr. Duncan stated that he has two brothers and two sisters. Some of his best support is from his brother in Wisconsin – they talk on a regular basis. He has a brother and a sister who live nearby. His other sister lives in Florida and he doesn't have as much contact with her. They are very supportive. Dr. Duncan stated that he's single, and his main support is A.A. meetings, friends, and family members, including grand nieces and grand nephews. He hasn't been attending Caduceus meetings recently.

Dr. Steinbergh stated that she hopes that Dr. Duncan will have some collegial support to keep him in touch with the profession and feeling good about himself.

Dr. Duncan stated that he just did a two-weekend CME program here in Columbus in January.

Dr. Varyani asked Dr. Duncan how he got into using Flexeril.

Dr. Duncan stated that he didn't know that it was illegal or that there was anything about that. He has a ruptured disc in his back, and a long history of back pain. It kind of went away when he slept in the right position and he stopped playing golf. Dr. Duncan stated that when he stopped playing golf, his life really changed.

DR. STEINBERGH MOVED TO CONTINUE DR. DUNCAN UNDER THE TERMS OF HIS OCTOBER 8, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION. All members voted aye. The motion carried.

JOSEPH P. SITARIK, D.O.

Dr. Sitarik made his initial appearance before the Board, pursuant to the terms of his November 12, 2008 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Sitarik's history with the Board.

In response to Board members' questions, Dr. Sitarik stated that he is doing very well. He stated that he does understand the terms of his consent agreement. Dr. Sitarik stated that he's active in the program, and added that his stay at Glenbeigh was amazing. Dr. Sitarik stated that it's hard to understand but, in retrospect, he views this as one of the best things that has happened to him. He gained a better appreciation of himself, why he did what he did, and where he wants to go with his profession. He's just trying to do what he has to do. He advised that he has amazing support at home, so he's doing well.

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Dr. Stephens asked how Dr. Sitarik got involved in using cocaine.

Dr. Sitarik stated that his friends and he had used it in college off and on, partying. He had a high-paced practice and would come home and drink almost nightly. He didn't drink to the point of oblivion, of course, but drank too much. Cocaine was offered to him one night by the farrier who cares for his horses. He stated that he wouldn't say he was addicted to it, but it was something he did periodically, rarely, but ended up having problems with it.

Dr. Steinbergh asked Dr. Sitarik to tell the Board about his accident.

Dr. Sitarik stated that one evening he was coming back from obtaining cocaine, and he wrecked his Jeep. He really hadn't drunk, so he's not really sure why he left the scene. He was under the influence of cocaine at the time. Dr. Sitarik stated that he did a stupid thing. He would always tell his patients not to leave the house after taking an Ambien; but he went home, took an Ambien to go to sleep and left the house again. He left to go back out and get more cocaine. He wrecked the Jeep because of his sleeping pill. He advised that he didn't injure anyone in the accident. He stated that the charges against him were dropped in lieu of treatment. A charge for possession of drug paraphernalia was also dropped in lieu of treatment.

In response to further questions, Dr. Sitarik stated that he did a 28-day stay in Glenbeigh, did his IOP, he's involved in aftercare, he attends three A.A. meetings a week and Caduceus meetings weekly. He stated that he does understand the terms of his consent agreement.

DR. STEINBERGH MOVED TO CONTINUE DR. SITARIK UNDER THE TERMS OF HIS NOVEMBER 12, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION. All members voted aye. The motion carried.

ALADDIN ZAFAR SYED, M.D.

Dr. Syed made his initial appearance before the Board, pursuant to the terms of his November 12, 2008 Consent Agreement.

Ms. Bickers reviewed Dr. Syed's history with the Board.

Dr. Syed stated that he has a 20-year history of a very stable and uneventful clinic practice. He does have a psychiatric disorder called Affective Energy Disorder, and explained that it's a very mild bipolar 2 disorder. The diagnosis was made by Dr. Michael Theiss, who is an internationally renowned psychiatrist. His treatment was, basically, to work in the daytime, take 50 mg Imipramine in the evening and Ambien for sleep.

Dr. Syed stated that he would like the Board to consider that typical bipolar patients who have trouble with work have the symptoms of excessive behavior, like alcoholism, drug use, reckless spending or promiscuity. That destabilizes their situation and they don't have a good work history. In his case, all of

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these symptoms are absent. Dr. Syed stated that typical bipolar patients are also treated with Lithium, Depakote or other medications. He's never been on all of these medications. Dr. Syed stated that he is a teetotaler, he doesn't do drugs, and he doesn't have reckless spending. He works in a clinic with 60 women and he's the only male, and he has no promiscuous behavior. Dr. Syed stated that he has a very stable life, having raised four children, two of whom are doctors, one is an attorney, and one who will finish law school next semester.

Dr. Syed stated that, basically, he has a 20-year history of stable, uneventful outpatient clinic practice with no conflict with the state, his employer, clients, colleagues or patients. His practice is closely monitored. The outpatient VA clinics have a lot of monitoring. They have managers who monitor the work habits. He's not late to work, and he has no absenteeism. Every patient is monitored for satisfaction. They're asked whether they were satisfied with the provider they saw, with the visit, and the manager records all of that. There have been no problems there. The VA monitors the performance. They look at how many people with hypertension whose blood pressure has been brought down below 140/90; how many people with diabetes' A1C levels have been brought down below 6.7; how many people with coronary disease have LDS/LDL are below 100. All of that is monitored. All his prescriptions are monitored by the pharmacy. Ten progress notes are monitored once a month by one of the physicians designated by his employer, Sterling Medical.

Dr. Syed stated that if the Board puts its trust in him and grants him a license, he thinks that he will be fully equal to the challenge. There should be absolutely no problem with the Board's trust.

Ms. Bickers stated that Dr. Syed submitted a practice plan and a request for approval of a monitoring physician which should be presented to the Board in March.

DR. STEINBERGH MOVED TO CONTINUE DR. SYED UNDER THE TERMS OF HIS NOVEMBER 12, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE.

Dr. Steinbergh asked whether Dr. Syed is asking for something different from his consent agreement, or whether he understands the consent agreement.

Ms. Bickers stated that she thinks that probably why Dr. Syed was offering that information to the Board was because they have discussed the practice plan and the need for a monitoring physician.

Dr. Syed stated that he understands that when he applied for an Ohio license, his application had "bipolar" in it. He believes that the word, "bipolar," raised a lot of eyebrows and consternation because the usual bipolar history is very unstable and they don't have a good work history, etc. Therefore, he had to agree to his psychiatrist sending a note every three months and the monitoring physician and so on. He's done all those things. He just wanted to explain that the bipolar is really bipolar II and is very mild. It doesn't have any of the red flags or any of that.

Dr. Suppan asked whether the Affective Energy Disorder create the symptoms of the bipolar, or is it the

opposite.

Dr. Syed stated that Dr. Theiss wanted to find out the pathophysiology, so he did a sleep study. In the sleep study he found a couple of glaring abnormalities. One was the REM latency. The normal REM latency is 90 minutes. His REM latency was 15 seconds. The other thing he found was that normally there are four phases of sleep, and phases 3 and 4 were absent for him. Dr. Theiss did a serotonin response test, and he found his serotonin response was blunted. Dr. Theiss told him that this was Affective Energy, and his treatment was to work in the daytime, take the Imipramine and Ambien, once the latter became available. He met with Dr. Theiss ever six months or so up until Dr. Theiss moved to Philadelphia about two years ago. He now sees Dr. Friedman who took Dr. Theiss' place.

Dr. Syed stated that he will no longer be practicing in Ohio after another month.

Dr. Steinbergh asked Ms. Bickers to discuss Dr. Syed's options with him after the meeting.

Dr. Steinbergh asked Dr. Syed whether he went into the kind of detail about his disorder in the application process that he went into today.

Dr. Syed stated that he did not go into detail. He did bring all his papers, certificates, etc. to the Board's office. They were stamped in, and he expected something to happen soon. He stated that he never received answers to questions he had asked about monitoring, and so forth. He did not write any detail about the illness except that he has practiced for 20 years, uneventfully.

Ms. Bickers stated that she thinks that one can probably infer that the consent agreement was primarily based on the fact that Dr. Syed has limited himself, and his psychiatrist has recommended that he limit himself, to certain practice situations, based on the diagnosis. Given that information, it was determined that it would be best to put Dr. Syed on a consent agreement requiring a practice plan that includes certain monitoring for a minimum of three years.

MR. HAIRSTON SECONDED DR. STEINBERGH'S MOTION. All members voted aye. The motion carried.

RICHARD MARK WEIL, M.D.

Dr. Weil made his initial appearance before the Board, pursuant to the terms of his November 12, 2008 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Weil's history with the Board.

In response to Board members' questions, Dr. Weil stated that he is doing well. He stated that this recovery process has been a blessing. He stated that he can't emphasize how much it is just to get off this hamster wheel of when he was using, and how much better he feels. He stated that he's learned a lot about himself. He's being treated for depression now. He advised that he saw a psychiatrist up at Glenbeigh, and

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his primary care doctor is maintaining the medications. He stated that he feels much better in that aspect.

Dr. Weil stated that he's had a number of personal issues to deal with that have contributed to his depression, including his father's death and his mother's illnesses. Dr. Weil stated that he's dealing with those and getting counseling on those things. He stated that he's not trying to treat himself anymore. He added that he's working with his sponsor, doing his steps. Dr. Weil stated that he's felt the best during the last three months, better than he had in the last couple of years.

Dr. Weil stated that the meetings offer a lot of hope, as does coming to this meeting and seeing some doctors get their licenses back. He stated that he knows that there's hope and that's what he's working for right now.

In response to further questions, Dr. Weil stated that the only medication he's taking is Citalopram. He stated that it's helping. He's sleeping better, although he's not sure if it's the drug or the fact that he's not using. He stated that it's a combination of things, including his support system. He stated that he has a good support system between his wife, his children, his mother, and his mother-in-law. Everyone is behind him on this. Dr. Weil stated that he does understand the terms of his consent agreement.

DR. STEINBERGH MOVED TO CONTINUE DR. WEIL UNDER THE TERMS OF HIS NOVEMBER 12, 2008 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

BRADLEY R. WOLF, M.D.

Dr. Wolf made his initial appearance before the Board, pursuant to the terms of the Board's Order of November 12, 2008.

Ms. Bickers reviewed Dr. Wolf's history with the Board.

In response to Board members' questions, Dr. Wolf stated that he's doing well. He's not doing the same things he was doing before, which was allowing an unlicensed individual to perform procedures in his office. He stated that that person was released from his employ in August 2006, and the activity ended way before then. He stated that his area of practice is still hair restoration surgery. He does have another licensed physician in his practice. Dr. Wolf stated that he works full-time, and the other physician works on a part-time basis.

Dr. Stephens stated that one of the things that strikes her is the name of Dr. Wolf's company, Wolf Medical Enterprises. She stated that she thinks that sometimes physicians can lose perspective. When a physician goes into a specialty such as hair restoration, he or she loses perspective on what being a physician is all about. It's really not about an enterprise and making money, although that's great. You're still a physician and you're still responsible for patients, and every patient you care for should become a part of you. Dr. Stephens stated that Dr. Wolf has to divorce his ethics from his "Medical Enterprise."

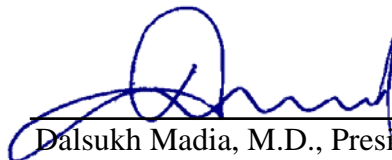
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DR. STEINBERGH MOVED TO CONTINUE DR. WOLF UNDER THE TERMS OF THE BOARD'S ORDER OF NOVEMBER 12, 2008, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION. All members voted aye. The motion carried.

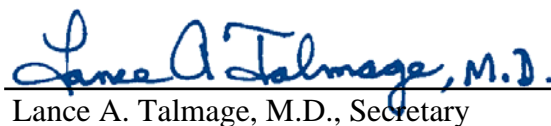
DR. MAHAJAN MOVED TO ADJOURN. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

Thereupon at 5:00 p.m. the February 11, 2009 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 February 11, 2009, as approved on March 11, 2009.



Dalsukh Madia, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



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MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Dalsukh Madia, M.D., President, called the meeting to order at 8:10 a.m., in the Administrative Hearing Room, 3rd Floor, the James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Jack C. Amato, M.D., Vice-President; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Nandlal Varyani, M.D.; W. Frank Hairston; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Jeffrey M. Jacobson, Esq.; and Susan E. Stephens, M.D. The following did not attend the meeting: Lance A. Talmage, M.D., Secretary; and Marchelle L. Suppan, D.P.M.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; Sallie J. Debolt, General Counsel; Rebecca J. Marshall, Chief Enforcement Attorney; Barbara J. Pfeiffer and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; 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; and Jacqueline A. Moore, Disciplinary Information Assistant.

LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

Dr. Madia 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. Madia asked whether any Board member wished to consider either an application for licensure or a probationary report or request separately. He noted that all probationers are in compliance.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON JANUARY 12, 13 AND 15, WITH: PAULA CLARK ADKINS, M.D.; CRAIG L. BIERER, D.O.; MARK E. BLAIR, M.D.; JOHN D. BROWNLEE, M.D.; GREGORY B. CAMP, M.D.; PATRICK R. DENNISON, D.O.; NICHOLAS C. DIAMANTIS, M.D.; MATTHEW H. EVENHOUSE, M.D.; MARK E. GOLDSMITH, M.D.; JONATHAN L. HAIMES, M.D.; PAUL F. HEYSE, M.D.; MELANIE E. JUNGBLUT, M.D.; BOBBY C. LENOX, JR., D.O.; ROBERT E. MARSICO, JR., M.D.; FLORENCE B. MATYAS, M.D.; JAMES M. MCGINNIS, D.O.; PHILIP F. MYERS, JR., M.D.; MICHAEL J. O'BRIEN, D.O.; THOMAS R. PICKETT, P.A.; NYKOLAI VASIL PIDHORODECKYJ, M.D.; DAVID P. SPEARS, D.O.; SUSAN GAIL SWEDA, M.D.; JEROME R. SWITCH, D.O.; BRETT E. TOWARD, M.D.; SCOTT R. WELDEN, M.D.; AND RICHARD ALLAN ZINNI, 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:

- **TO GRANT ROBERT L. BRANDT, JR., M.D.'S REQUEST FOR APPROVAL OF CYNTHIA G. OLSEN, M.D., TO SERVE AS HIS MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO APPROVE DANIEL H. BRUMFIELD, M.D.'S REQUESTS AS FOLLOWS: REDUCING DRUG AND ALCOHOL MEETINGS TO 2 MEETINGS A WEEK WITH A TOTAL OF 10 PER MONTH; GRANTING THE DOCTOR PERMISSION TO ADMINISTER, PERSONALLY FURNISH OR DISPENSE CONTROLLED SUBSTANCES WITH THE MAINTENANCE OF DRUG LOGS; AND REDUCING PSYCHOTHERAPY SESSIONS TO ONCE A MONTH;**
- **TO GRANT LAMBERTO T.R. GALANG, JR., M.D. REQUEST FOR APPROVAL OF JAGDISH L. MUDE, M.D. TO SERVE AS HIS NEW TREATING PSYCHIATRIST;**
- **TO APPROVE SANDRA K. HAREWOOD, M.D.'S REQUESTS AS FOLLOWS: REDUCING APPEARANCES TO EVERY SIX MONTHS; REDUCING DRUG SCREENS TO TWICE A MONTH; AND REDUCING DRUG AND ALCOHOL REHABILITATION MEETINGS TO TWO PER WEEK WITH A TOTAL OF 10 PER MONTH;**
- **TO APPROVE WILLIAM WAYNE HOLLIFIELD, M.D.'S REQUESTS AS FOLLOWS: REDUCING APPEARANCES TO EVERY SIX MONTHS; REDUCING DRUG SCREENS TO TWICE A MONTH; AND A REDUCTION IN ALCOHOL AND DRUG REHABILITATION MEETINGS TO TWO PER WEEK WITH A TOTAL OF TEN PER MONTH;**
- **TO GRANT ROBERT L. HUBLEY, D.O.'S REQUEST FOR APPROVAL OF JUSTIN J. SMITH, D.O., TO SERVE AS THE NEW MONITORING PHYSICIAN;**
- **TO APPROVE ANIL H. JHANGIANI, M.D.'S REQUEST TO INCREASE HIS PSYCHIATRIC SESSIONS TO TWO TIMES PER MONTH;**
- **TO GRANT SRIPRIYA DOSS KOLAKALUR, M.D.'S REQUEST FOR APPROVAL OF BHARATKUMAR J. SHAH, M.D. TO SERVE AS HER TREATING PSYCHIATRIST;**
- **TO GRANT TRACY A. KOTNIK, M.D.'S REQUEST FOR APPROVAL OF THE TEXAS MEDICAL ASSOCIATION'S ETHICS COURSE, *MAINTENANCE OF PROFESSIONAL BOUNDARIES AND EFFECTIVE MANAGEMENT OF CHALLENGING PATIENT ENCOUNTERS* IN FULFILLMENT OF PARAGRAPH 3.B. OF HIS CONSENT AGREEMENT WITH THE BOARD;**
- **TO APPROVE BYRON C. LEAK, M.D.'S REQUESTS FOR: A REDUCTION IN**

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APPEARANCES TO EVERY SIX MONTHS AND A REDUCTION IN DRUG SCREENS TO TWICE A MONTH;

- **TO GRANT JOSEPH FRANCIS LYDON, JR., M.D.’S REQUEST FOR APPROVAL OF GREGORY B. COLLINS, M.D., TO SERVE AS TREATING PSYCHIATRIST;**
- **TO GRANT MICHAEL PAUL PARKER, M.D.’S REQUEST FOR APPROVAL OF ROGER GARCIA, D.O., TO SERVE AS AN ADDITIONAL MONITORING PHYSICIAN;**
- **TO APPROVE JOSEPH ALOYSIUS RIDGEWAY, IV., M.D.’S REQUESTS FOR: REDUCTION IN DRUG SCREENS TO TWICE A MONTH; REDUCTION IN PERSONAL APPEARANCES TO EVERY SIX MONTHS; AND DISCONTINUANCE OF PSYCHOTHERAPY SESSIONS, TO INCLUDE SESSIONS WITH HIS PSYCHIATRIST AND ONGOING ETG TESTING;**

DR. STEINBERGH FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT “A,” THE P.A. APPLICANTS LISTED IN EXHIBIT “B,” THE ACUPUNCTURE APPLICANTS LISTED IN EXHIBIT “C,” AND THE ANESTHESIOLOGIST ASSISTANT APPLICANTS LISTED IN EXHIBIT “D;” AND TO GRANT CERTIFICATES OF GOOD STANDING TO THE SCHOOLS OF MASSAGE THERAPY, LISTED IN EXHIBIT “E.” DR. VARYANI SECONDED THE MOTION. A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

FY10-11 BUDGET

Mr. Whitehouse stated that there are basically three fronts with which the Board is dealing in terms of the next budget. The first has to do with the budget progress. He stated that the Board was flat-funded, which means a number of things. The Board will not be able to expand in areas it would like to, nor will the Board be able to sustain operations. Mr. Whitehouse stated that he believes that the consensus coming out of the previous day’s Executive Committee meeting is that the Board should continue to work to communicate to the Legislature that the Board’s needs and capacity are such that it should be able to

increase its appropriation authority.

Mr. Whitehouse stated that the second prong has to do with Central Services. He stated that Central Services is a division of the Department of Administrative Services (DAS), and what they do is provide the smaller boards and commissions with services along the lines of HR, fiscal, IT and other services that those agencies cannot provide because they're not large enough to have their own personnel to provide these things to the agencies themselves. Mr. Whitehouse stated that, as a consequence of the situation with the budget and a new push toward shared services, the issue of consolidation has come up again. Under the proposal, boards will retain their autonomy, they will retain their executive directors, and they will continue to perform their core functions. Back-office functions will be dealt with through Central Services. Mr. Whitehouse stated that he has attended a number of meetings on this topic, and the definition of "back-office functions" is where it begins to get interesting. The definition of those, according to Central Services, goes well beyond anything the Board has understood in terms of helping agencies, boards and commissions process HR and fiscal documentation. It extends to licensure renewal, legislative liaison, legal, general advice, etc.

Mr. Whitehouse stated that this is a concept that he doesn't think will serve the Board well. He believes it will set the Board back. The suggestion is that the big three Boards, which would include the Medical Board, need to be brought into this in order for savings to be realized. Mr. Whitehouse stated that he's looked at the math and he doesn't understand it. He doesn't think that it helps this Board, that it creates true efficiency or that it realizes any savings. Mr. Whitehouse stated that staff is trying to make it plain that the Medical Board will not be well served if it is lumped in with all the smaller boards in the Central Services Plan. He has tried to communicate that the Board is aware of the state of economy and the need for sacrifice, that the Board thinks that it can continue to work to derive savings, working with the Administration and this concept of shared services, but that it would be a bad idea for the Board to be brought into centralized services.

Mr. Whitehouse stated that the third prong is that these boards and commission for their trouble in becoming involved in this are going to be dealt with in a different way fiscally. He stated that some years ago, the boards and commission were put into 4K9 rotary funds and licensure fees went into a fund. That fund was set apart from the general revenue fund [GRF] so that whenever there was a problem with balancing the budget, the boards and commissions could continue to function. The Medical Board is in a 5C6, a separate rotary fund. The difference between the two funds is that those who contribute to the 4K9 don't know how much money they have in it. The Board, however, knows exactly how much money is in its 5C6 account. Mr. Whitehouse stated that the question has been raised about the nature of these funds, and whether all of the monies are going to be turned over to the GRF. The answer was that they would not, but they are going to be considered part of this fund for the enterprise, which is the state. You'll have GRF monies, 4K9, and 5C6 monies all in one big pot. Mr. Whitehouse stated that it will become a lot easier for the Board to raise fees than it will be for the Board to increase its appropriation in the future, if this plan comes to pass. Mr. Whitehouse stated that the plan going forward is in FY10 for all these monies to be subject to a one-time transfer. At this point, it is most likely that all monies currently in the 5C6 will be transferred out of the fund, or at least be available for the other agencies perceived to need it more.

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Mr. Whitehouse stated that the previous afternoon he and Dr. Amato had the opportunity to talk with the Chief of Staff and the legal counsel at the Governor's Office, and they expressed the Board's concern about the budget, the Board's appreciation for the straits that state government is in, the notion of Central Services that does not serve the Board well, and the importance of the Board's autonomy and the integrity of the 5C6 fund, and the licensure fees being kept separate and discreet from all these other monies that are lumped into this one pile. Mr. Whitehouse stated that they didn't get an answer for all of the particulars, but he felt that they were heard. He stated that they also communicated the message that the Board isn't opposed to the notion of continuous improvement, savings, efficiencies, etc.; but they also told them that some of the things that have been suggested, as they might be applied by some individuals, would not be in the best interests of this Board or the citizens of the State. Mr. Whitehouse stated that he thinks that that was heard.

Dr. Stephens arrived during the previous statements.

Dr. Madia advised that the Executive Committee asked the staff to come up with a written plan on how the Board will deal with this, and to develop some talking points so that Board members can talk with their senator or representative to explain why the Board should be left alone.

Mr. Whitehouse stated that he hopes to have something to Board members next week.

Mr. Whitehouse stated that there is a line item in the budget for a creation of a pool of hearing examiners. He stated that the budget allows \$400 thousand to create this group. Mr. Whitehouse stated that if this entity is going to be running the hearing unit, that's not going to work well for the Board. The suggestion when this came out was that no agency should have its own hearing examiners. He stated that the Board's Hearing Examiners may be in this pool, but there's no guarantee that the Board would get them for Medical Board cases.

Mr. Albert stated that Ohio has one of the best medical boards in the United States, and it has retained that position since at least 1995.

Dr. Madia stated that Board members need to do all they can to stop this consolidation.

ADMINISTRATIVE REPORT

Mr. Whitehouse directed the Board's attention to his written report, a copy of which shall be maintained in the exhibits section of this journal. He stated that most of the items on his report are related to the budget.

Mr. Whitehouse advised that, in the event that Dr. Talmage is not reappointed to the Board in March, and the Board would not learn of that until after the March meeting, the Board will be without a Secretary from that point until the April meeting. He stated that the Board needs a contingency plan in the event that that would happen. Mr. Whitehouse stated that the Board needs to take a vote as to who would fill that role in the event that Dr. Talmage would not be reappointed, and that the Board does not learn that until after the March meeting. This would be an interim Secretary, at least until the April meeting.

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Dr. Varyani stated that he had thought that, even if you're not reappointed, you can continue for 90 days.

Dr. Madia stated that it's 60 days.

Mr. Whitehouse stated that if Dr. Talmage is not reappointed and no one else is appointed, he continues on. However, if he's not reappointed because he's been replaced, and that happens after the March meeting, then he does not serve that 60 days.

Dr. Egner asked Dr. Steinbergh whether she would be interested in filling the role of interim secretary.

Dr. Steinbergh stated that she would be.

Dr. Madia stated that he has had discussions with Dr. Steinbergh, and he believes that, with her experience and knowledge of Board function, she would be a good choice for the Board.

MR. HAIRSTON MOVED TO APPOINT DR. STEINBERGH AS INTERIM SECRETARY, IN THE EVENT THAT DR. TALMAGE ISN'T REAPPOINTED TO THE BOARD. DR. AMATO SECONDED THE MOTION. All members voted aye. The motion carried.

Mr. Whitehouse directed the Board's attention to the first *Key Performance Measures Dashboard Report*, attached to his report. He stated that he believes the information in this report is unremarkable, but if Board members have particular questions about the report, there are staff members present who can answer any questions that he can't answer. Mr. Whitehouse asked the Board for feedback in terms of whether this is set forth in a way that is easily understandable.

Dr. Steinbergh stated that she thinks that the Board members are pleased with this report. She noted that, as Dr. Suppan pointed out in Committee yesterday, at some point there will be a red line that says, "this is where we need to stay."

Dr. Varyani stated that he thinks that it's very important for Mr. Whitehouse to include this report in every administrative report.

Dr. Madia stated that that's the plan.

At this time, Dr. Madia presented a plaque to Dr. Varyani, honoring his year as President of the Board. The Board members and staff recognized Dr. Varyani with applause.

EXECUTIVE COMMITTEE & PRESIDENT'S REPORT

Dr. Madia stated that the Federation of State Medical Board's (FSMB) meeting will be held from Thursday, April 30 through Saturday, May 2, in Washington, DC. He stated that a draft agenda was previously e-mailed to Board members. The Executive Committee agreed to facilitate the Midwest

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Regional Board Meeting on Saturday, May 2. This will be an ancillary meeting in conjunction with the FSMB meeting.

Dr. Madia stated that he will attend the FSMB meeting as the voting delegate. Dr. Talmage will be attending as a member of the FSMB Board of Directors. He stated that both his and Dr. Talmage's expenses will be paid by the FSMB. Dr. Madia advised that Dr. Steinbergh, as a member of the Bylaws Committee and Chair of the Midwest Regional Boards, will attend, as will Dr. Suppan.

Dr. Varyani stated that he believes he will be able to attend. He stated that he will contact Ms. Wehrle as soon as he knows whether he can attend.

Dr. Madia stated that Mr. Whitehouse will attend the meeting and his expenses will also be paid by the FSMB. Ms. Wehrle will also attend to facilitate the Midwest Regional Boards meeting, in accordance with the Ohio delegation.

Ms. Wehrle stated that, as a member of the AIM Board of Directors, and since she'll be speaking at the AIM conference, a meeting that's prior to the FSMB meeting, her travel and two nights of her hotel stay will be covered by AIM. The portion that the FSMB will cover would be four nights of her hotel stay and a food allowance.

Dr. Madia stated that, with the budget constraints, the Board is very sensitive about costs. The Board is being very careful about how many people it is sending to this meeting.

Ms. Wehrle advised that the Board is going to submit its *Partners in Professionalism* (PIP) program for consideration of AIM's *Best of the Best Award*. She added that an article about the program will be one of the lead feature stories in FSMB's *State of the States* that should be published in April or May. Ms. Wehrle stated that Ohio's going to be in the forefront, and it hits at a good time when the Board is trying to support the need for its continued autonomy so that it can continue such types of programs.

Dr. Steinbergh agreed, stating that that's a very strong point. The development of this program has been eye-opening to medical students and the entire staff at OUCOM. It has stimulated discussion throughout the state. Other medical boards have indicated a desire to participate in that. She stated that the program was a featured program in the *Ohio University Digest*. She stated that she also discussed it at the AAOE this past month.

Mr. Whitehouse advised that the PIP program is being expanded to include third- and fourth-year students. He advised that the feedback from those participating has been entirely positive.

Ms. Wehrle stated that third-year-students will attend the April meeting, while first-year students will attend the March meeting. She stated that by June, every medical student at OUCOM will have attended, at least, a presentation on what the Medical Board is all about.

Mr. Jacobson arrived during the previous discussion.

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Mr. Whitehouse stated that the PIP program hasn't cost the Board too much in the way of time and resources. The staff is searching for ways to expand the program to other schools.

Dr. Varyani stated that the Board needs to figure out a way to get the deans in the other medical schools interested in the program.

Dr. Steinbergh stated that Board members might be able to stimulate the directors of medical education programs to consider integrating this kind of information into the residency programs. She stated that she plans to take this to Mt. Carmel's family practice residency program and begin a discussion as to how to introduce this topic to residents.

Dr. Madia stated that another matter to be addressed concerns probationary appearances before the full Board. He stated that a couple of Board members have expressed concern that Ms. Bickers' history review at the beginning of each appearance is demeaning for the licensee. Dr. Madia asked the Board members for their input on this issue.

Dr. Steinbergh stated that materials about each probationer are in the agenda packet, and the Board members are expected to review that information and become somewhat familiar with the probationer. She stated that in the past, when the probationer came in, Ms. Bickers used to distribute a short description to remind the Board members of why the practitioner was here, which would stimulate the Board members' discussion. Dr. Steinbergh stated that the President would start on one end and go around the table, asking each Board member whether he or she had questions of the probationer. Everyone was given the chance for input. Dr. Steinbergh stated that she feels every Board member should participate, but some members are left out of the discussion.

Dr. Steinbergh stated that her concern about the probationers is this: they're walking up to the chair and Ms. Bickers is giving this history, and to her it's embarrassing and somewhat demeaning. She stated that it's true that it's the history of the practitioner; but in most cases, these people have really moved beyond it. Dr. Steinbergh stated that having a bulleted sheet at the Board members' desk is a reminder of what happened and it assists the Board in asking pointed question to feel confident in the Board's discussion.

Dr. Steinbergh stated that she does feel that providing this information to the students who attend the Board meetings is important, but she feels that a printed, bulleted history would serve the same purpose for them.

Dr. Stephens stated that sometimes the questions asked the probationers seem gratuitous and superfluous. She said that it sometimes seems that Board members are asking questions just to be asking questions.

Dr. Steinbergh stated that she thinks it's important for the Board to hear the answers to their questions.

Dr. Varyani commented that in the old offices, participation was easier. He stated that he believes Dr. Kumar instituted the current procedure when he was president. The reason he did that was because there were very few Board members who would really present. Out of the twelve Board members, maybe

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two or three would participate in the whole process. Dr. Varyani stated that the questioning became very demeaning because some Board members didn't realize what they were saying. Dr. Varyani stated that the information Ms. Bickers presents may sometimes seem demeaning, but it's all factual. He stated that he doesn't think Ms. Bickers tries to be demeaning. He stated that he thinks her presentation is done very professionally, and he likes it. This way everyone knows what's been done.

Mr. Hairston stated that he enjoys what the Board does. When people come in here and sit, Board members can look in their eyes and tell where they are in stages. He stated that he's been able to pick that up in the year and three months he's been here. Mr. Hairston again stated that he really enjoys it. It gives him the feeling that the probationers are really taking things seriously. When probationers get to the point that they're being released, the Board sees a different person. He stated that he thinks that the Board should continue the way it is.

Dr. Mahajan stated that he feels that the Ms. Bickers does this is very concise, and it's part of the healing also for them to hear it. He commented that when they attend A.A. meetings, they always tell their stories to a much larger audience.

Dr. Madia stated that he feels that the majority of Board members would like to continue with the way it is being done, so it will be continued.

FINDINGS AND ORDER IN THE MATTER OF ADOPTION OF RULES 4774-1-01, 4774-1-02, 4774-1-03, 4774-1-04, 4774-2-01, AND 4774-2-02 O.A.C., REGULATING THE PRACTICE OF RADIOLOGIST ASSISTANTS

Ms. Debolt stated that the above-captioned rules were reviewed and approved by the Board, a public hearing was held where there were no comments, the rules have gone to JCARR, and they are now ready for adoption by the Board. Ms. Debolt recommended an effective date of February 28, 2009 for the rules.

DR. STEINBERGH MOVED THAT THE FINDINGS AND ORDER "IN THE MATTER OF ADOPTION OF RULES 4774-1-01, 4774-1-02, 4774-1-03, 4774-1-04, 4774-2-01, AND 4774-2-02, OF THE OHIO ADMINISTRATIVE CODE" BE ADOPTED, AND THAT THE STAFF PROCEED TO FILE THE RULES AS FORMALLY ADOPTED, WITH AN EFFECTIVE DATE OF FEBRUARY 28, 2009. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye

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Dr. Madia - aye

The motion carried.

REPORTS OF ASSIGNED COMMITTEES

LEGISLATIVE LIAISON & RULES COMMITTEE

Dr. Amato referred the Board members to Mr. Miller's written report, a copy of which shall be maintained in the exhibits section of this journal.

Dr. Amato stated that, on Wednesday, the Committee met with the Academy of Medicine of Cleveland and Northern Ohio [Association]. He asked Mr. Miller to brief the Board on this meeting.

Mr. Miller stated that representatives from the Association came to talk to the Committee about the group's proposed legislation on physician-ranking by insurance companies. The Committee discussion ended up that the Board would take an interested party stance on the legislation and work with the Association.

Dr. Steinbergh advised that she wasn't present at the beginning of that meeting, and she asked Mr. Miller to get into that discussion a little bit.

Mr. Miller stated that the legislation in particular seeks to legislate how insurance companies would come up with physician rankings that they issue. It would look to set some standards (including more than just the cost of care), and that there be quality of care issues taken into consideration in the ranking system. All these rankings would be based off of criteria that are set by national organizations, like the National Quality Foundation or the AQA Alliance.

Mr. Miller continued that the Legislation does not set up a determination of what weight is given to each different component upon which a physician would be rated. Mr. Miller stated that the cost of care could still be the majority of what a physician is rated on, versus quality of care or any other factor that they may factor in. Mr. Miller stated that most of this came out of an agreement with the Attorney General's office in New York. There was also legislation passed late last year in Colorado that set it up with the same basic standards. He stated that he doesn't think that it went into effect until September, so the Board has no idea how that is working in Colorado at this point in time.

Mr. Miller stated that the Board initially had some concerns that this was an endorsement of the health insurers issuing physician rankings, and that would usurp the Board's role in determining minimal standards of care in this State. It would now be the policy of the State that the health insurers can issue these rankings. Mr. Miller stated that he thinks that the Board was supportive of there being standards if rankings are going to be coming out. There is an appeal process through this legislation that, prior to the rankings being published, the physician has the right to appeal and go through that process. There are penalties for insurers if they do this in a false or misleading manner. He stated that if a physician is covered by multiple insurance companies, he or she could have multiple types of ratings coming out.

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Mr. Miller stated that he doesn't know that this serves the purpose that you ultimately want it to.

Dr. Steinbergh stated that she recalls that the Board didn't support this legislation.

Mr. Miller stated that the Board members adamantly opposed this legislation, but substantially softened the last time it was discussed. Board members do support the standards and appeals process and things like that.

Dr. Steinbergh asked who will be setting the standards.

Mr. Miller stated that the insurance companies will be the ones assessing the physician, based upon standards that are set up by these national organizations. The weight that is given to each individual criteria that physicians are going to be rated on can vary drastically.

Dr. Stephens stated that she thinks that they didn't make it clear. They said that they would refer the insurance company to whatever national ranking quality assurance board is out there. They weren't really clear on who it was. She stated that she thinks that the Board members agreed that they don't like that insurance companies rank physicians at all, and are against that. Dr. Stephens added, however, that they're already doing that and everyone felt, including the lawyers who have been working on this, that, given the Constitutional rights of the consumers, that's not something that's going to go away. Dr. Stephens stated that, given that it's not going to go away, and that the insurance companies are already doing the ranking and have the right to do the ranking, restrictions need to be put on them. The restrictions on them will be that they have to use some outside quality ranking system board. She stated that she doesn't know what one, but that's one of the questions that should be asked. She stated that the Board has indicated that it's an interested party.

Dr. Varyani stated that Dr. Stephens said it correctly. At this point in time, two states already have a ranking system. It's just a question of time that it will come to Ohio. Rather than wait for that time, all this legislation is saying is, "use the criteria that are used by others, and give physicians some input into, not only the cost, but the quality." Dr. Varyani stated that that's all it is doing, and, like it or not, even if physicians oppose it, it will come.

Dr. Stephens stated that there are national companies that are out there that evaluate practice and rank you. What this bill is saying is that the insurance companies can't set the standards. They have to use outside standards, and that the insurance company has to let the physician know first of their ranking and give that physician opportunity to appeal, change, modify, correct whatever information they have.

Dr. Madia stated that that's the part he likes the most because right now physicians have no right to appeal. Dr. Madia stated that he thinks that the same criteria should be used by all insurance companies.

Mr. Miller stated that it is not set up in the bill. He advised that the bill is very loose and just says that the standards they are going to rate you on have to be set up either by the National Quality Foundation, the AQA Alliance, or a similar group. It does not set up how much weight is given to each type of criteria. A

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physician can still be rated 90% on the cost of care versus 10% on your quality of care. There is no formula. An insurance company comes up with its own formula based upon acuity of patients, location, and type of patients you get. Ratings can vary greatly between insurance companies.

Dr. Stephens stated that the bill is not final, but she believes it says that the ranking by the insurance company could not be overly affected by the cost of care. That wasn't the number one thing. This was a quality issue.

Dr. Varyani stated that he hopes that the various medical associations will come out and support the Board's stance on this legislation.

Mr. Miller stated that the Board has to consider the ramifications of the physician community moving something forward that legitimizes the insurance companies ranking physicians. He asked whether they are the appropriate entity to be ranking physicians.

Dr. Stephens stated that she thinks that's what this bill says. The bill says that the insurance companies will not provide the ranking.

Mr. Miller disagreed. He stated that the bill says that the insurance company will do the ranking, and it will be based off of national standards.

Dr. Madia stated that he doesn't think the Board should vote to support this legislation.

Dr. Steinbergh stated that the Board is an interested party.

Dr. Amato stated that he thought that the terminology discussed in Committee the previous day was that the Board would be in support and would offer any of its resources to the Association for this legislation. That was the thrust of the Committee.

Dr. Steinbergh asked what OSMA's position on this legislation is.

Mr. Miller stated that he thinks that OSMA is supportive of this. It's part of the AMA's policy goals going forward to have this in place.

Dr. Amato asked whether the Board needs a vote for Mr. Whitehouse to cooperate with the Academy of Medicine.

Mr. Whitehouse stated that he thinks that the record makes clear that there's consensus with regard to what the Board should be doing and what the staff will do as a result of that.

Mr. Jacobson stated that the legislation will change over time, and the Board may like what it looks like today. The Board has to be the neutral arbiter who's able to tell the legislative chairman, etc., when this goes too far in one direction or another.

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Mr. Whitehouse agreed, stating that that's why the Board doesn't want to come out in support or opposition of language of which the Board is not fully aware.

Mr. Miller stated that there is also draft language on podiatric licensure statute revisions in the legislative report. He stated that the biggest change coming out of that was getting rid of the certificate of preliminary education for the podiatrist. Accompanying that was removal of a \$35 fee, which would result in about a \$2,000 loss over the course of the biennium. The requirement that the Board still check for the preliminary education is included in the licensure requirements. Additionally, language is added related to advertising issues they'd seen, and they added in the term "doctor," with the requirement that if a podiatrist uses that term, it needs to be qualified by the letters or the words indicating that they are podiatrists. That's consistent with the other terms that they use.

DR. STEINBERGH MOVED TO APPROVE THE DRAFT LANGUAGE OF THIS LEGISLATION. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Steinbergh stated that another thing she wanted to mention is that the Scope of Practice Committee in Group 2, over the next few months, is going to take on developing some podiatric rules dealing with their scope. She noted that frequently at the Committee level, people come to the Committee to ask for its interpretation of what they can do, as podiatrists. The Committee discusses it and brings it to the Board. She stated that this needs to be incorporated into rules so that there's no question of the Committee's intent.

LICENSURE COMMITTEE

Namita Gopal, M.D.

Dr. Egner advised that this matter was before the Committee pursuant to Namita Gopal's application for medical licensure. Dr. Gopal is a graduate of Maulana Azad Medical College, New Delhi, India. She stated on her application that she has completed 24 months at Good Samaritan Hospital (Wright State); however, Wright State only verified 12 months through the second year level of training.

Dr. Egner stated that Dr. Gopal graduated from Maulana Azad Medical College, New Delhi, India in March 1973. She trained and practiced in India from July 1973 until November 1973. Dr. Gopal then immigrated to the U.S. and participated in an unpaid externship at Blanchard Valley Hospital in Findlay, Ohio from April 1975 until December 1975. She stayed home with her family from January 1976 until June 1980, at which time she began the residency at Good Samaritan Hospital. Dr. Gopal reported the program as a two year program, the program itself could only verify 12 months. Please see the copies of certificates provided by the applicant. In addition to the training she received at Wright State, Dr. Gopal has practiced Family Practice in a solo practice in Kentucky from July 1982 until the present. Dr. Gopal holds licenses in Kentucky and Indiana, and does not report any American Board certification.

Dr. Egner stated that Dr. Gopal is requesting that the Board deem her training and more than 25 years of

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practice experience since 1982 and the 12 months of internship in the United States to be equivalent to the 24 months of graduate medical education through the second-year level of GME so that she may be granted a license in Ohio.

Dr. Egner advised that the Committee recommends denial of Dr. Gopal's licensure application.

DR. VARYANI MOVED TO PROPOSE TO DENY DR. GOPAL'S APPLICATION FOR AN OHIO LICENSE, BASED ON HER NOT HAVING COMPLETED 24 MONTHS OF APPROVED TRAINING THROUGH THE SECOND YEAR LEVEL. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

Suresh Keshavamurthy, M.D.

Dr. Egner advised that this matter was before the Committee pursuant to Suresh Keshavamurthy's application for medical licensure. Dr. Keshavamurthy is a graduate of J.J.M. Medical College in Davangere, India. He stated on his application that he has completed 12 months of a Surgery/Cardiovascular Surgery Fellowship at the Cleveland Clinic.

Dr. Egner stated that Dr. Keshavamurthy graduated from J.J.M Medical College in March 1988. He trained and practiced in India from February 1987(compulsory internship) until April 2006. Dr. Keshavamurthy immigrated to Wellington, New South Wales in April 2006, and began practice as Registrar in Cardiothoracic Surgery at Wellington Public Hospital from April 2006 until January 2007. Dr. Keshavamurthy then began practice in Western Australia as a Registrar in Cardiothoracic Surgery at Sir Charles Gairdner Hospital from February 2007 until December 2007. Dr. Keshavamurthy immigrated to the United States, and began his Cardiothoracic Surgery Fellowship at the Cleveland Clinic from January 0f 2008 until the present time. Dr. Keshavamurthy holds an Ohio training certificate, and does not report any American Board certification. He is requesting that the Board deem his training and experience in India, New South Wales, Australia, and his 12 months of clinical fellowship in the United States to be equivalent to the 24 months of graduate medical education through the second-year level of GME so that he may be granted a license.

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Dr. Egner advised further, that Dr. Keshavamurthy has requested a waiver of the USMLE seven-year rule on the basis of Rule 4731-6-14(C) (3), which allows the Board to grant; “a limited exception to this rule ... to an applicant who passes all three steps within a ten-year period if the applicant shows good cause for why he or she did not complete the examination sequence in a seven-year period and has not failed any step of the USMLE three times or more. Good cause requires a showing that the applicant is current in his or her medical knowledge at the time of application. Good cause includes, but is not limited to, participating in graduate medical education as defined in Ohio Revised Code section 4321.091 for a period of time greater than that required by statute of initial licensure in Ohio.” She noted that Dr. Keshavamurthy is over the seven-year time limit by 16 months. He passed Step 1, 2 and 3 on the first attempt with scores of 77, 79 and 78. Dr. Keshavamurthy is over the seven-year limit because he was constrained by financial and immigration issues.

Dr. Egner advised that the Committee recommends: denying approval of his request for equivalency of his postgraduate medical education; and approving the limited exception of the seven-year rule as outlined in Rule 4731-6-14(C) (3), and accepting the examination sequence in order to be granted a license.

DR. STEINBERGH MOVED TO DENY DR. KESHAVAMURTHY’S REQUEST THAT THE BOARD DEEM HIS TRAINING AND EXPERIENCE IN INDIA, NEW SOUTH WALES, AUSTRALIA, AND HIS 12 MONTHS OF CLINICAL FELLOWSHIP IN THE UNITED STATES TO BE EQUIVALENT TO THE 24 MONTHS OF GRADUATE MEDICAL EDUCATION THROUGH THE SECOND-YEAR LEVEL. DR. STEINBERGH FURTHER MOVED TO GRANT DR. KESHAVAMURTHY’S REQUEST FOR THE LIMITED EXCEPTION OF THE SEVEN-YEAR RULE AND TO ACCEPT HIS EXAMINATION SEQUENCE. DR. VARYANI SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

James Strainic, M.D.

Dr. Egner stated that Dr. Strainic is requesting a waiver to take Step 3 of the USMLE for Ohio. He is over the seven-year limit by 17 months. Dr. Strainic advised that he has been engaged in graduate medical

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education for the past seven years. He lists “economic hardships” and his participation in residency and fellowship as his good cause.

Dr. Egner stated that the Committee recommends approval of Dr. Strainic’s request.

DR. VARYANI MOVED TO APPROVE DR. STRAINIC’S REQUEST FOR A WAIVER TO TAKE STEP 3 OF THE USMLE FOR OHIO. DR. AMATO SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

Annette Morris, L.M.T.

Dr. Egner advised that Ms. Morris is applying for restoration of her LMT license in Ohio. Ms. Morris has indicated on her application for restoration that she has not actively practiced Massage Therapy since 2001. Dr. Egner advised that the Committee recommends approval of Ms. Morris’ application, subject to her passing the Limited Branch portion of the Board’s massage examination.

DR. VARYANI MOVED TO APPROVE MS. MORRIS’ APPLICATION FOR RESTORATION OF HIS LICENSE TO PRACTICE MASSAGE THER APY IN OHIO, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD’S MASSAGE EXAMINATION. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye

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Dr. Madia - aye

The motion carried.

PRESCRIBING COMMITTEE

Mr. Miller stated that the Pharmacy Board addressed the Committee with regards to its request to add the Zoster vaccine to the list of vaccines that can be administered by pharmacists. He stated that under H.B. 283 from the last General Assembly, language was added that, instead of having to go through legislation each time to add vaccines to the list, rules could be drafted by the Pharmacy Board in consultation with the Medical Board. Mr. Miller stated that this is the first request that has come across with respect to that legislation.

Mr. Miller stated that he believes that everyone was of the same mind that it was okay to add this to the list, given the timing of Medicare regulations that reimburse pharmacists for the vaccine versus physicians. The biggest issue was in drafting the language for the rule, the Committee wants to make sure that this is at the direction of, in consultation with, or pursuant with an order or prescription from a physician, versus just a yearly protocol that is set up between the pharmacist and the physician. Mr. Miller stated that he will work in conjunction with the Pharmacy Board and bring it back to the Committee.

P.A. COMMITTEE

Dr. Steinbergh stated that the Committee reviewed a number of applications.

Sharon L. Moore, PA-C

Dr. Steinbergh stated that Ms. Moore applied for a Provisional Certificate to Prescribe. She has completed a Non ARC-PA Masters at the University of Wisconsin. Dr. Steinbergh advised that Ohio Administrative Code 4730-2-02 (A) (1) lists various courses of study which have been determined as acceptable, or "clinically relevant". Ms. Moore's course of Masters in Communicative Disorders is not specifically listed. Ms. Moore is requesting that the Board deem her course as being "clinically relevant."

DR. STEINBERGH MOVED TO DEEM THE MASTERS OF SCIENCE-COMMUNICATIVE DISORDERS FROM THE UNIVERSITY OF WISCONSIN "CLINICALLY RELEVANT" TO ALLOW MS. MOORE TO RECEIVE A PROVISIONAL CERTIFICATE TO PRESCRIBE. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye

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Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

Michael Storer, PA-C

Dr. Steinbergh advised that Mr. Storer is applying for a Provisional Certificate to Prescribe through the 10 years of clinical experience route. He therefore needs his previous employer to complete Form B of this application. Mr. Storer has worked fulltime for Premier Health Care Services from November 1994 to October 1999 (4 yrs. 11 months) and August 2006 to the present (2 yrs, 5 months) for a total of 7 years and 4 months experience. He also worked with Vanguard Medical from October of 2003 until July of 2006, (2 yrs, 9 months) which gives him over 10 years of experience. However, according to Mr. Storer, neither Vanguard nor Premier would complete the Form B, and preferred to send the verification in a letter. Mr. Storer asked that the letters sent by Premier and Vanguard serve as verification of the 10 years of work experience.

DR. STEINBERGH MOVED TO ACCEPT THE VERIFICATION LETTERS IN LIEU OF FORM B TO ALLOW MR. STORER TO RECEIVE A PROVISIONAL CERTIFICATE TO PRESCRIBE. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

VOTE:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Varyani	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

Designing You Clinic

Dr. Steinbergh advised that the Committee reviewed two special services plans filed by the above-captioned clinic. The first request was to allow its P.A.s to perform dermal filler injections, in an office setting, utilizing 100% onsite supervision, 50% of which will be direct supervision, the physician assistant will observe the physician in performing 25 procedures and then the physician would observe the PA in performing no less than 25 procedures to determine competency. Dr. Steinbergh stated that this procedure

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was denied in May 2006. The PAPC reviewed the information and recommends denial. Subsequently, the P.A. Committee also recommended denial.

DR. STEINBERGH MOVED TO DENY DESIGNING YOU CLINIC'S REQUEST FOR ITS P.A.S TO PERFORM DERMAL FILLER INJECTIONS ON THE BASIS THAT THERE IS A HIGH RISK OF COMPLICATIONS IF DONE INCORRECTLY. DR. STEPHENS SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

Dr. Steinbergh stated that the Clinic also requested approval for its P.A.s to perform Botulinum toxic type A injections, in an office setting, utilizing 100% onsite supervision, 50% of which will be direct supervision, the physician assistant will observe the physician in performing 25 procedures and then the physician would observe the PA in performing no less than 25 procedures to determine competency. Dr. Steinbergh stated that both committees also recommend denial of this function.

DR. STEINBERGH MOVED TO DENY DESIGNING YOU CLINIC'S REQUEST FOR ITS P.A.S TO PERFORM BOTULINUM TOXIC TYPE A INJECTIONS ON THE BASIS THAT THERE IS A HIGH RISK OF COMPLICATIONS IF DONE INCORRECTLY. DR. STEPHENS SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

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The motion carried.

CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSION

DR. STEINBERGH MOVED TO REMOVE THE ABOVE TOPIC FROM THE TABLE. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

DOUGLAS SHAHEEN MOINUDDIN, M.D. – LETTER OF PROPOSED DENIAL

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

DR. STEINBERGH MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. MOINUDDIN. DR. MAHAJAN SECONDED THE MOTION. A vote was taken:

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

REINSTATEMENT REQUESTS

JOHN PEASE MOORE, III, M.D.

Ms. Bickers advised that Dr. Moore has requested restoration of his license to practice medicine and surgery in the state of Ohio, which was suspended by Board Order of May 14, 2003. That Order stayed a permanent revocation and placed Dr. Moore's license under suspension for a minimum of two years. Ms. Bickers reviewed the conditions the Board set for Dr. Moore's license reinstatement. She advised that Dr. Moore has submitted all necessary documentation. She noted that Dr. Moore has submitted a plan that would allow him to lease space and equipment from HomeTown WorkCare Centers at two occupational clinics, one in Centerville and the other in Huber Heights. He would be providing general practice and preventative medicine in those two locations approximately four days a week.

Ms. Bickers stated that Dr. Moore is also seeking approval of James W. Bean, M.D., to serve as his

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monitoring physician upon restoration. Dr. Bean lists his specialty as head and neck Surgery, but, according to Dr. Moore, he currently serves as the medical director for HomeTown WorkCare Centers.

Dr. Madia asked how a head and neck surgeon can supervise a family practitioner.

Ms. Bickers again advised that, according to Dr. Moore, Dr. Bean is the medical director of the Center.

Dr. Steinbergh indicated that that doesn't mean that he's qualified to monitor Dr. Moore.

Dr. Madia stated that the Center should have other doctors who could monitor Dr. Moore.

Dr. Steinbergh stated that she thinks that there's a conflict in Dr. Bean monitoring Dr. Moore. First of all, Dr. Bean is Dr. Moore's employer. She stated that that's a concern that she has. Her second concern is that he's not a primary care physician.

Dr. Varyani stated that Dr. Bean is an ENT surgeon, and now he's taking care of this urgent care center where they provide occupational services.

Dr. Egner asked what the basis of the Board's action was.

Dr. Varyani stated that it appears to have been related to CPT coding and billing. He stated that that's why he's having a problem.

Dr. Stephens noted that Dr. Moore was a chronic pain physician, and she suggested that that's what he would be doing at the Center.

MR. ALBERT MOVED:

- **THAT THE APPLICATION FOR THE RESTORATION OF THE LICENSE OF JOHN PEASE MOORE, III, M.D., BE APPROVED, *SUBJECT TO SUCCESSFUL COMPLETION OF THE SPECIAL PURPOSE EXAMINATION [SPEX]*, AND SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS SET FORTH IN THE MAY 14, 2003 BOARD ORDER;**
- **THAT THE PLAN OF PRACTICE SUBMITTED BY DOCTOR MOORE BE APPROVED. DR. MOORE SHALL OBTAIN THE BOARD'S PRIOR APPROVAL FOR ANY ALTERATION TO THE PRACTICE PLAN APPROVED PURSUANT TO THIS ORDER; AND**
- **THAT JAMES W. BEAN, M.D., BE APPROVED AS THE MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED ON A MONTHLY BASIS.**

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

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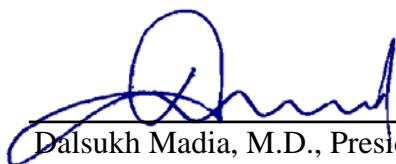
VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- nay
	Dr. Mahajan	- aye
	Dr. Steinbergh	- nay
	Dr. Madia	- nay

The motion carried.


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

Thereupon at 9:40 a.m. on February 12, 2009, the February 11-12, 2009 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 February 11-12, 2009, as approved on March 11, 2009.



Dalsukh Madia, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)

