

September 9, 2009

MINUTES**THE STATE MEDICAL BOARD OF OHIO****September 9, 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; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Marchelle L. Suppan, D.P.M.; William L. Ogg; W. Frank Hairston; Susan E. Stephens, M.D.; Darshan Mahajan, M.D. and Anita M. Steinbergh, D.O. The following did not attend the meeting: Nandlal Varyani, M.D.

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; 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; William C. Greene, 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; Michael K. Miller, Public Policy & Government Affairs Officer; Karry Thacker, Executive Staff Assistant; Danielle Bickers, Compliance Supervisor; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant.

MINUTES REVIEW

DR. STEINBERGH MOVED TO APPROVE THE MINUTES OF AUGUST 12-13, 2009. MR. HAIRSTON 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

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| VOTE: | Mr. Albert | - aye |
| | Dr. Talmage | - aye |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |

September 9, 2009

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; Gretchen Petrucci, Hearing Examiner.

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 and Proposed Orders; and any objections filed in the matters of: Atta J. Asef, D.P.M.; Daryl E. Cavin; Mohan S. Chandran, M.D.; Syed Kazmi, M.D.; Jack Mark Levine, D.O.; Douglas S. Moinuddin, M.D.; Alaa M. Nadour, M.D.; and Julie A. Taylor, M.D. A roll call was taken:

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| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Talmage | - aye |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - 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:

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| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Talmage | - aye |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

September 9, 2009

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

Dr. Madia reminded all parties that no oral motions may be made during these proceedings.

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

JACK MARK LEVINE, D.O.

Dr. Madia directed the Board's attention to the matter of Jack Mark Levine, D.O. He advised that objections were filed to Hearing Examiner Stehura'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. Levine. Five minutes would be allowed for that address.

Dr. Levine was accompanied by Jeffrey J. Jurca, Esq. Mr. Jurca advised that Dr. Levine has a statement for the Board.

At this time, Dr. Levine read the following statement:

It has been two years since I shamed my family and myself and my long career by making this inexcusable, inappropriate phone call. I live with this totally out-of-character mistake in judgment every day. I offered no excuses at the hearing in January, and I have no excuses to you for why I made that phone call. I pray that the Board will not judge my 25-year career in healthcare by my shameful words I uttered two years ago.

For you to take my livelihood away over this will hurt my wonderful family who are just totally innocent. I have three wonderful children, two still in college, and an incredibly bright and beautiful wife. And they have endured such embarrassment due to my inexcusable actions. To take away my ability to support them over an inappropriate phone call seems very unfair to them.

I understand that the Prosecutor and the Board exist to protect the public from bad doctors. I am just not that type of physician. I have been in this wonderful profession since 1983, and I have saved hundreds of lives and helped thousands of patients without any complaints to any Medical Board or hospital CEO, or any director of nursing. Since my shameful phone call in 2007, I've continued to help thousands of patients in

September 9, 2009

underserved areas without any inappropriate actions or any complaints.

Since late 2007 I come to you with a totally changed career. I've given up my full-time surgical career. I am now a full-time emergency room physician. I will never again have an office practice or have any long-term chronic patients. My patient relationships will all be acute care. My patient contacts are constantly monitored on a daily basis. My medical director and vice-CEO are all females and well aware of this situation when I was hired. The majority of the R.N.s and clerks I work with are females. Their character references that I have with me here will show you the high regard they have for me. I have also voluntarily surrendered my Suboxone license, so I will no longer deal with these very difficult types of chronic care patients. I continue to visit my therapist regularly to understand my own inadequacies and how to keep improving myself to be a better husband and a doctor.

Although I never, ever, touched this client, I still consider what I said to her an act of betrayal to my wife, and a sinful infidelity that I will live with forever. My wonderful wife never deserved this stupidity, this bad behavior.

I ask for your mercy and for simple fairness in your decision for punishment. There are many doctors who have had sexual relations with patients that were given written reprimands or short suspensions. There have been doctors who have had felonies and been in prison and had nine-month suspensions. This Prosecutor and Hearing Officer have recommended a two-year suspension.

Although my words were inexcusable, if you consider my entire career achievements, I feel the recommendations are very harsh. I have references from persons who have known me a short time, but also people who have known me for ten, twenty, and thirty years, and know of my good character.

As far as the second charge of lying to the investigator, [for which] the Hearing Officer recommended a year's suspension, I just have to say we were not allowed to discuss at the hearing any part of the investigator's visit to my office. He came to my office at the start of the office hours with three police officers. The chief sheriff was standing right over me, two feet [away], with his handcuffs, club and a gun. The investigator pointed his finger at me and bombarded me with questions. I made a very stupid mistake with this patient, but I am not a stupid man. I knew at that time that he had a tape, so why would I deliberately lie? I never deliberately lied to him. I was in a total panic. I was feeling palpitations and chest pains, so the exact details to his questions were totally blurred to me, but I never--

Dr. Madia advised Dr. Levine that he had one minute to conclude his statement.

I never deliberately lied. I respect your ideals to protect the public, and in my case the Board renewed my license to practice in June of '08. If I was a danger to the public, I

September 9, 2009

could have been suspended then. The actions I committed in 2007 weigh on me and my family, and I just wish that you would judge me not on my darkest instant in an otherwise wonderful career. I have volunteered my time to many. I'm one of the surgeons who would come in for any type of patient, any time a doctor asked. I just ask you to consider my 20 years of unquestioned service prior to '07, but more importantly, the work I've done since '07 to give you confidence in my character. I have many, many references since 2007 to show you that.

The personal and professional changes I have made and the good work that I have done should help you realize what kind of man and physician I truly am. It's obvious, and I just believe that if you could just take all this into account, I just ask and I pray that you will just be lenient with me and my family.

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

Ms. Pfeiffer stated that this case is one of the most disturbing cases that she's ever tried before the Board. This is not a case about two people who cared for each other, two people who fell in love, or even two people who had a physical attraction for each other. It's a case of a physician who fulfilled his own sexual selfish desires by engaging in conduct that she considers depraved. He controlled, he dominated and he manipulated not just patients, but vulnerable patients with built-in credibility issues. That is, these patients were all drug addicts. She noted, in particular, Patient 1, who came to Dr. Levine for help to get into a Suboxone treatment program. Ms. Pfeiffer stated that this was not a single instance of a single telephone call. There were repeated calls from Dr. Levine to Patient 1 at her home at times when she had family members there.

Ms. Pfeiffer stated that it's not her goal to embarrass or shame Dr. Levine, but to make sure that the Board understands what he did. She stated that it's not just the sexual, kind of embarrassing, humiliating nature of this case that's troublesome, but the fact that he manipulated a vulnerable patient. Ms. Pfeiffer stated that, in her estimation, Dr. Levine was basically feeding the patient Suboxone as long as she continued to engage in this sexual banter. Dr. Levine told the investigator who first approached him that, at first, it was just a single phone call, and that all he was doing was trying to help Patient 1. He told the investigator that this was a patient who'd been sexually abused. His patient records document the fact that this was a patient who had been abused in the past, had addiction issues. Yet, he told the investigator that he "was only trying to help her."

Ms. Pfeiffer at this time read a number of statements Dr. Levine made to Patient 1, contained in the transcript of the recordings made. She noted that Patient 1's answer was either, "yeah," "okay," or "yes."

I like when you do things I want you to do.

I told you to talk to me and write me . . .

I don't get anything. . . . You know, I want what I want, need what I need. Are you able to do that?

September 9, 2009

I want to help you. I want you to help me.

Are you going to be my sex toy?

You'll do what I tell you to do?

Don't you want a master to tell you what to do?

You need a man to command you, don't you?

Ms. Pfeiffer stated that what Dr. Levine wanted the patient to write were letters about sex and masturbation.

Ms. Pfeiffer stated that this patient relapsed several times while seeing Dr. Levine. She relapsed and tested "dirty" for Oxycodone, Tylox, and Darvocet. He continued to write her prescriptions for Suboxone, because he's getting what he wants in exchange. He said that he never touched the client, but if you listen to the tapes carefully, there is a part of the conversation when Dr. Levine asked Patient 1, "Hey, did you like what you felt today in the office," and she replied, "Your cock?" and he said "Yeah."

Ms. Pfeiffer stated that this was not a compassionate, two-sided affair. It was Dr. Levine crossing all bounds of decency, morality, and integrity to get what he wanted from an extremely vulnerable patient. Ms. Pfeiffer commented that Dr. Levine talks about being taken aback and not being truthful at first, but he didn't know about the tapes right away. It was after the tapes were made known to him that he decided to admit those allegations. Ms. Pfeiffer stated that if the Board didn't have those tapes, Dr. Levine probably wouldn't be here today.

Ms. Pfeiffer stated that the recommendation in this case is insufficient. She stated that the Board's goal is to protect the public, and, again, the line that Dr. Levine crossed is so clear, and he's crossed over it so far, she thinks that he has no moral compass. Ms. Pfeiffer stated that the only way to protect the public in this case is to remove him from practice. She urged the Board to consider permanent revocation in this case.

Dr. Steinbergh stated that this was a tough case to read through. She noted that Paragraph 3 of the "Background Information" in the "Summary of Evidence, should be corrected to read as follows:

Dr. Levine was born in New York and graduated from the New York College of Osteopathic Medicine in 1982. In addition to Ohio, Dr. Levine holds medical licenses in West Virginia (1988) and Illinois. He was board-certified by the American Board of Osteopathic Surgeons in 1995 in general surgery and critical care medicine, and became a fellow of the American College of Osteopathic Surgeons in 1998.

Dr. Steinbergh stated that as she approached this case, she was probably as disgusted as everyone else. She stated that she wondered why a man, who is Board-certified in surgery, decided to prescribe Suboxone. He had no specialty training in psychiatry or addiction medicine. Although he was in his rights to prescribe

September 9, 2009

because he passed an on-line test by the FDA, it appears to her that he does it for money. She stated that the Board didn't charge him with this, and her judgments aren't based on this, but Board members do know that when physicians step out of their areas of competency, the areas for which they've been trained, they generally do get into trouble.

Dr. Steinbergh stated that she agrees with the Ms. Pfeiffer that, had Patient 1 not come forward, and had the Board not had the tapes, the Board wouldn't be here discussing three cases. But Patient 1 did come forward, and after she came forward with these tapes and with these charges, subsequently Patients 2 and 3 came forward.

Dr. Steinbergh stated that she reviewed the case, which was very detailed, and she read Dr. Levine's objections and the State's objections. She stated that she doesn't think that this is a case of one phone call. She doesn't think that this is a case of one patient. She stated that she thinks that this is a case where a physician who, for self-gratification, was pornographic with his patients, the most vulnerable of patients. Dr. Steinbergh stated that it is shameful when physicians treat addicted patients with less respect than they would treat other patients.

Dr. Steinbergh stated that she agrees with the State's objections regarding witness credibility. The Hearing Examiner has outlined very clearly the Board's sexual boundary guidelines. She referred the Board to Rule 4731-26-01, OAC, and noted that the Board also has a white paper on physical examinations by physicians, which demonstrates to physicians how to appropriately examine a patient. Dr. Steinbergh read the following excerpts from the aforementioned rule:

For purposes of Chapter 4731-26 of the Administrative Code:

* * *

(G) "Sexual misconduct" means behavior that exploits the physician-patient relationship in a sexual way, whether verbal or physical, and may include the expression of thoughts, feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes the following:

(1) Sexual impropriety by the licensee, such as behaviors, gestures, or expressions that are seductive, sexually suggestive, disrespectful of patient privacy, or sexually demeaning to a patient, including but not limited to, the following:

* * *

(c) Making comments that are not clinically relevant about or to the patient, including but not limited to, making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, or making comments about potential sexual performance;

* * *

(e) Initiation by the licensee of conversation regarding the sexual

September 9, 2009

problems, preferences, or fantasies of the licensee;

(f) Requesting details of sexual history or sexual likes or dislikes when not clinically indicated for the type of examination or consultation;

Dr. Steinbergh stated that she feels that Dr. Levine was disrespectful of Patient 3's privacy. Testimony indicates that he lifted her shirt and felt her breasts. Patient 3 testified that the breast examination made her feel very uncomfortable and violated. Dr. Steinbergh stated that, although the Hearing Examiner did not find that to be true, she, herself, finds it to be true.

Dr. Steinbergh stated that Dr. Levine violated paragraph (c) with all three of his patients, but especially with Patient 1. By asking Patient 3 to write down her acts of masturbation, Dr. Levine violated paragraph (f).

Dr. Steinbergh stated that she found Dr. Levine to be very unprofessional and preposterous with these patients who were suffering from substance addiction. She added that Dr. Levine was not following the Board's guidelines in the sense that he never had anyone else in the room to substantiate his claims. He had no third party there when he was examining these patients. He didn't appropriately ask Patient 3 to get into a gown to appropriately examine her breasts. He had reason to examine her breasts, but he never explained to her why he was going to examine her breasts and he did it in a very inappropriate way.

Dr. Steinbergh asked whether she is supposed to believe this physician, who has led himself to these pornographic situations, over the drug-abusing women. Dr. Steinbergh stated that, essentially, she found that this case came down to that. The Hearing Examiner didn't find them to be reliable witnesses, but she felt that these women were not going to come forward and expose themselves to this type of a hearing process if they didn't mean to say what they wanted to say. Dr. Steinbergh stated that it's true that no one came forward until Patient 1 came forward, but the Board frequently finds that in sexual cases, and frequently in minimal standards cases, until the first patient comes forward, other people who may have wanted to come forward but did not because of the scrutiny of this type of a process.

Dr. Steinbergh stated that she would like to drop the Findings of Fact, because she finds that they are inconsistent with the Conclusions of Law. She advised that she would like to amend the Conclusions of Law in this matter to read as follows:

2. Dr. Levine's acts, conduct, and/or admissions involving Patient 2, individually and/or collectively, DO constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of [R.C. Chapter 4731] or any rule promulgated by the board" as that clause is used in R.C. 4731.22(B)(20), to wit: Rule 4731-26-02(A), Ohio Administrative Code.

As a result, Dr. Levine's acts, conduct, and/or omissions involving Patients 2, individually and/or collectively, DO constitute "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or

September 9, 2009

similar circumstances, whether or not actual injury to a patient is established.”

3. Dr. Levine’s acts, conduct, and/or admission involving Patient 3, individually and/or collectively, DO constitute “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of [R.C. Chapter 4731] or any rule promulgated by the board” as that clause is used in R.C. 4731.22(B)(20), to wit: Rule 4731-26-02(A), Ohio Administrative Code.

As a result, Dr. Levine’s acts, conduct, and/or omissions involving Patients 3, individually and/or collectively, DO constitute “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.”

Dr. Steinbergh continued that she would support the Hearing Examiner’s Proposed Order.

Dr. Steinbergh continued that the Board did not charge Dr. Levine with impairment or mental illness, but Dr. Levine, during the hearing process, allowed testimony to come into play where his current treating psychologist and examining psychologist allowed that he was, in fact, depressed at the time that these acts occurred, separated from his family at that time, and that Dr. Levine had gone to the psychologist asking how he could have done this type of thing. Dr. Steinbergh noted that Dr. Levine did sign the *Eastway* waiver, which allows that, even though the Board didn’t charge him with impairment or mental illness, the Board may, in fact, consider that this case could be related to his depression. The Proposed Order is consistent with that. Dr. Steinbergh stated that Dr. Levine would get psychological assessment and continued therapy. She noted that the Proposed Order does outline the psychiatric assessment that is needed. He would also be required to take professional ethics and patient/physician boundary courses. She noted that the Proposed Order also includes conditions for reinstatement or restoration of Dr. Levine’s license.

Dr. Steinbergh stated that this Board’s concern is for the patient. She added that she does respect the fact that the Board has no further evidence of cases or complaints against Dr. Levin, but she finds that Dr. Levine did what these patients say he did. She added that she believes that there was more than one phone call made by Dr. Levine. She doesn’t know if there were others who didn’t come forward. Dr. Steinbergh stated that this kind of behavior is absolutely unacceptable for patient care, and she’s certain that Dr. Levine understands that.

Dr. Mahajan stated that he agrees with Dr. Steinbergh, and he supports the Proposed Order.

Dr. Suppan stated that she agrees with everything that Ms. Pfeiffer said. She added that she thinks that Ms. Pfeiffer left one thing out in her list of very hurtful things that he did to the one patient, and that was that he basically objectified the patient to the point where he made her less than human. He put her in a place in his mind where he called her a “sex toy.” Dr. Suppan stated that people are human beings and women are not toys. Dr. Suppan stated that she has a great deal of difficulty with a physician, who should hold human beings above all else, being able to categorize a human being as a toy or a sex toy. She stated that that is

something that is so fundamental to the practice of medicine, that it goes way beyond an understanding or concern for mental illness or any other defense in this situation. She stated that she is absolutely appalled by any physician ever making a person an object in that way. She stated that for these reasons, she would support the State's case for permanent revocation.

Dr. Amato indicated that young people are frequently taken into a life of prostitution due to use of drugs. Dr. Levine was using his prescriptive authority, his granted license to heal, in a way that could only hurt. Dr. Amato stated that he agrees more with Dr. Suppan. He believes this case goes beyond suspension.

Dr. Madia stated that he's also leaning more toward the direction of Dr. Suppan and Dr. Amato. He stated that Dr. Levine has gone beyond just sexual boundaries. He was using treatment to use the patient as a sex toy. He spoke in support of permanent revocation.

DR. AMATO MOVED TO AMEND THE CONCLUSIONS OF LAW IN THE MATTER OF JACK MARK LEVINE, D.O., TO READ AS FOLLOWS:

2. Dr. Levine's acts, conduct, and/or admissions involving Patient 2, individually and/or collectively, DO constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of [R.C. Chapter 4731] or any rule promulgated by the board" as that clause is used in R.C. 4731.22(B)(20), to wit: Rule 4731-26-02(A), Ohio Administrative Code.

As a result, Dr. Levine's acts, conduct, and/or omissions involving Patients 2, individually and/or collectively, DO constitute "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established."

3. Dr. Levine's acts, conduct, and/or admission involving Patient 3, individually and/or collectively, DO constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of [R.C. Chapter 4731] or any rule promulgated by the board" as that clause is used in R.C. 4731.22(B)(20), to wit: Rule 4731-26-02(A), Ohio Administrative Code.

As a result, Dr. Levine's acts, conduct, and/or omissions involving Patients 3, individually and/or collectively, DO constitute "[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established."

DR. AMATO FURTHER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF JACK MARK LEVINE, D.O., BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION. DR. SUPPAN SECONDED THE MOTION.

September 9, 2009

Dr. Steinbergh stated that the Board needs to take a look at this in one of two ways: if it accepts Dr. Levine's defense of depression, that he stepped away from his normal ethical and moral standards, and if the Board believes this, then the Board needs to sanction him in the same way as it would someone who was mentally ill at that time or impaired at that time. If the Board doesn't believe that, she would agree to the proposed permanent revocation. She stated that that was a very difficult thing for her. She agrees that this was a terrible case. The question is whether the Board totally removes him from practice because of this, or does it consider that this physician may have been ill at the time and that there is reason to believe that he can be healed.

Dr. Talmage left the meeting during the previous discussion.

A vote was taken:

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| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - 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 APPROVE AND CONFIRM MR. STEHURA'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JACK MARK LEVINE, D.O. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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| ROLL CALL: | Mr. Albert | - abstain |
| Where's Varyani's vote? | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

ATTA J. ASEF, D.P.M.

Dr. Madia directed the Board's attention to the matter of Atta J. Asef, D.P.M. He advised that no

objections were filed to Hearing Examiner Stehura's Report and Recommendation.

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

Dr. Asef was accompanied by his attorney, John R. Irwin, M.D., Esq.

Dr. Irwin stated that he would like to make a couple of observations before he turns the remainder of the time over to Dr. Asef. He stated that this matter involves questions relating to Dr. Asef's testimony and the truthfulness of that, advertisements in the Yellow Pages, and episodes of training he received for lasers and for collagen injections.

Dr. Irwin stated that, with regard to the discrepancies and conflict in testimony, he thinks that Paragraph 21 of the Report and Recommendation is significant in that it cites the fact that no final document of approval by Dr. Asef of the proposed Yellow Pages advertisement was "retained" by SBC. Secondly, there was testimony from SBC representatives that the final approval was faxed to Dr. Asef, but never returned. Dr. Irwin stated that he questions highly the accuracy of that kind of recordkeeping and that kind of testimony.

Dr. Irwin stated that they did present evidence of numerous examples of other comparable ads from other physicians, not to justify or explain the testimony, but simply to indicate that this was a pattern of practice widespread in the medical community, where other physicians were advertising in different categories and with different nomenclature. Dr. Irwin stated that he found it noteworthy that the Hearing Examiner made no observations about that evidence and simply indicated that it existed, without any further analysis.

Dr. Irwin argued that, when a physician of any specialty is learning under supervision from a manufacturer's representative, if the Board draws a line and determines that this kind training activity under supervision, with manufacturers or even teachers or instructors in medical school, transgresses the bounds of the practice of medicine, there will be difficulty in all of the medical schools. He noted that, in the present matter for instance, Dr. Asef received training from a nurse who injected collagen into a patient's face and then Dr. Asef proceeded to do a similar injection on the opposite side of the face. Dr. Irwin stated that he thinks that it is a difficult area to get into with that kind of delineation of what is the improper practice.

Dr. Irwin asked that the Board consider that Dr. Asef is a solo practitioner. Should the Board choose to impose discipline that constitutes a termination or suspension of his practice, he asks to be given some time to make arrangements for his ongoing patients.

Dr. Asef thanked the Board for giving him the opportunity to speak. He stated that he is very sorry for having caused all this trouble and for having done things that he wishes he had not done. He stated that he hopes that the Board members understand that he certainly did not intend to violate either the spirit or the letter of the rules or the Board's policy regarding his practice.

Dr. Asef stated that the problem began because of an advertisement he put in the Yellow Pages five or six years ago. He disagreed with the conclusion of the Hearing Examiner that he had intentionally misstated

September 9, 2009

what had happened when he was dealing with the Yellow Pages salesperson about these various advertisements. He stated that he really thought that his advertisement was okay, based upon Yellow Book customs, what he was told by a salesperson, and what he had seen from many of his colleagues in their Yellow Book advertisements. Dr. Asef stated that, most importantly, he never intended to hold himself out in any fashion as something other than a podiatrist. He stated that he is very proud of his profession, and he sees no reason to try to make people think that he's a medical doctor or osteopathic physician when he is a podiatrist.

Dr. Asef stated that he thinks that a lot of time was spent due to the fact that he chose to use an attractive woman's face in the advertisement. He stated that, as much of the advertising industry knows, to get someone to stop and read the advertisement or to pay attention, it is pretty effective to show an attractive woman. He certainly did not mean to suggest by the picture that he was doing cosmetic surgery on faces. Dr. Asef stated that he just thought that an attractive face would make people stop and read the content of his advertisement.

Dr. Madia advised Dr. Asef that he has one minute to conclude his statement.

Dr. Asef stated that what he was advertising was cosmetic foot surgery, bunion and hammer toe surgery, and conditions such as disfiguring lesions, veinous disorders and excessive hair growth. These are all problems that he sees as a podiatrist. Dr. Asef stated that many women find them unflattering.

Dr. Asef stated that he doesn't mean to argue about everything, but it does seem to him that if the Yellow Pages saleswoman had actually come to the hearing and brought the paper signed by him showing his approval of the final placement of all these advertisements, that would be one thing; but that did not happen. He really did not sign off on the final placement of the ads or the wording of the ads. He stated that he wishes that he had, and added that he's certainly learned his lesson now.

Concerning the training, where he injected a patient's face and used lasers for hair removal in areas other than the foot, Dr. Asef stated that he did this in order to learn how to use the new technology. This was the training provided to him by the manufacturer's certified trainer. The trainer, who was a registered nurse, made the first injection to the patient's face, who happened to be a volunteer and an employee of his office. He stated that he then made the second injection. Dr. Asef stated that that nurse did not have a medical license, but she was sent to him by the manufacturer to learn how to use the material properly. He was learning how to use the laser for hair removal that was also part of the manufacturer's approved training, when he applied the laser to two parts of the body, other than the foot and ankle.

Dr. Asef stated that he looks back at the times he was in the podiatric medical school, and then during his surgical residency and training, and he thinks of all the injections that he performed all over patients' bodies during that training, the I.V.s he started, the blood he drew, the kinds of procedures he was trained to perform as part of his overall training, including delivering babies, C-sections – things he certainly doesn't do as a practicing podiatrist. Dr. Asef stated that he didn't mean to violate any rules when he was being trained to inject collagen or use laser for hair removal.

Dr. Asef stated that he hopes that the Board understands that he has learned his lesson and he will never

September 9, 2009

again allow his name to be used in any kind of advertising without absolutely clear and final signed documentation, and without being completely confident that it meets all of the rules and does not step out of line. He added that he will also make sure that whatever training he may need in the future for new techniques or technology is tailored for his specialty as a podiatrist.

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

Mr. Wilcox stated that he would like to respond. He stated that this case is one that simply comes down to credibility. In this matter, Dr. Asef was simply not credible in his statements to the Board in depositions, as well as during the administrative hearing. After evaluating the testimony and the demeanor of Dr. Asef, the Hearing Examiner concluded that Dr. Asef was not credible. As the Hearing Examiner stated in his rationale for the Proposed Order, Dr. Asef made several statements to the Board, under oath, that the Hearing Examiner found to be false. These statements included that Dr. Asef had no control over the location of the advertising, that Dr. Asef did not suggest using the photograph of a female face in the advertisement. Mr. Wilcox stated that, today, if he correctly heard what Dr. Asef just stated, he contradicted that. Today, he seems to be saying that it was his idea, and at hearing he said it was not his idea.

Mr. Wilcox stated that the Hearing Examiner also found that Dr. Asef's original wording of the advertising contained the "D.P.M." title. In addition, the Hearing Examiner found that Dr. Asef did see the final proof of the advertisement before publication.

Mr. Wilcox stated that, as to the credibility issue, he believes that Dr. Asef's own witness in this case, Dr. Hackett, testified that during the demonstration of the laser device, Dr. Asef practiced on the Rosacea cheeks of Dr. Hackett and applied the laser to Dr. Hackett's lower chin for "a face tightening procedure." Dr. Hackett testified to that at the hearing. Dr. Asef never told the Board about that in the deposition, and he did not tell the Board about it on cross-examination at the hearing itself. Mr. Wilcox stated that those are issues to Dr. Asef's credibility.

Mr. Wilcox stated that, as the Hearing Examiner concludes in the Report and Recommendation, the false statements of Dr. Asef under oath constitute felony perjury, misdemeanor falsification, and making fraudulent or misleading statements in relation to the practice of podiatry and failure to cooperate in an investigation.

Mr. Wilcox continued that, in addition, Dr. Asef held himself out to possess a medical certificate. This, along with his use of the laser device on people, constitutes the practice of medicine without a certificate. This was not a training program or a residency. There were no safeguards involved here. This was a procedure conducted in a private practice office with no other safeguards that would be built in a training situation. That's the distinction.

Mr. Wilcox stated that, given the multitude of serious charges found by the Hearing Examiner, a six-month suspension may not be sufficient. Such a recommendation is not even at the minimum level of the disciplinary guidelines for some of the violations that Dr. Asef has committed. Mr. Wilcox asked that the Board consider this while deliberating in this matter.

September 9, 2009

DR. MAHAJAN MOVED TO APPROVE AND CONFIRM MR. STEHURA'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ATTA J. ASEF, D.P.M. DR. AMATO SECONDED THE MOTION.

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

Dr. Suppan stated that the credibility issue did come up. Going through this matter, there was a lot of what the SBC representative said versus what Dr. Asef said. She agrees that there are some credibility issues that arise from that. However, as a podiatric physician and surgeon, Dr. Asef does have credibility within the profession in terms of his having done a surgical residency at the V.A. Hospital in Cleveland, his being licensed in Ohio and California, being board certified by the American Board of Podiatric Surgery, and his being an Associate of the American College of Foot and Ankle Surgeons, which is the pinnacle of achievement in the organizations.

Dr. Suppan stated that Dr. Asef was in a group practice until 1998. Following that, he opened his own practice in 2000. Sometime after he opened his own practice, he began to choose Yellow Pages ads. Prior to 2004, the ads consisted of things that listed his degree as a D.P.M. and specifically identified certain types of conditions, for example, foot and ankle surgery, bunions, bone spurs, sports related injuries, diabetic foot care, etc. Dr. Suppan stated that in those ads he put, "Dr. Asef, D.P.M., Associate of the American College of Foot and Ankle Surgeons." In 2003 the SBC representative gave him the opportunity or the incentive to get a second ad at no charge. That seems to be when the trouble started. Around the same time, he had begun to look into the training for cosmetic foot and ankle surgery, and apparently sought to demonstrate that through his advertising. He did place an ad under the "Physicians and Surgeons, M.D. and D.O., Plastic Reconstructive and Cosmetic Surgery" section, with a large photo of a female face. Dr. Suppan stated that Dr. Asef said that he did not request the ad to be placed there, but did sign the receipt for the ad. Dr. Suppan stated that her response to that is that, ultimately, Dr. Asef does bear the responsibility to make sure that whatever is in the Yellow Pages is appropriate and does not misrepresent himself to the community in terms of his scope of practice.

Dr. Suppan stated that in addition to that, Dr. Asef had purchased a laser in partnership with Dr. Martha Hackett. They shared the laser, and it was Dr. Asef's intent to use the laser to reduce scars following cosmetic foot and ankle surgery, to remove warts, to remove hair on toes, and things like that. Dr. Suppan stated that she would agree with the Attorney General's Office that in the matter of training, there's a difference between having a training certificate and being a licensee of the State Medical Board of Ohio. Once you have a license to practice podiatric medicine and surgery, you have to follow the rules. The rules are clear as to what the scope of practice is. Dr. Suppan stated that she's troubled by the fact that an R.N. was utilizing collagen injections in an office setting. She stated that she can kind of see the rationale for it with Dr. Hackett because Dr. Hackett is an M.D., but she thinks that it was a gross error of judgment on her part in terms of training a podiatric surgeon to do collagen injections of the face.

Dr. Suppan stated that the SBC representative stated that Dr. Asef was meticulous in his approach to writing the ad, and she disagreed that he had no control over it. Dr. Suppan stated that she finds it hard to believe that that ad just disappeared or was never returned. She stated that after running a practice herself

for 25 years, she's found that SBC is meticulous in making sure that they have the signed paperwork to show, so that they will get paid for those ads. She noted that those ads are very expensive. Dr. Suppan stated that it's hard for her to believe that SBC did not retain that ad or never received the documentation or paperwork. Dr. Suppan stated that she finds lack of credibility on the SBC representative's part in this.

Dr. Suppan stated that the bottom line is that it's ultimately the podiatric physician and surgeon's responsibility to make sure that they hold themselves out to the public in the appropriate way and that the rules are followed. They can't practice outside the scope of practice.

Dr. Stephens stated that she has a totally different take than Dr. Suppan. She stated that, having trained a lot of podiatrists and working with a lot podiatrists, she has no problem whatsoever with them undergoing training for collagen injections or laser hair removal. She has no problems with what he did with Dr. Hackett. Dr. Stephens commented that she knows Dr. Hackett, who is an excellent physician. Dr. Stephens stated that, given what podiatrists do in a surgical residency, that's nothing. She has no problems with that whatsoever. Dr. Stephens stated that she believes that collagen injections in the face and other facial work are out of the scope of practice in the podiatry setting, but in the training setting, she doesn't have any problems with that.

Dr. Stephens stated that she, personally, has not had good experience with SBC. She stated that she's in private practice and has been in several private practices, and she's never had a good experience with them in terms of advertising.

Dr. Stephens stated that, as far as nurses teaching collagen injections, at big institutions in the city where she's from, the nurses are the ones who do the collagen injections.

Dr. Stephens stated that Dr. Asef may have made some errors in judgment, but she really thinks that the Proposed Order is too severe. She stated that she would suggest a reprimand for this physician.

Dr. Amato stated that he and Dr. Stephens evidently dealt with the same SBC representative. He advised that in 1996 obstetrics was dropped from his practice. He stated that SBC gave him back his advertising money when he provided the documentation that "obstetrics" was to be dropped from his advertisement. Yet, it was not dropped until 2001. He commented that it got to be almost a joke. Dr. Amato stated that, as far as he's concerned, the credibility would certainly not fall to SBC from his experience.

Dr. Amato stated that the Board's investigation found that the only treatment beyond podiatry was the one instance in the office setting. He stated that, if he read it correctly, Dr. Asef was treating a physician. Dr. Hackett was the actual patient in a one-time educational setting. Dr. Amato stated that it's certainly not what Dr. Asef should have been doing, but he agrees with Dr. Stephens that the punishment far exceeds the crime.

Dr. Steinbergh commented that she's had a good experience with SBC, but added that this case should not be about SBC.

Dr. Steinbergh stated that the real issue is to understand who you are as a podiatrist, what you can advertise

September 9, 2009

and what you cannot advertise. You have a certain scope of practice and you can't step beyond it. Dr. Steinbergh stated that there's no question in her mind that Dr. Asef was falsely advertising. It's a lesson to be learned. She noted that this is a young man with a full career ahead of him. She stated that she does believe that Dr. Asef does bear responsibility for this. When it comes to advertising who you are, you don't go beyond who you are. She stated that it's all about SBC wanting to make more money. They come to your office and want to sell you bigger and bigger ads. Nevertheless, she's focused on this young physician who she does believe bears the responsibility for the misleading statements in his advertising.

Dr. Steinbergh stated that she also concurs with Dr. Stephens about the practice situation. When you're in a training situation, you train. When you step outside of what you're supposed to be doing because you want to do something else, you have to be very careful as to where you get the training and under what circumstances you get the training.

Dr. Steinbergh stated that she does think that the Proposed Order is too severe, and she would support a reprimand if there is an amendment. She indicated that she doesn't think that Dr. Asef needs a professional and personal ethics courses; she thinks that he's already learned it. She doesn't think he'll be doing it again. She also doesn't see a reason to suspend his license or disrupt his practice. This is an experience he'll never forget.

DR. STEPHENS MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF ATTA J. ASEF, D.P.M. TO SUBSTITUTE AN ORDER OF REPRIMAND. DR. SUPPAN SECONDED THE MOTION. A vote was taken:

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| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - 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 APPROVE AND CONFIRM MR. STEHURA'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF ATTA J. ASEF, D.P.M. DR. AMATO SECONDED THE MOTION. A vote was taken:

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| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |

September 9, 2009

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

The motion carried.

DARYL E. CAVIN

Dr. Madia directed the Board's attention to the matter of Daryl E. Cavin. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF DARYL E. CAVIN. MR. HAIRSTON SECONDED THE MOTION.

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

Dr. Steinbergh reviewed the Hearing Examiner's Report and Recommendation for the record, noting that Mr. Cavin was ordered to undergo a 72-hour inpatient examination for impairment resulting in a finding that Mr. Cavin is impaired. Dr. Steinbergh stated that the Proposed Order grants Mr. Cavin a certificate, suspends his license for a period of time, contains conditions for reinstatement, and places him on probation for five years with the normal probationary terms for impairment.

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

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| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

September 9, 2009

MOHAN S. CHANDRAN, M.D.

Dr. Madia directed the Board's attention to the matter of Mohan S. Chandran, M.D.. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

MR. HAIRSTON MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MOHAN S. CHANDRAN, M.D. DR. AMATO SECONDED THE MOTION.

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

At this time, Dr. Chandran indicated his wish to address the Board. He was accompanied by his attorney, Matthew H. Hallett, Esq.

Ms. Debolt advised that the Board had not received a request to address from Dr. Chandran.

Mr. Hallett asked for permission to address the Board, in light of the matter that the Proposed Order is for revocation.

Dr. Madia granted the request to address the Board.

Mr. Hallett stated that this is a matter involving revocation. He stated that, as was made abundantly clear by prior matters before the Board today, what distinguishes this instance from instances involving conduct of an inappropriate nature in practice was that this conduct by Dr. Chandran was not "volitional." The record is very clear that Dr. Chandran suffered from Disinhibition Syndrome as a result of a stroke prior to this incident. That in and of itself led to what was a very uncharacteristic series of events. Mr. Hallett stated that in light of the distinction between volitional acts that occur in the course of practice, they believe that the Proposed Order of revocation is not appropriate. He added that Dr. Chandran does not have an intention, at present, to continue his clinical practice, but the permanent revocation of his license, in light of his lengthy career as a neurologist is unblemished, and revocation is unwarranted at this time.

Dr. Chandran stated that he has been a doctor for almost 30 years, and he's never had any problem with his practice. He stated that he had a huge bleed in 2005, 2006, and he was told not to go back to practice for a year. Three or four months later he thought maybe he would go in for one or two hours. He did that for six months, and everything was fine. He had regular appointments for three months before he started taking hospital calls. Everything was doing fine. Something happened in March, April and May 2007. At that time a patient called his associate and told him that there was misbehavior. His associate told him about the call, but he didn't believe it. He canceled an appointment and then had a chaperone going with him into rooms.

Dr. Chandran stated that after the bleed he was really depressed and this made him more depressed. That's why a neuropsychologist started him on Lexapro. It didn't work. Dr. Chandran stated that at that time he was planning to go to India and decided that he wouldn't do any more practice. He stopped practice, went to India and then came back. On October 10 the police came to his house and he learned that three people

complained, because they read it in the paper. That's how this all started. Then there were five people. But he hadn't read any of the complaints or what they said. He talked to his attorney, who advised him to plead "no contest." Dr. Chandran stated that the judge didn't believe the syndrome, but Dr. Lerner, who's a behavioral neurologist, and a physician from Washington University said that he does have Disinhibition Syndrome. Dr. Chandran stated that the Syndrome may go away, but he's so depressed now he's to the point that he doesn't want to return to practice. Dr. Chandran stated that he would like to teach students, no more patients.

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

Mr. Greene stated that this is one of the few matters in which he represented the Board. Mr. Greene stated that Dr. Chandran was convicted of assaulting five female patients in his practice, in the examining room. This didn't go to trial. Dr. Chandran pled to these charges and was convicted of five counts of assault. Mr. Greene stated that the Hearing Examiner has summarized what happened in the proceedings before the Common Pleas Court judge. The judge made a particular finding on Dr. Chandran's claim that, with the Disinhibition Syndrome, he didn't know what he was doing. The Judge noted that this inhibition only happened with female patients, in the examining room, when he was alone with the female patient. It never happened outside the office with any female personnel. It never happened anywhere else in public. It only happened in that one setting. In fact, there was a finding by the Court that there was inappropriate behavior with a female patient, he left the examining room, came back and there was more inappropriate behavior.

Mr. Greene stated that when Dr. Chandran's case came before the Medical Board, there was also evidence presented about Disinhibition Syndrome. His counsel made an *Eastway* waiver for him in that case, and there was a written *Eastway* waiver that was filed for the Hearing Examiner. With the *Eastway* waiver, now we're at a point where we need to examine what happened with Dr. Lerner, a neurologist, who examined Dr. Chandran after his stroke. Mr. Greene stated that he thinks that the Hearing Examiner did an excellent job summarizing that, but there are a few points to be made. The neuropsychological exam showed deficits, including: a decrease in IQ to 93; impaired ability to plan and organize; notable deficits in reasoning and problem solving; the effects of the stroke were residual and permanent; language deficits; and impulsivity during the test. In fact, Dr. Lerner, in his notes, stated in his notes:

(December 2007) I do not recommend that he practice medicine again locally.

(March 2008) He (Dr. Chandran) again made some reference to the fact he did not think he was able to return to clinical practice, with which I fully agree.

Mr. Greene stated that he thinks that the Hearing Examiner got this right. She recognized that the stroke has had an impact on Dr. Chandran's life and that he presents a sympathetic situation. Mr. Greene stated that he also thinks that she got it right when she indicated that the primary objective is to protect the patients. This is a situation where, if he had a stroke and that's what's causing it, it's permanent residual and he should not be practicing medicine. He shouldn't have his license. He added that it could also be a situation where the stroke didn't cause his behavior, that he was, in fact, doing this intentionally. Again, that's cause for the Board to permanently revoke his license. Mr. Greene stated that, either way, the Board is presented with a situation that Dr. Chandran should have his license permanently revoked. He believes

September 9, 2009

that the Hearing Examiner got absolutely everything correct. Mr. Greene concluded by stating that the Attorney General's Office recommends that the Board accept the Hearing Examiner's Proposed Order.

Dr. Amato stated that in his two and a half years on the Board he's never read a report with which he agrees more. He stated that the Board's main role is the protection of the patient, and he feels that the Report and Recommendation does just that. The only persons he's hurt are female patients in an examining room, without a chaperone present. Dr. Amato noted that the experts recommend that Dr. Chandran not return to practice. Dr. Amato stated that he agrees 100% with the Proposed Order.

Dr. Mahajan stated that he will abstain from voting, as he knows Dr. Chandran.

A vote was taken on Mr. Hairston's motion to approve and confirm:

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| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - abstain |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

SYED KAZMI, M.D.

Dr. Madia directed the Board's attention to the matter of Syed Kazmi, M.D. He advised that objections were filed to Hearing Examiner Clovis' 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. Kazmi. Five minutes would be allowed for that address.

Mr. Wilcox at this time advised that Dr. Kazmi's attorney contacted him and advised that neither he nor Dr. Kazmi would be able to appear before the Board this month. He advised that Dr. Kazmi's wife recently passed away.

DR. STEPHENS MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW AND PROPOSED ORDER IN THE MATTER OF SYED KAZMI, M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Stephens stated that Dr. Kazmi has a history of lying about his medical education and his training, and

he hasn't had any consequences for his lying. She noted that his attorney refers to the case In the Matter of Jason R. Molder, MT, but added that she doesn't think that that case is relevant. In that case, Mr. Molder had not been in any trouble for eight years. He had changed his life. This physician continues to have trouble and hasn't changed his life. She stated that the first issue was in 2008, when the Board notified Dr. Kazmi that it was going to deny his August 2007 application. As late as August 2007, Dr. Kazmi still had some lying issues, which made his application unacceptable at that time.

Dr. Stephens stated that it all started in the year 2000, when Dr. Kazmi was trying to do a one-year surgical residency in Grand Rapids, and it just lasted a year. Dr. Kazmi did not perform adequately, and he did not receive any credit for this one-year internship part of a residency. Dr. Stephens noted that this just began a history of further lies and deception to cover this up. During this one year residency, he had some significant problems: taking excessive sick leave; failing to receive and answer pages, which is just unacceptable; and failure to pass in-service examinations and difficulty working with others. In 2001 he applied, and was accepted into, an anesthesia residency, but he did not disclose that he did not receive credit for the internship, which was necessary to proceed with the anesthesia residency. Once he started the residency, he was terminated the following month because he did not receive credit.

Dr. Stephens stated that Dr. Kazmi then went on to start a family practice residency in Deaconess Hospital, but was soon placed on academic probation because he was excluded from Medicare for failure to pay student loan bills. He was also suspended at this time for illegally prescribing excessive amounts of medications for his wife. From July 2003 through June 2004, he was in this residency, had significant problems, and within a year he was terminated.

Dr. Stephens stated that every place Dr. Kazmi would go, he would fill out applications, and he would lie to cover up whatever past problems he would have. She commented that you really need a score card when you're going through all the different lies and deception.

Dr. Stephens stated that her issue with this physician is that, as late as 2008, when he's continuing to fill out applications for hospitals and insurance companies, he continues to lie. Dr. Stephens stated that Dr. Kazmi states that he has had a "come to Jesus" moment and that he is ready to come clean and not lie the rest of his life and the rest of his career as a physician. Dr. Stephens stated that she does not believe that he will be able to not tell further lies. She added that, even if Dr. Kazmi was able to not tell further lies, there are consequences. Dr. Stephens stated that she thinks that this physician has to face the consequences of lying, and that's permanent denial of his license.

Dr. Suppan stated that she supports what Dr. Stephens says and agrees.

Dr. Steinbergh stated that she totally supports Dr. Stephens' comments. She stated that Dr. Kazmi simply has not demonstrated appropriate moral character to be licensed in this state. She commented that this is an important lesson for the students present today. She stressed how important honesty is in completing applications. She stated that, should they have a problem in training, they must admit to it and they must attempt to resolve it and deal with it before you move on. This is one thing that Dr. Kazmi did not do. Dr. Steinbergh commented that it was surprising to her that he got accepted in as many courses as he did with all the lying.

September 9, 2009

Dr. Steinbergh stated that, aside from all of the lying, Dr. Kazmi had significant problems in his training. Even though he did get Board certified in family practice, she would question whether or not he is competent to take care of patients. Everything you do requires you to be honest.

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

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| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

DOUGLAS S. MOINUDDIN, M.D.

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

At this time, Mr. Jurca indicated that Dr. Moinuddin intended to address the Board. He stated that he believed that he had made his request to address, and apologized if he had not.

Dr. Madia advised that Dr. Moinuddin would be allowed five minutes to address the Board.

Dr. Moinuddin thanked the members of the Board, its staff, the Attorney General's Office, the Hearing Examiner and his own attorney for all their efforts. He stated that he even thanked Dr. Rowane and shook hands with him during his deposition. Dr. Moinuddin stated that he understands Dr. Rowane's motives for wanting him out of the program. Dr. Rowane was the residency director, and he (Dr. Moinuddin) was a resident who was unable to proceed to year 2. In addition, he tried to steer liability for a critically ill patient away from his colleague and his employer, the University of Family Medicine Foundation, towards him and his employer, University Hospitals of Cleveland. Dr. Moinuddin stated that these were two separate and distinct entities. Mr. Moinuddin noted that there was also a threatening, intimidating meeting under the guise of employee assistance, in which he was denied representation that was filled with mistruths and accusations. Dr. Moinuddin stated that at that meeting Dr. Rowane failed to produce even one written document or one witness to corroborate any of his allegations. There were never any concerns regarding Dr. Moinuddin's prior performance or behavior. All of his work was co-signed, and, thus, agreed to by all the various attendings with whom he worked.

Dr. Moinuddin stated that he has submitted to the Board various objective evidence of his multiple dictated discharge summaries that show that he was a competent intern. In addition, his attending in the Heart Failure Unit confirmed the merits of his performance and behavior in his July 2002 evaluation.

Dr. Moinuddin stated that every single evaluation secured by Dr. Rowane was written and submitted after his criticism of Dr. Moinuddin's performance and after he was already out of the program and never discussed with him. Dr. Moinuddin stated that one evaluation was written by someone who never observed him. The evidence shows that it was pre-dated and submitted, conveniently, one day after he asked Dr. Rowane if he had any documentation. Dr. Moinuddin stated that, to him, that is manufacturing evidence. Five years later, there appeared a remedial memo in his personnel file, yet the file contains no record of any remedial activities. Dr. Rowane admitted in his testimony that he does not recall if he even wrote it, does not recall if it was even sent to Dr. Moinuddin, and Dr. Rowane stated that he never signed it. To this day, the memo in his file remains unsigned and they don't know who wrote it. Yet, it was placed in his file. Dr. Moinuddin stated that he can only surmise that that's record tampering.

Dr. Moinuddin stated that Dr. Rowane falsely told the Board in his affidavit that he had to undergo educational interventions during his first two months. He stated that there is no record in the file of such interventions, and he couldn't recall any in his deposition, when asked. Dr. Moinuddin continued that Dr. Rowane also falsely stated in his affidavit that his work was substandard; yet, in his e-mail to the Internal Medicine Director in late November 2002, Dr. Rowane admitted that he was unsure of Dr. Moinuddin's performance.

Dr. Moinuddin stated that Dr. Rowane's motives during a few short months cannot overcome a lifetime of his achievements and conduct. He stated that he doesn't use illicit drugs, doesn't abuse alcohol, doesn't have any legal trouble, never needed any psychiatric care, has an excellent credit rating, still has all of his childhood friends, and has a great family and wonderful parents who are still together and who taught him to always be respectful, honest and kind toward others. Dr. Moinuddin stated that he graduated magna cum laude from his undergraduate program, ranked in the top third of his medical school, and was given a recommendation of "excellent" by the dean. He completed an internship at the University of California, Irvine, without incident. He has owned successful businesses and is currently responsible for four employees.

Dr. Moinuddin stated that the same traits carried him upon entering his internship at University Hospital and in everything he does. He never lost his compassion for patients, his hard work ethic, or his desire to excel. Dr. Moinuddin stated that he's fully cooperated with the Board during these last two years. He heeded advice and hired an attorney, even though he thought it was unwarranted. He answered all the interrogatories submitted by the Board, he complied with the Board and underwent formal psychiatric evaluation and psychological testing in November 2008. He gave permission to the Board to obtain results from his previous psychiatric evaluation from November 2002 when it asked him. He cooperated in answering all the questions presented to him at the hearing.

Dr. Madia advised Dr. Moinuddin that he has one more minute to complete his address.

September 9, 2009

Dr. Moinuddin stated that Dr. Rowane and his staff purposely misrepresented the status of his license on October 31, 2002, orally and in writing, in an effort to discredit him at a time when he had just contacted the Board and found out that he needed to retake all three steps of the USMLE. They disclosed this fact, even though they knew that it was their failure to secure his training license in a timely manner that actually caused him to work for three months unlicensed. He advised that Dr. Rowane continued to conceal the fact that he had a temporary license in late November 2002 when he invited Dr. Moinuddin to rejoin the program during a telephone conversation. This information directly impacted his views following his departure from University Hospitals and for the next five years. He stated that he spent two and a half years of hard work and dedication to retake and pass all three steps of the USMLE. During this time, he could only be found at home, in the book store, or studying in the library. He never went out. Dr. Moinuddin stated that he would have never devoted that much time, energy, commitment and sacrifice if he thought these allegations would resurface. He would have addressed the allegations before he attempted to resume his medical career to clear his name. When the new information did come to light in December 2007, he immediately and proactively amended his Ohio and FCVS applications in writing before his applications were complete, in accordance with the Board's instructions and he continues to maintain their accuracy.

Dr. Moinuddin stated that at this point in his life, his only goal is to help people in the field that he truly admires and loves. He asked the Board members to grant him that opportunity.

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

Ms. Unver stated that Dr. Moinuddin was in a residency program at University Hospitals (UH) from July 2002 until he resigned from it at the end of November 2002, when he knew that he was about to be placed on academic probation. Rather than acknowledging this debacle in his medical training history, he intentionally chose to hide it, thinking that no one would ever find out about it if he never disclosed it on application materials.

Ms. Unver stated that the facts in this case establish that, first, Dr. Moinuddin did not disclose his UH residency training from 2002 on his Common Licensure Application Form (CLAF). Instead, he only wrote that he was working as an agent for a family business, an insurance agency, during the time of the UH residency program. Second, in the addendum section of the Ohio license application, Dr. Moinuddin answered, "no," to question four, which asks:

Have you ever resigned from, withdrawn from, or have you ever been warned by, censured by, disciplined by, been put on probation by, been requested to withdraw from, dismissed from, been refused renewal of a contract by, or expelled from, a medical school, clinical clerkship, externship, preceptorship, residency, or graduate medical education program?

Ms. Unver stated that, in fact, Dr. Moinuddin had been warned about his poor performance in the UH residency program as early as September, based upon his non-performance, non-compliance, resistant behavior and atypical behavior. He had to be placed in a remedial training rotation and undertake a "fitness for duty" evaluation. Dr. Moinuddin left the program rather than go on academic probation.

Ms. Unver stated that, third, Dr. Moinuddin did not disclose the UH residency training on his FCVS application. Instead, he only indicated that he was working in the family business, an insurance agency.

Ms. Unver stated that, finally, Dr. Moinuddin did not disclose the UH residency training in his 2005 application for a medical license with the New York State Education Dept. Instead, Dr. Moinuddin wrote in his application that he was the agent/owner of an insurance agency.

Ms. Unver stated that Dr. Moinuddin was able to get away with hiding this UH residency for a while. He got his New York license without disclosing it. He was trying to get an Ohio license without disclosing it. The problem is that he got caught, and now all Dr. Moinuddin could do was to admit the lies or to create some wild story to hide them. Dr. Moinuddin chose to hide them. In doing so, he paints a picture of conspiracy in his version of the facts. Dr. Moinuddin wants the Board to believe that the folks running the residency program at UH had it out for him. His conspiracy theory includes tales of a fabricated letter, a specially designed elective for Dr. Moinuddin, rather than the usual rotation for the other residents that they had to take, and a failure on the school's part to obtain a training certificate. His theory contains a free consultation with an unknown attorney, who supposedly advised him that he was unlicensed when working at UH and, therefore, just to pretend it never happened. Ms. Unver stated that Dr. Moinuddin's conspiracy theory is so far-fetched that it only serves to emphasize the truth and the facts of this case: that Dr. Moinuddin engaged in making false, fraudulent, deceiving or misleading statements in an attempt to get a license. Ms. Unver stated that the facts in this case illustrate that this is not a simple matter of failing to disclose something. Dr. Moinuddin engaged in an ongoing intentional pattern to deceive the Board and other licensing agencies, which shows a failure on his part to show good moral character.

Ms. Unver continued that she wants to spend a moment talking about the prior Board case and the effect of precedent. She noted that Dr. Moinuddin has pointed out four cases in his objections, that he thinks are similar to his situation, where the Board just gave a reprimand or a short suspension period. Ms. Unver stated that these were just four cases, and there are as many or more that show a permanent denial of a license. Ms. Unver listed the names of five of those cases. She stated that precedent is a helpful marker, but it is important to remember that each case needs to be decided on the facts and the circumstances of that particular case. Perhaps the most compelling aspect of this case, which makes it different from any other case that has been cited, is that Dr. Moinuddin has a continuous and an intentional refusal to admit what truly happened here. He writes that he submitted a full and accurate application for a license and that there were false statements made by his residency program director.

Ms. Unver stated that the extremes to which Dr. Moinuddin will go to hide information and cover lies is what makes this case so serious. It is the extremes to which Dr. Moinuddin will go that can and would place the public at danger, if he is licensed. She asked to what degree he would hide information from a patient, change records or deny fault. She asked whether this is the type of character trait that the Board wants Ohio's physicians to possess. She stated that the State strongly agrees with the Report and Recommendation, as written, that Dr. Moinuddin's application to practice medicine and surgery in the State of Ohio be permanently denied.

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

September 9, 2009

FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF DOUGLAS S. MOINUDDIN, M.D. MR. HAIRSTON SECONDED THE MOTION.

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

Dr. Mahajan stated that in looking at this case, it is bothersome that Dr. Moinuddin finished his medical school in 1994 and has never practiced medicine. With all the inconsistencies and everything, he doesn't think that the Board should grant Dr. Moinuddin a license. Dr. Mahajan stated that he doesn't feel that Dr. Rowane was going out of his way to punish Dr. Moinuddin for whatever reason. Dr. Mahajan stated that he doesn't feel that Dr. Rowane was out there to get Dr. Moinuddin.

Dr. Stephens stated that she looked at this case differently. She thinks that all Board members have seen residents that for some reason or other can get persecuted or pigeonholed, or for some reason they end up in a bad place, for no particular lack of knowledge or anything else. It can be because someone doesn't like them, or doesn't like their past history, or doesn't like that they were in business, or doesn't like this, that or the other. Dr. Stephens stated that she really doesn't see his side of things as a wild story. She thinks that it's not a conspiracy theory, and she doesn't think that his arguments are far-fetched. Dr. Stephens stated that she thinks that a permanent denial of the application is too harsh. Dr. Stephens stated that she thinks that Dr. Moinuddin's side of the story is just as credible as the A.G.'s side of the story.

Dr. Stephens stated that she would like to amend the Proposed Order. She doesn't believe that Dr. Moinuddin's application should be permanently denied. She suggested a stayed suspension, and then require him to do certain things in order to get a license.

Ms. Debolt suggested that the Board table the matter to allow Dr. Stephens time to work with a staff member in drawing up a new Proposed Order.

Dr. Amato stated that he agrees that the Proposed Order is too drastic. He suggested granting a license, a 30-day suspension, probation for two years. He stated that the Board also needs to assess whether he's seen any patients during the past two years.

Dr. Mahajan stated that Dr. Moinuddin hasn't practiced since 2002. He needs to take the SPEX or something. It was indicated that Dr. Moinuddin passed Step 3 of the USMLE in 2005 or 2006.

Mr. Ogg agreed with Ms. Debolt's suggestion to table the matter.

Dr. Suppan suggested that the Board require Dr. Moinuddin to have a physician sponsor or mentor instead of placing him on probation.

MR. HAIRSTON MOVED TO TABLE THE REPORT AND RECOMMENDATION IN THE MATTER OF DR. MOINUDDIN TO DRAFT AN AMENDED ORDER. DR. AMATO SECONDED THE MOTION. Dr. Steinbergh abstained, all other members voted aye. The motion carried.

September 9, 2009

At the end of the meeting, Dr. Madia removed the matter from the table. Dr. Amato had earlier left the meeting.

DR. STEPHENS MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DOUGLAS S. MOINUDDIN, M.D., BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that:

- A. **GRANT OF CERTIFICATE; SUSPENSION, STAYED; PROBATION:** The application of Douglas Shaheen Moinuddin, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he successfully completes the Special Purpose Examination within one year of the date of this Order, and he otherwise meets all statutory and regulatory requirements. Dr. Moinuddin's certificate shall be immediately SUSPENDED for 30 days, which suspension is STAYED subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least one year:
1. **Obey the Law:** Dr. Moinuddin shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.
 2. **Declarations of Compliance:** Dr. Moinuddin 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.
 3. **Personal Appearances:** Dr. Moinuddin shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances must occur every six months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 4. **Professional Ethics Course(s):** Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Moinuddin shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

September 9, 2009

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

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

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

6. **Monitoring Physician**: Prior to Dr. Moinuddin's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Moinuddin shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Moinuddin and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Moinuddin and his medical practice, and shall review Dr. Moinuddin's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Moinuddin and his medical practice, and on the review of Dr. Moinuddin's patient charts. Dr. Moinuddin 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. Moinuddin's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Moinuddin must immediately so notify the Board in writing. In addition, Dr. Moinuddin shall make arrangements acceptable to the

September 9, 2009

Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Moinuddin shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

7. **Noncompliance Will Not Reduce Probationary Period:** In the event Dr. Moinuddin is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- B. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Moinuddin's certificate will be fully restored.
- C. **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. Moinuddin 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 or health-care center where he has privileges or appointments.

Further, Dr. Moinuddin shall promptly provide a copy of this Board Order to all employers or entities with which he contracts to provide health-care services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or health-care center where he applies for or obtains privileges or appointments. In the event that Dr. Moinuddin provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within 30 days of the effective date of this Board Order, Dr. Moinuddin shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

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

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Board Order, Dr. Moinuddin 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 through which he currently holds any license or certificate. Further, Dr. Moinuddin

September 9, 2009

shall provide a copy of this Board Order at the 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. Moinuddin receives from the Board written notification of his successful completion of probation as set forth in paragraph B, above.

3. **Documentation that the Required Reporting Has Been Performed**: Dr. Moinuddin 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: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Board Order was hand delivered, (c) 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 (d) 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. MAHAJAN SECONDED THE MOTION. A vote was taken:

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| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - abstain |
| | Dr. Madia | - aye |

The motion carried.

DR. STEPHENS MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF DOUGLAS S. MOINUDDIN, M.D. DR. SUPPAN SECONDED THE MOTION. A vote was taken:

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| ROLL CALL: | Mr. Albert | - abstain |
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September 9, 2009

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| Dr. Talmage | - abstain |
| Dr. Suppan | - aye |
| Mr. Ogg | - aye |
| Mr. Hairston | - aye |
| Dr. Stephens | - aye |
| Dr. Mahajan | - aye |
| Dr. Steinbergh | - abstain |
| Dr. Madia | - aye |

The motion carried.

Dr. Talmage left the room during the previous discussion.

ALAA M. NADOUR, M.D.

Dr. Madia directed the Board's attention to the matter of Alaa M. Nadour, M.D. He advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

DR. STEINBERH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ALAA M. NADOUR, M.D. MR. HAIRSTON SECONDED THE MOTION.

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

Dr. Suppan noted that this isn't a disciplinary case, but a licensure case. She added that it's a little bit confusing because there are a lot of situations here. She noted the following facts:

- In 1994 Dr. Nadour received his medical degree in Syria;
- From 1994 to 1997 he did his internal medicine residency;
- In 1995, after the fourth attempt, he passed Step 1 of the USMLE;
- In 1998, after his fifth attempt, he passed Step 2 of the USMLE. He said at that time that the reason why it took him so many times to pass was that he was not only doing his residency, but he also was working in a charity hospital. He was very busy and attributed that to the number of times he took the exams.
- In 2000 he got a visa to the United States;
- From 2000 to 2003, he worked in the medical environment;
- In 2003 he did an internal medicine residency, completing it in 2007;

September 9, 2009

- In 2005 he took Step 3 of his USMLE, passing on the first attempt.

Dr. Suppan stated that Dr. Nadour was over the seven years for Steps 1, 2 and 3. He was told when he applied for an Ohio license that it would help him if he took Step 1 over again. In 2008, he took Step 1 and passed on the first attempt. Then he requested from the Board a good cause waiver on the seven-year rule, but the Board interpreted his reasons as he was just too busy doing other things, and did not grant the good cause waiver. The Board sent him a notice of opportunity for hearing in 2009. Dr. Suppan stated that the Hearing Examiner felt that Dr. Nadour introduced enough new information that showed, not only his dedication to pursuing advanced degrees and the tenacity to continue with his education. The Hearing Examiner recommends that the Board grant Dr. Nadour a license.

Dr. Stephens stated that she agrees with the Hearing Examiner.

Dr. Steinbergh stated that she also agrees. She added that she thinks that Dr. Nadour has shown good cause.

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

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| ROLL CALL: | Mr. Albert | - nay |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

JULIE A. TAYLOR, M.D.

Dr. Madia directed the Board's attention to the matter of Julie A. Taylor, M.D. He advised that objections were filed to Hearing Examiner Stehura's Report and Recommendation by both the Respondent and the State, 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. Taylor. Five minutes would be allowed for that address.

Dr. Taylor was accompanied by her attorney, Jeffrey J. Jurca, Esq.

Dr. Taylor thanked the Board members for allowing her to make a statement, adding that it will be brief.

Dr. Taylor stated that in 15 years of holding an active, unrestricted medical license in the State of Ohio, she has never, ever practiced impaired. She has always been honest and never denied that she has a chronic illness, just like diabetes, migraines and many others that need chronic therapy and treatment. That is why she has always remained in such treatment and therapy, the same as to which Dr. Noffsinger, the Board-appointed psychiatrist, recommended. Also, there has never been a complaint made against her medical practice by any entity, any agency, any hospital, any colleague, any parent, or anyone.

Dr. Taylor continued that, at this time, she has been closely monitored by the State of Ohio for five and a half years, since the investigation began in early 2004. She has shown during this entire time that she already has an appropriate monitoring system in place. She has been successfully working in the practice of medicine for the past five and a half years, three of which were in full-time, very busy clinical practice settings, without any problems.

Dr. Taylor stated that, after these long five and a half years, she requests of the Board that it close its investigation, let her continue to practice, continue in her current and regular therapy and treatment, with her monitoring system in place, as she has done for the past 15 years that she's held an Ohio State license.

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

Mr. Wilcox stated that he thinks that this case is about psychiatric impairment. The State presented the expert testimony of Dr. Noffsinger, who opined that Dr. Taylor can practice according to acceptable standards, but only if she has treatment and monitoring. That is the Board's rule, defining what impairment is. In this case Dr. Taylor seems to ignore that fact. She wants to state that, because Dr. Noffsinger's report did not state that she has Post Traumatic Stress Disorder and therefore cannot practice, she is somehow not impaired. Mr. Wilcox noted that the Board's Rule 4731-21-01, OAC states that if you cannot practice safely without proper treatment and monitoring, then you are an impaired practitioner. Dr. Taylor has ignored this fact throughout this entire process.

Mr. Wilcox stated that although he disagrees that this case needed to be remanded in the first place, he doesn't think that the "hearsay" letters that eventually came into the record have any impact on this when Dr. Noffsinger is the only expert who has opined and who has presented himself to the Board on this case.

Mr. Wilcox stated that the issue here is that Dr. Taylor suffers from a chronic mental condition, bipolar 2 and post traumatic stress disorder. As Dr. Noffsinger testified, her symptoms can remain in remission for lengthy periods but can come back at any time, especially if she ceases treatment. Mr. Wilcox stated that public protection requires that this Board be proactive and ensure that Dr. Taylor, if she attempts to return to Ohio to practice, be carefully monitored. Mr. Wilcox stated that the Proposed Order achieves this goal of protecting the public, and that the Board should adopt it.

DR. STEINBERH MOVED TO APPROVE AND CONFIRM MR. STEHURA'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JULIE A. TAYLOR, M.D. MR. HAIRSTON SECONDED THE MOTION.

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

September 9, 2009

Dr. Steinbergh stated that Dr. Taylor has been licensed in Ohio, and is also licensed in Texas. She currently works in Texas. In 2004, Dr. Noffsinger, an approved assessor, did evaluate Dr. Taylor. His recommendations at the time were that Dr. Taylor is appropriate to practice as long as she met certain stipulations – treatment and monitoring. Dr. Steinbergh stated that, as far as she can tell, this Board has never really had an opportunity to appropriately monitor Dr. Taylor.

Dr. Steinbergh stated that Dr. Taylor has been fighting the Hearing Examiner's Proposed Order for a very long time. She added that Dr. Taylor has also been ill for a very long time, off and on. She's currently practicing in Texas, appropriately, apparently, but the Texas Board is not monitoring her. No one this Board knows of is monitoring her. Dr. Taylor has a psychiatrist and is being treated. All of those things are being handled as Dr. Noffsinger recommended.

Dr. Steinbergh stated that Dr. Taylor has a history of eleven psychiatric hospitalizations between March 2003 and February 2004. There were instances of attempted suicide. She was approved for Social Security disability income in 2004. Dr. Steinbergh stated that she doesn't know how long Dr. Taylor received that. Dr. Steinbergh stated that there is evidence of mental illness, and that is the Board's concern. She stated that the Board understands that Dr. Taylor is practicing in Texas, and that this Board's only concern is what happens in the State of Ohio. In the case of impairment, the Board has a concern about monitoring physicians in this state, if they practice in this state. The Proposed Order is one of temporary limitation. It does not suspend Dr. Taylor's license. She won't be permitted to practice in Ohio without meeting the conditions to remove the temporary limitation. Should she return to Ohio to practice, she would have to meet the conditions outlined in the Proposed Order.

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

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| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

Dr. Suppan left the meeting at this time.

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

September 9, 2009

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 in the matters of Dr. Demirdjian and Dr. Moolten, as these cases are not disciplinary in nature and concern only the individuals' qualifications for licensure.

MIRNA HAGOP DEMIRDJIAN, M.D.

DR. AMATO MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE JULY 9, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. DEMIRDJIAN'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN OHIO. DR. STEPHENS SECONDED THE MOTION.

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

Dr. Steinbergh stated that on or about May 13, 2009, Dr. Demirdjian submitted an application to practice medicine and surgery in Ohio. That application is pending. She passed her USMLE Step 1 in October 2002, on her fourth attempt. She passed Step 2 in September 2003, on her first attempt. She passed Step 3 in March 2009 on her fifth attempt. Dr. Steinbergh stated that, pursuant to Rule 4731-6-14(C)(3), all applicants for licensure in the State of Ohio must pass all three steps within a ten-year period without having failed any one of the steps more than three times. Dr. Steinbergh stated that, accordingly, a denial of her application is appropriate.

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

| | | |
|------------|----------------|-------|
| ROLL CALL: | Mr. Albert | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

DAVID N. MOOLTEN, M.D.

DR. AMATO MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE JULY 9, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. MOOLTEN'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO HIS PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF JULY 10, 2009. DR.

September 9, 2009

STEINBERGH SECONDED THE MOTION.

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

Dr. Steinbergh stated that Dr. Moolten hasn't practiced clinical medicine since 1992. The Order is appropriate.

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

| | | |
|------------|----------------|-------|
| ROLL CALL: | Mr. Albert | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

Dr. Suppan returned to the meeting at this time.

SOHRAB SHAFINIA, D.O.

Dr. Steinbergh noted that Dr. Shafinia has admitted to selling prescriptions for OxyContin to 289 patients whom he did not examine. Dr. Shafinia waived his hearing rights.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE JULY 8, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, PERMANENTLY REVOKING DR. SHAFINIA LICENSE TO PRACTICE OSTEOPATHIC MEDICINE IN OHIO. DR. STEPHENS SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

September 9, 2009

Mr. Ogg left the meeting at this time.

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

ALFRED LARRY BOULWARE, 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. BOULWARE. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

KEVIN WAYNE BOWERS, 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. BOWERS. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

September 9, 2009

JAMES A. HANDLEY, L.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.

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

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

JOSEPH JAMES KOENIGSMARK, 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. KOENIGSMARK. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

SUSAN RUTH LAMONT, M.T. – 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. AMATO MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MS. LAMONT.

September 9, 2009

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

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

Mr. Ogg returned to the meeting at this time.

BRIANNA KELLY SMITH, M.T. – 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.

MR. HAIRSTON MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MS. SMITH. DR. AMATO SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

SHANNON DIMETRA WEIKERT – 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.

MR. HAIRSTON MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO MS. WEIKERT. DR. AMATO SECONDED THE MOTION. A vote was taken:

| | | |
|------------|------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
|------------|------------|-----------|

September 9, 2009

| | |
|----------------|-------|
| Dr. Suppan | - aye |
| Mr. Ogg | - aye |
| Mr. Hairston | - aye |
| Dr. Amato | - aye |
| Dr. Stephens | - aye |
| Dr. Mahajan | - aye |
| Dr. Steinbergh | - aye |
| Dr. Madia | - aye |

The motion carried.

JAMES ROBERT YOUNG, 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. SUPPAN MOVED TO SEND THE CITATION LETTER TO DR. YOUNG. DR. AMATO SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

JOSEPHINE CLARA ARONICA, MD – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. ARONICA'S LICENSE TO PRACTICE MEDICINE AND SURGERY. DR. AMATO SECONDED THE MOTION. A vote was taken:

| | | |
|------------|--------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |

September 9, 2009

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

The motion carried.

Dr. Talmage returned to the meeting at this time.

JAMES D. HANNA, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
MEDICINE AND SURGERY

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF
DR. HANNA’S LICENSE TO PRACTICE MEDICINE AND SURGERY. MR. HAIRSTON
SECONDED THE MOTION.** A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

KATIE MILLER, L.M.T. – VOLUNTARY RETIREMENT

**DR. STEINBERGH MOVED TO RATIFY MS. MILLER’S VOLUNTARY RETIREMENT. MR.
HAIRSTON SECONDED THE MOTION.** A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |

September 9, 2009

Dr. Madia - aye

The motion carried.

CAROL A. THIERRY, A.A. – CONSENT AGREEMENT

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MS. THIERRY. DR. AMATO SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - abstain |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

WILLIAM GERALD BESAW, MT – CONSENT AGREEMENT

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

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

BARBARA G. O. MURRELL, M.D. STEP I CONSENT AGREEMENT

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

September 9, 2009

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

WILLIAM A. GARRINGER, M.D. – STEP I CONSENT AGREEMENT

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

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Mr. Albert | - abstain |
| | Dr. Talmage | - abstain |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

PROBATIONARY APPEARANCES

LAMBERTO T. R. GALANG, JR., M.D.

Dr. Galang appeared before the Board pursuant to his request for release from the terms of his September 9, 2004 Consent Agreement.

Ms. Bickers reviewed Dr. Galang's history with the Board. She noted that the Board is still awaiting a report from Dr. Galang's treating psychologist. She stated that release should be subject to receipt of that report.

In response to Board members' questions, Dr. Galang indicated that he realizes that when he's released

September 9, 2009

from probation, he'll be losing a big chunk of accountability, and that he has discussed this with his treating physicians and psychologist. He stated that he's currently in weekly group therapy in a structured environment. It's a three-level treatment group that lasts at least two years. He's currently in level two. He plans to continue that. He stated that among the things he does for that group include his current work on an autobiography of his issues, ultimately ending with a relapse prevention program, incorporating everything he's learned over the two years. Dr. Galang stated that he still has at least four or five months left before he finishes that. Dr. Galang stated that he will continue to go to his 12-step meetings, stating that that's life-long. He currently attends two meetings a week. Dr. Galang stated that quitting those meetings is not an option. Dr. Galang stated that he continues on medication, and he will continue to be periodically monitored by a psychiatrist concerning medication. He will also continue psychotherapy once his weekly treatment group is over. Dr. Galang stated that there is another option. He stated that there's a level 4 that you can go to once a month. He will look into that, as well, to see what it will offer, but you're really finished after level 3.

In response to further questions, Dr. Galang stated that at this time, the only medication he takes is Lexapro, 20 mg a day. He does intend to continue that.

DR. SUPPAN MOVED TO RELEASE DR. GALANG FROM THE TERMS OF HIS SEPTEMBER 9, 2004 CONSENT AGREEMENT, UPON RECEIPT OF THE PSYCHOTHERAPIST'S REPORT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

FRANCINE R. MOSLEY, M.D.

Dr. Mosley appeared before the Board pursuant to her request for release from the terms of her September 9, 2004 Consent Agreement.

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

In response to Board members' questions, Dr. Mosley stated that she would like to be able to say that she's better now, but the fact is that once a diagnosis of major depressive disorder is given, you're not likely to ever completely lose it. One of the big winners with going over the consent agreement process over the past five years is actually getting it to sink in. She stated that what she will probably carry with her is the acceptance of the diagnosis. The important things are to keep your head on straight enough that you can feel it when it's coming; and you can turn to your counselor, your physician and your support groups to ask for help.

In response to further questions, Dr. Mosley stated that she was absolutely uncomfortable during the first appearance she made before the Board five years ago. She was very uncomfortable being here, feeling that, if she had a medical diagnosis, why should she have to be penalized for it. In the course of five years, that idea has resolved and she's come to see the benefit of the probationary process as she's gone through it. For her, it's been very beneficial and very helpful.

Mr. Albert stated that Dr. Mosley has come a long way and has been very compliant.

September 9, 2009

DR. TALMAGE MOVED TO RELEASE DR. MOSLEY FROM THE TERMS OF HIS SEPTEMBER 9, 2004 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION.

All members voted aye. The motion carried.

TAMARA D. WILLINGHAM, M.T.

Ms. Willingham appeared before the Board pursuant to her request for release from the terms of her May 12, 2004 Consent.

Ms. Bickers reviewed Ms. Willingham's history with the Board.

In response to Board members' questions, Ms. Willingham advised that she is doing well. She is now living in Seattle, Washington. She's getting her Masters in the science of acupuncture and Oriental medicine. That's a three and one-half year course. She explained that she's taking all of the Western sciences, traditional Chinese medicine, and she's also studying herbs. When she finishes school, she will be licensed by the National Acupuncture Boards. She stated that the school she's attending is one of the oldest naturopathic schools, and it's one of the top universities for acupuncture in the country.

In response to further questions, Ms. Willingham stated that she doesn't know whether she will remain in Washington. She stated that she's been there a year, and it's a really competitive and great program. She loves Seattle, but it's hard to say where the road will lead her after that. She indicated that she doesn't know whether the Medical Board in Washington licenses acupuncturists. She stated that she knows that laws change state-to-state, but she's not sure.

Dr. Steinbergh cautioned her to make sure she knows the rules, regulations and laws of the state in which she wishes to apply for licensure.

DR. STEINBERGH MOVED TO RELEASE MS. WILLINGHAM FROM THE TERMS OF HER MAY 12, 2004 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

JOSEPH R. FREEMAN, D.O.

Dr. Freeman made his initial appearance before the Board, pursuant to the terms of his June 10, 2009 Step I Consent.

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

In response to Board members' questions, Dr. Freeman stated that he does understand the terms of his consent agreement, and does not have any questions for the Board. He advised that he completed a six-week inpatient program at Shepherd Hill. He does aftercare there. He also attends A.A. meetings each week. He had been seeing a psychologist when his drinking started getting heavier last year, after he took himself off of active duty at his clinic. He saw the psychologist up until the time he admitted himself to Shepherd Hill in the last week of May. Dr. Freeman stated that he has talked with his psychologist since

September 9, 2009

then, but he hasn't set an appointment. Dr. Freeman stated that what he needed was Shepherd Hill, not a psychologist. In response to further questions, Dr. Freeman stated that he does take Zoloft, 150 mg daily. He also takes Trazadone, about 25 mg, to help him sleep at night.

In response to further questions, Dr. Freeman stated that he has very good family support. He advised that he and his wife don't have any children, his father died in March of this year, his mother is still alive, and his only brother died four years ago. He added, however, that he does have good family and friends. He stated that lately his time has been under the direction of his wife. There are a lot of things that didn't get done over the last many years.

Dr. Steinbergh stated that one of her concerns was about Dr. Freeman's felonious assault charge. She asked him to tell the Board about that, how it was related to his alcohol consumption, and what he is doing these days about keeping weapons.

Dr. Freeman stated that that was in November 2008. The fellow had trespassed on his land a couple of times. He stated that he was coming home from a veterinarian appointment and stopped at this fellow's house. Dr. Freeman stated that he had been drinking that evening only, he did have two weapons with him – a gun that was in his pocket (he advised that he does have a concealed carry license). The other man came out with a gun pointing at his head when he saw that Dr. Freeman was at his door, and he and his son proceeded to assault him. Dr. Freeman stated that he ended up in the hospital for a week. He was found "not guilty" in court.

Dr. Madia asked whether Dr. Freeman still has a gun at home.

Dr. Freeman stated that he's collected guns since he was 13 years old. The gun really wasn't an issue in the assault. He did shoot into the ground because he thought they were killing him, which they were trying to do, but that was the only thing with the weapon.

DR. MADIA MOVED TO CONTINUE DR. FREEMAN UNDER THE TERMS OF HIS JUNE 10, 2009 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

JAMES M. KENNEN, D.O.

Dr. Kennen made his initial appearance before the Board, pursuant to the terms of his July 8, 2009 Step II Consent Agreement.

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

In response to Board members' questions, Dr. Kennen stated that he is doing very well at this point. He thanked the Board for reinstating his license, adding that he's not currently practicing medicine. He's trying to get back into position to re-enter practice, after being out for so long. He did take and pass the SPEX. He's studying for recertification in his boards, and he's pursuing a potential fellowship. Dr.

Kennen stated that he would like to go back to practice at the height of his game instead of basically having to start over at the beginning. Dr. Kennen stated that he believes that he's been working a very good program of recovery. He attends four to six meetings a week, is still involved with the Caduceus group at the Cleveland Clinic, he also volunteers on the ADRC at the Cleveland Clinic, running meetings for the inpatients, and he's involved in the community A.A. program. Dr. Kennen stated that he also does an additional group with Dr. Janus at the Cleveland Clinic, so, basically, he's quite involved with his recovery process. Dr. Kennen stated that life has been better than it has been for a very long time. Dr. Kennen stated that he has to thank the Board for that, because the fact is that by having to be accountable to the Board, he was able to reach this point. He stated that he's very appreciative of that.

Dr. Steinbergh stated that, to her, his healing has been very fragile. She expressed concern over the number of relapses he's had. She stated that at some point he will have to be held accountable, and he will have to continue to heal.

Dr. Kennen stated that he had one light relapse out of seven years, prior to that it was a struggle, he has to admit. The fact is that he probably did not approach this as being a disease, which it is, and he did not put into practice what he needed. He thought that he could do it the softer and easier way, and as they know in A.A., that does not work. That probably accounted for his relapses in the first eighteen months of his consent agreements. He stated that he, his counselors and his psychiatrist believe that he's been doing very well during the last seven years.

Dr. Stephens asked Dr. Kennen how hard he found taking the SPEX at his career stage.

Dr. Kennen stated that it's a very general examination. He probably over-studied for the exam from the point of view of the fact that he didn't know to what depth it would go. The fact is that it was very broad and covered some areas that he didn't study, that he didn't anticipate. He pretty much studied clinical medicine, and didn't do much on statistics or bioethics. Dr. Kennen stated that he found it to be relatively easy in some respects. He stated that it's a pretty good evaluation of general medical knowledge.

In response to questions concerning return to practice, Dr. Kennen stated that, because he's been out so long, he's trying to get reinstated for Medicare/Medicaid, and get his D.E.A. license back. He again stated that he would like to pursue a fellowship if he can find something in the State of Ohio. Otherwise, his plan is to take the recertification exam in radiology just to basically aid in job placement.

DR. STEINBERGH MOVED TO CONTINUE DR. KENNEN UNDER THE TERMS OF HIS JULY 8, 2009 STEP II CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

ALLA MIKHLI, D.P.M.

Dr. Mikhli made her initial appearance before the Board, pursuant to the terms of the Board's Order of April 11, 2007.

September 9, 2009

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

In response to Board members' questions, Dr. Mikhli stated that she is doing well. She hasn't started practicing yet. She stated that she would like to thank the Board for allowing her to start practice, but her problem was the billing. Because she cannot use Medicare/Medicaid, she can use only private insurance. To get back on insurance plans as a single physician is almost impossible right now. In discussing this with a billing company, which she will use so that she doesn't make the same mistakes, it was suggested that as part of a group she could get on insurance plans. Dr. Mikhli stated that Dr. Forman, her supervisor, would be more than happy for her to join the group, but she wanted to make sure that, legally, it's not a problem because he does use Medicare/Medicaid. Her attorneys are checking into the situation to see if she could join the group without being a part of the group, so she can apply to private insurances.

In response to further questions, Dr. Mikhli stated that she's spending a lot of time with her grandchildren. This summer she was very busy. Dr. Mikhli added that she enjoys being with her grandchildren, but she also wants to go back to practice to show her children that, even if you have stumbling blocks, you can still get over it.

Dr. Mahajan stated that Cleveland has a lot of free clinics and a lot of people in need. He asked whether she is willing to lend a few hours here and there.

Dr. Mikhli stated that she actually called the Diabetes Association three times, and told them that she would volunteer to do anything, even licking envelopes. They said that was wonderful and they'd call her back, but they never called. Right now she's actually taking classes in Tai Chi.

DR. MAHAJAN MOVED TO CONTINUE DR. MIKHLI UNDER THE TERMS OF THE BOARD'S ORDER OF APRIL 11, 2007, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

JOHN PEASE MOORE, III, M.D.

Dr. Moore made his initial appearance before the Board, pursuant to the terms of the Board's Order of May 13, 2003.

Ms. Bickers reviewed Dr. Moore's history with the Board. She noted that Dr. Moore is also seeking approval of a modified practice plan. She stated that the Board had previously approved HomeTown Urgent Care as a facility where Dr. Moore could work in two locations. He's now requesting approval to work at additional locations. The Secretary and Supervising Member were in support of allowing the doctor to work at all seven HomeTown Urgent Care centers, but no more than 40 hours of work per week.

In response to Board members' questions, Dr. Moore stated that he is doing well. He's running his own practice, and he uses additional space that's attached to the urgent cares. He's under the supervision of Dr. Bean, the Medical Director for the urgent cares. He's started his own practice, which he wishes was going a little faster. It's a cash practice in the field of wellness. He's providing wellness services to the

September 9, 2009

community, including weight management, smoking cessation, overall nutritional counseling, and trying to provide wellness to industry.

In response to further questions, Dr. Moore stated that, regarding his request for a modification to his practice plan, at this point, his practice is not real busy yet. He sees patients at the two original sites. Then he does educational seminars about weight management on Wednesday night at the Dayton Mall. He stated that the HomeTown Urgent Care network is from Troy to southern Miami Valley, and he's trying to be convenient for his patients. Eventually, he will have a half a day every two weeks at the clinic furthest north in the Miami Valley and the clinic furthest south. He's just trying to be convenient. Dr. Moore stated that, providing wellness, he has to really work hard to bring in enough patients to support the practice. He acknowledged that he will see patients at the seven different sites in order to feed his own practice. Dr. Moore acknowledged that the groups understand that he's looking to bring some of those patients in to his own practice. He stated that he uses space that's separate from the Urgent Care. He's not seeing patients in the Urgent Care Centers. He's renting space from them. Their medical director supervises him.

Dr. Moore stated that the Urgent Care Centers are providing wellness to industry, and they see him as having expertise in wellness. He stated that he did preventive medicine for twelve years. He stated that if they have a factory that wants wellness screenings, they might call him in to explain how that works and why they would want to screen. Some of that is planned for the future. They do not pay him. He rents space from them.

DR. STEPHENS MOVED TO CONTINUE DR. MOORE UNDER THE TERMS OF THE BOARD'S ORDER OF MAY 13, 2003, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

MATTHEW C. RIESEN, M.D.

Dr. Riesen made his initial appearance before the Board, pursuant to the terms of his June 10, 2009 Step I Consent Agreement.

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

In response to Board members' questions, Dr. Riesen stated that he received drugs from multiple physicians and pharmacies. He stated that the physicians were fellow family doctors who were seeing him. One was his monitor from OPHP, and she did not want to be both his family physician and his monitor. He stated that he found another family physician. He explained that he would see physicians after hours so they wouldn't have a chart available. There was a group of physicians, and one was on call that wasn't his regular family physician. They would prescribe controlled substances for him by phone, even though they didn't know him.

In response to further questions, Dr. Riesen stated that he sees a psychiatrist once a month at Shepherd Hill. He stated that he was in a family practice residency, and had almost completed his second year. He stated

September 9, 2009

that he's talking with the Toledo Hospital Family Practice residency each week and they're very supportive of what he's doing in going to the meetings, and so forth. They also supported him going to Shepherd Hill. He stated that if everything goes okay, in six months they'll re-evaluate, and possibly consider him for a position next July.

In response to further questions, Dr. Riesen stated that he did abuse alcohol while in college. He stated that that's where it started, and then it continued in medical school with his drinking at parties. He added that he comes from a family history of alcohol abuse.

MR. HAIRSTON MOVED TO CONTINUE DR. RIESEN UNDER THE TERMS OF HIS JUNE 10, 2009 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

DAVID A. VELASQUEZ, M.D.

Dr. Velasquez made his initial appearance before the Board, pursuant to the terms of the Board's Order of April 8, 2009.

Ms. Bickers reviewed Dr. Velasquez' history with the Board.

In response to Board members' questions, Dr. Velasquez stated that before he received the second letter from the Board, he registered to do a practice management in the college system where he practices, and train in principles of business. However, it's not exactly what the Board wanted. He talked to his lawyer and she said that she's going to recommend some courses that the Board has approved in the past.

Dr. Velasquez stated that he has also brought a consultant to his office to review his business, how he does things. That individual has given him some good information to help him in structuring his business so he doesn't make any mistakes. His wife also quit her job in Cleveland and is helping him in the office. He takes care of the patients while his wife handles the business side.

In response to further questions, Dr. Velasquez stated that he lives in North Ridgeville now, and his practice is in Coshocton, which is about 130 miles south of his home. He stays in Coshocton and returns home on weekends when he's not committed to on-call. He has another physician who takes on call from him in the area.

Mr. Albert asked whether Dr. Velasquez made good the bad checks he had written.

Dr. Velasquez stated that everything was cleared through the Court. He paid everything back.

DR. SUPPAN MOVED TO CONTINUE DR. VELASQUEZ UNDER THE TERMS OF THE BOARD'S ORDER OF APRIL 8, 2009, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

September 9, 2009

JEFFREY E. WHITE, M.D.

Dr. White made his initial appearance before the Board, pursuant to the terms of the Board's Order of May 13, 2009.

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

In response to Board members' questions, Dr. White stated that he is doing okay. He understands the terms of the Board's Order, and does not have any questions about it. Dr. White stated that he took a sexual boundaries course prior to the Board's hearing.

Ms. Bickers advised that the Order does not require Dr. White to take any courses.

In response to further questions, Dr. White stated that he did take and pass the Family Practice Boards.

DR. MAHAJAN MOVED TO CONTINUE DR. WHITE UNDER THE TERMS OF THE BOARD'S ORDER OF MAY 13, 2009, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. Dr. Steinbergh abstained. All other members voted aye. The motion carried.

EXECUTIVE SESSION

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

| | | |
|------------|----------------|-------|
| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Talmage | - aye |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

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

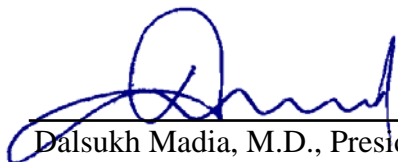
When the meeting reconvened, the matter of Dr. Moinuddin was removed from the table and concluded as

September 9, 2009

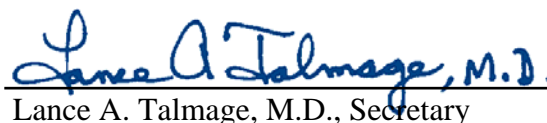
previously described. Following conclusion of that matter, Dr. Madia adjourned the meeting.

Thereupon at 5:00 p.m. the September 9, 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 September 9, 2009, as approved on October 14, 2009.



Dalsukh Madia, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



September 10, 2009

MINUTES**THE STATE MEDICAL BOARD OF OHIO****September 10, 2009**

Dalsukh Madia, M.D., President, called the meeting to order at 8:00 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: Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; William Ogg; 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: Jack C. Amato, M.D., Vice-President; Marchelle L. Suppan, D.P.M. The following did not attend the meeting: Nandlal Varyani, M.D.

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, Karen A. Unver, 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; Barbara Jacobs, Public Services Administrator; Susan Loe, HR, Fiscal & IT Administrator

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. There were no requests to consider a matter separately.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON AUGUST 10 AND 11, 2009, WITH: MICHAEL TODD ADAMS, M.D.; DAVID B. AXELSON, M.D.; CELESTE D. BREWER-EDWARDS, P.A.; PATRICK BRIAN CESTONE, JR., M.D.; ROBERT S. COLEMAN, JR., M.D.; L. JEAN COOPER, M.D.; WILLIAM B. CULLEN, M.D.; WENDY KAY DEAN, M.D.; DAVID C. ERNST, M.D.; MARY JO FOOTE, P.A.; MARK E. GOLDSMITH, M.D.; WILLIAM CLARK HARLAN, D.O.; GEORGE V. HASSINK, M.D.; MARK O. HENSON, M.D.; RONALD C. HETMAN, D.P.M.; BRIAN E. LEVE, M.D.; NANCY J. LISCH, M.D.; ELIZABETH J. MARTIN, P.A.; ZEV R. MAYCON, M.D.; PHILLIP THIELE NORTH, M.D.; KURT J. PALAZZO, M.D.; STEVEN T. PATTERSON, D.O.; PAUL D. REIKOWSKI, JR., L.M.T.; JOHN H. ROCKWOOD, P.A.; STEVEN H. SUESS, M.D.; TOBY JAMES TIPPIC, P.A.; RICHARD MARK WEIL, M.D.; GREGORY S. ZINNI, M.D.;

DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S

September 10, 2009

RECOMMENDATIONS AS FOLLOWS:

- **TO GRANT PAUL CLAASSEN, D.O.'S REQUESTS FOR: A REDUCTION IN DRUG AND REHABILITATION MEETINGS TO 2 PER WEEK WITH A MINIMUM OF TEN PER MONTH; A REDUCTION IN PSYCHIATRIC SESSIONS TO EVERY THREE MONTHS; AND A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS;**
- **TO GRANT SAMUEL FRANCIS CORNICELLI, JR., M.D.'S REQUEST FOR APPROVAL OF SAMSHUN NAHAR, M.D., TO SERVE AS HIS TREATING PSYCHIATRIST;**
- **TO GRANT ROBERT L. HUBLEY, D.O.'S REQUESTS FOR: APPROVAL OF AHMED H. DESSOUKI, M.D., TO SERVE AS THE NEW MONITORING PHYSICIAN; APPROVAL OF WILLIAM C. FULLER, M.D., TO SERVE AS THE NEW TREATING PSYCHIATRIST; AND A REDUCTION IN THE FREQUENCY IN PSYCHIATRIC SESSIONS TO EVERY THREE MONTHS;**
- **TO GRANT HAROLD C. MASON, M.D.'S REQUESTS FOR: APPROVAL OF MICHAEL M. KASSUR, M.D., TO SERVE AS HIS TREATING PSYCHIATRIST; AND APPROVAL OF MATTHEW L. JONES, M.D., TO SERVE AS HIS MONITORING PHYSICIAN, WITH ALL CHARTS REVIEWED DURING RESIDENCY;**
- **TO GRANT KEVIN DALE MCKEE, D.O.'S REQUEST FOR A REDUCTION IN APPEARANCES TO ANNUALLY;**
- **TO GRANT AIYAPPAN MENON, M.D.'S REQUEST FOR APPROVAL OF MICHAEL J. MENOLASINO, III., D.O., TO SERVE AS THE MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO GRANT IMRAN RAZA NAQVI, M.D.'S REQUEST FOR A REDUCTION IN ALCOHOL AND DRUG REHABILITATION MEETINGS TO TWO PER WEEK WITH A MINIMUM OF TEN PER MONTH; AND A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS;**
- **TO GRANT MADELYN SARTAIN, D.O.'S REQUEST FOR APPROVAL OF REBECCA E. DEVILLERS, D.O., TO SERVE AS HER MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO GRANT JON BERKLEY SILK, JR., M.D.'S REQUEST FOR APPROVAL OF THE PERSONAL ETHICS COURSE TAILORED FOR THE DOCTOR BY DONNA F. HOMENKO, PH.D.; AND APPROVAL OF DARSHAN SINGH, M.D., TO SERVE AS HIS TREATING PSYCHIATRIST;**
- **TO GRANT JOSEPH P. SITARIK, D.O.'S REQUEST FOR APPROVAL OF ALBERT**

September 10, 2009

W. BUCH, D.O. TO SERVE AS MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH; AND

- **TO GRANT JOSEPH G. WERNER, M.D.'S REQUEST FOR APPROVAL OF RONALD M. HARTER, M.D., TO SERVE AS HIS NEW SUPERVISING PHYSICIAN;**

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 ANESTHESIOLOGIST ASSISTANTS LISTED IN EXHIBIT "C," AND THE RADIOLOGIST ASSISTANTS LISTED IN EXHIBIT "D." MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-------|
| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Talmage | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

Dr. Suppan joined the meeting at this time.

REINSTATEMENT REQUESTS

GREGORY G. JOHNSON, M.D.

At this time the Board considered Dr. Johnson's request for reinstatement of his license to practice medicine and surgery, which was suspended by Board Order of March 11, 2009. Ms. Bickers advised that Dr. Johnson had met all the reinstatement requirements of that Order.

DR. STEINBERGH MOVED TO APPROVE DR. JOHNSON'S REQUEST FOR REINSTATEMENT OF HIS CERTIFICATE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO THE MINIMUM FIVE YEAR PROBATIONARY TERMS AND CONDITIONS AS OUTLINED THE BOARD ORDER OF MARCH 11, 2009 BOARD ORDER. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

| | | |
|------------|-------------|-----------|
| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Talmage | - aye |
| | Dr. Suppan | - abstain |
| | Mr. Ogg | - aye |

September 10, 2009

| | |
|----------------|-------|
| Mr. Hairston | - aye |
| Dr. Stephens | - aye |
| Dr. Mahajan | - aye |
| Dr. Steinbergh | - aye |
| Dr. Madia | - aye |

The motion carried.

ADMINISTRATIVE REPORT

Mr. Whitehouse advised that he will be appearing before the Controlling Board on September 14 to answer questions concerning the Board's requests for appropriations to restore the agency to the funding level included in the Executive recommendation. Mr. Whitehouse stated that most Boards and Commissions are going before the Controlling Board on that day for the same purpose. The Medical Board is seeking additional funds to fill a vacant investigator position; add an attorney hearing examiner; pay rent; pay DAS Information Technology service fees; and purchase software upgrades.

Dr. Amato joined the meeting at this time.

Mr. Whitehouse announced that Ms. Schmidt has submitted her letter of intent to retire after 32 years of service to the Board. She will continue with the Board until the end of January 2010 to facilitate an easy transition in a difficult position. Mr. Whitehouse stated that it would be appropriate for the Board at this time to resolve to accept her letter of retirement.

**DR. STEINBERGH MOVED TO ACCEPT MS. SCHMIDT'S LETTER OF RETIREMENT.
DR. MAHAJAN SECONDED THE MOTION.** All members voted aye. The motion carried.

Board members offered their congratulations to Ms. Schmidt.

Mr. Whitehouse stated that following completion of today's agenda, the Board will reconvene in Room 336 to begin discussion on a couple of substantive topics.

Mr. Whitehouse referred the Board to the proposed agenda for the October 15, 2009 retreat. He stated that a great deal of work has gone into this by a number of the staff to facilitate a guided discussion through the life cycle of complaints and cases that come through here. Mr. Whitehouse stated that he thinks it will be interesting, as well as interactive. He stated that, over lunch, he hopes that the Board members will take the opportunity to mingle with staff to get to know them better, especially those who are newer to the Board.

REPORTS BY ASSIGNED COMMITTEES

EXECUTIVE COMMITTEE

Dr. Madia advised that the Committee reviewed travel requests for Mr. Whitehouse, Ms. Loe and Ms. Wehrle to attend the Administrators in Medicine (AIM) Eastern/Southern Regional Conference to be

September 10, 2009

held in Charleston, West Virginia on September 24-25, 2009, and for Mr. Whitehouse to attend the Federation of State Massage Therapy Boards annual meeting in Nashville, Tennessee on October 8-10, 2009. He stated that the Committee recommends approval.

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

Dr. Madia at this time welcomed Mr. Ogg to the Medical Board.

LICENSURE COMMITTEE

Ms. Thompson reviewed applications considered by the Committee.

Nancy Grubb, M.D.

Ms. Thompson advised that Dr. Grubb has applied for licensure in Ohio. She indicated on her resume that she has not been engaged in the clinical practice of medicine since November 2000. Dr. Grubb graduated from the Ohio State University Medical School in June 1989. She is requesting endorsement of her National Board of Medical Examiners Diplomate status. Dr. Grubb completed a Family Practice residency at the Mayo Clinic Family Medicine Program in Rochester, Minnesota from July 1989 until June 1992. She then practiced Family Medicine in Minnesota and Pennsylvania from July 1992 until November 2000. Dr. Grubb moved to Ohio, and has not practiced since that time. Dr. Grubb holds licenses in Maryland, Minnesota and Pennsylvania, and has an inactive American Board Certification in Family Practice.

Ms. Thompson advised that the Committee recommends approval, subject to the SPEX or specialty board recertification.

DR. STEINBERGH MOVED TO APPROVE DR. GRUBB'S REQUEST FOR OHIO LICENSURE SUBJECT TO SUCCESSFUL COMPLETION OF THE SPEX EXAM OR FAMILY PRACTICE RECERTIFICATION. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

| | | |
|------------|----------------|-------|
| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Talmage | - aye |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

September 10, 2009

Martin Nee, M.D.

Ms. Thompson advised that Dr. Nee has applied for licensure in Ohio. He has indicated that he has not been engaged in the clinical practice of medicine since 2002. Dr. Nee is a graduate of Jefferson Medical College in June 1978. He is requesting endorsement of his National Board of Medical Examiners Diplomate status. Dr. Nee completed training in General Surgery at Mercy Hospital in Philadelphia, Pennsylvania from July 1978 until June 1983. Dr. Nee then entered a Burn Research Fellowship in Surgery at University of Texas Southwestern in Dallas from July 1983 until June 1984. He then entered a Plastic Surgery fellowship at University of Texas Southwestern from July 1984 until June 1986. Dr. Nee practiced as a Plastic Surgeon in Pennsylvania from July 1986 until December 2002. After 2002, Dr. Nee worked at Berger and Lanes, LLC as a Medical Analyst, which was 100% administrative. In January 2009, Dr. Nee did a two month preceptorship at Drexel University to retrain and prove his competency to reenter practice. Dr. Nee is American Board certified in General Surgery since 1985 and Plastic Surgery since 1992. He holds licenses in Pennsylvania and Texas. Ms. Thompson stated that the Committee recommends approval subject to SPEX or Board recertification.

DR. STEINBERGH MOVED TO APPROVE DR. NEE'S REQUEST FOR OHIO LICENSURE SUBJECT TO SUCCESSFUL COMPLETION OF THE SPEX EXAM OR BOARD RECERTIFICATION. MR. HAIRSTON SECONDED THE MOTION.

Dr. Steinbergh stated that she thought that the Drexel University preceptorship looked interesting, and she recommended that the Board add it to its lists.

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

| | | |
|------------|----------------|-------|
| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Talmage | - aye |
| | Dr. Suppan | - aye |
| | Mr. Ogg | - aye |
| | Mr. Hairston | - aye |
| | Dr. Amato | - aye |
| | Dr. Stephens | - aye |
| | Dr. Mahajan | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Madia | - aye |

The motion carried.

Sara Marie Brown, L.M.T.

Ms. Thompson advised that Ms. Brown has applied for restoration of her LMT license in Ohio. Ms. Brown has indicated on her application for restoration that she has not actively practiced Massage Therapy since 2003. The Committee recommends approval subject to her passing the Limited Branch portion of the Massage Examination.

September 10, 2009

DR. STEINBERGH MOVED TO APPROVE MS. BROWN'S REQUEST FOR OHIO LICENSURE SUBJECT TO SUCCESSFUL COMPLETION OF THE LIMITED BRANCH PORTION OF THE MASSAGE EXAMINATION. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

ROLL CALL:

| | |
|----------------|-------|
| Mr. Albert | - aye |
| Dr. Talmage | - aye |
| Dr. Suppan | - aye |
| Mr. Ogg | - aye |
| Mr. Hairston | - aye |
| Dr. Amato | - aye |
| Dr. Stephens | - aye |
| Dr. Mahajan | - aye |
| Dr. Steinbergh | - aye |
| Dr. Madia | - aye |

The motion carried.

Scott Sergi, L.M.T.

Mr. Sergi is applying for restoration of his LMT license in Ohio. Mr. Sergi has indicated on his application for restoration that he has not practiced Massage Therapy since August 2005. The Committee recommends approval subject to his passing the Limited Branch portion of the Massage Examination.

MR. HAIRSTON MOVED TO APPROVE MR. SERGI'S REQUEST FOR OHIO LICENSURE SUBJECT TO SUCCESSFUL COMPLETION OF THE LIMITED BRANCH PORTION OF THE MASSAGE EXAMINATION. DR. AMATO SECONDED THE MOTION. A vote was taken:

ROLL CALL:

| | |
|----------------|-------|
| Mr. Albert | - aye |
| Dr. Talmage | - aye |
| Dr. Suppan | - aye |
| Mr. Ogg | - aye |
| Mr. Hairston | - aye |
| Dr. Amato | - aye |
| Dr. Stephens | - aye |
| Dr. Mahajan | - aye |
| Dr. Steinbergh | - aye |
| Dr. Madia | - aye |

The motion carried.

LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Miller advised that at the August 2009 meeting, the Board moved to adopt the Massage and Bodywork

September 10, 2009

Licensing exam (MBLEx) offered by the Federation of State Massage Therapy Boards (FSMTB). He advised that this requires applicable statutory and administrative rule changes to recognize the exam and to change the current examination fee to a licensing fee. Mr. Miller referred the Board to prepared draft language, contained in the Committee report, that would make the previously noted changes in addition to the following:

- Recognize the massage therapy scope of practice in statute and provide title protection for massage therapists;
- Allow the Board through rule to specify an acceptable examination and establish standards for successful completion for the purposes of determining the competence of an individual seeking to practice massage therapy;
- Set up an application process for massage therapists similar to those of other licensed professionals regulated by the Board, including a requirement for “good moral character;” and
- Change the current fee structure for massage therapists from \$250/\$50 to \$135/\$100. Additionally, the fees for the reinstatement and restoration of a certificate would increase from \$25/\$50 to \$50/\$100.

DR. STEINBERGH MOVED TO APPROVE THE DRAFT LANGUAGE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

H.B. 267 Prescription Program

Mr. Miller referred the Board to H.B. 267, which would prohibit a pharmacist from dispensing a drug pursuant to a written prescription, unless the prescription was written on an official Ohio prescription form. This does not apply to an electronic or oral order for drugs later reduced to writing; or a prescription issued by a prescriber working at an institutional facility for a drug to be dispensed at the facility for a patient receiving treatment at the facility if the patient is never in possession of the prescription.

Additionally, every prescriber in the state is required to pay the Board of Pharmacy a computer maintenance fee of \$250 annually for Ohio official prescription forms that contain unique identification numbers for each prescriber to be issued at intervals and amounts deemed appropriate. These forms should contain features designed to prevent: (1) the unauthorized copying of a completed or blank prescription form; (2) the erasure or modification of information written on the prescription form; (3) the use of counterfeit prescription forms. Finally the forms should be capable of being automatically validated through pharmacy claims processing systems that use the unique identification number.

Mr. Miller stated that during Committee discussion, a lot of concern was expressed for this legislation. He added that this language was initially a proposed amendment to the Budget Bill, but the Board was successful in taking that out. Mr. Miller advised that OSMA has not met officially with respect to this bill, but they do have a lot of concern at this point in time.

September 10, 2009

Dr. Madia commented that this will affect anybody who writes a prescription: doctors, dentists, nurse practitioners and P.A.s. He stated that this legislation is ridiculous, and he believes that the Board should strongly object to it, and the other professions should, as well.

Dr. Steinbergh commented that the sponsor of this legislation has introduced this because in his district, someone owns a company who would make these Ohio-specific prescription forms. She agreed that this was ridiculous. Dr. Steinbergh stated that she hopes that every association with practitioners who prescribe will oppose the legislation.

Dr. Stephens indicated that she feels that this borders on being unethical.

Dr. Amato stated that the thing that's mind-boggling is that, if anything, this will make the likelihood of prescriptions getting out there even more likely. At present, almost every surgical specialist is doing some form of outpatient surgery. Part of the post-op is to give different prescriptions. He stated that most surgeons use a hospital prescription pad in the recovery room. If he has to carry his own prescription pad, after forgetting his prescription pad two or three times, he will start leaving one at every place he does surgery. Whose responsibility is it, then, to watch that prescription pad? Dr. Amato commented that there are lockers in hospitals, but it wouldn't take much to get into them. Dr. Amato indicated that he feels that this legislation will fail in its goals.

Dr. Madia asked Mr. Miller to contact the other professional associations to get support in opposing the legislation.

Senate Bill 158 – Health Care Training

Mr. Miller referred to S.B. 158, which would require a physician authorized to practice medicine and surgery or osteopathic medicine and surgery to complete instruction and continuing education in cultural competency in order to either be issued or renew a license. The Board would be required to adopt rules establishing: (1) the number of hours of instruction in cultural competency; (2) number of hours of continuing education in cultural competency; and (3) criteria for determining whether a waiver of instruction or continuing education pertaining to cultural competency should be issued.

Mr. Miller stated that this legislation has been proposed before. This version requires other professions outside of physicians to complete this instruction. He added that he doesn't see it going anywhere.

Dr. Madia asked how you can measure cultural competency.

Dr. Steinbergh commented that the Board has never supported requiring directed CME. It has always felt that physicians should get CME relative to their practice.

Dr. Stephens stated that there is health care disparity, and cultural competency in medicine is really big now because studies have shown that certain populations, like African Americans, are less likely to be offered total joint replacement, less likely to be offered spine surgery, more likely to have amputations over limb-sparing surgeries. There's a lot of documentation that certain minority groups, including women in

September 10, 2009

the area of heart disease, is under cultural competency because of health care disparity. It is necessary to be trained, but she agrees with Dr. Steinbergh that the Board shouldn't try to impose directed CME. She again stated that cultural competency is very important and is being taught in medical schools now.

Dr. Mahajan stated that the associations and specialty groups are looking into this.

Dr. Steinbergh stated that there are a lot of programs discussing cultural competency.

Dr. Talmage stated that the LCME has actually mandated that cultural competency be part of the medical school curriculum. That's where you really have to begin, before medical students start their career in medical practice. He stated that another issue of cultural competency is not only how you treat the patient, but knowing the unique medical conditions to which a patient might be more susceptible.

Mr. Whitehouse stated that, under the general heading of the Board's role, vis-à-vis CME, the Board members might want to keep an open mind in the future as there has been some discussion with regard to maintenance of licensure as to the role of Boards, and suggestions that there should be some direction from the Board as to what CME is appropriate or whether some evaluation of CME that has been taken is a tool in determining continuing competency.

Dr. Stephens stated that, in regard to that, she is totally opposed to that. She stated that all specialties have maintenance of certification. How is the Board going to be better able to determine what CME should be done for maintenance of certificate above what the specialty boards determine? She stated that this Board needs to stay out of that. Physicians have to do enough to maintain their licenses, maintain their specialties, maintain their board certification. The Board doesn't need to add another layer of CME or anything to get an Ohio license.

Dr. Talmage stated that the Federation is also looking at this. If Board certification is the issue, clearly it should be left to the specialties. Unfortunately, there is a very significant population of physicians who are not board certified and are never eligible for it. Trying to put them into some sort of maintenance of competence system is going to be the real problem. He commented that it's a work in progress.

Dr. Suppan stated that the only thing she could kind of rationalize is ethics training. She commented that there are even ethics training requirements to be on this Board. She added that ethics seems like a fundamental concern for Board members.

Mr. Albert stated that if the Board considers any directed CME, one area should be in recognizing impairment.

Mr. Miller referred the Board to proposed amendment to some rules in order to incorporate acupuncturists, anesthesiologist assistants and radiology assistants into rules for mandatory reporting.

DR. MAHAJAN MOVED TO APPROVE THE PROPOSED AMENDMENTS TO RULES 4731-15-01, 4731-15-02, 4731-15-03, 4731-15-04, 4731-15-05, 4731-17-01, 4731-17-07, 4731-19-01, 4731-19-05, 4731-19-06, AND 4731-28-01, AND TO DIRECT THE STAFF TO FILE THE PROPOSED

September 10, 2009

AMENDMENTS FOR PROMULGATION. DR. AMATO SECONDED THE MOTION. All members voted aye. The motion carried.

Mr. Miller stated that with the passage of H.B. 130 the previous year, the Board was successful in getting itself placed on a Ohio Ex-Offender Re-Entry Coalition. He stated that the Coalition, which is chaired by the Department of Rehabilitation and Corrections is looking at a number of things, part of which is to reintegrate offenders into society, reduce recidivism rates, and maintain public safety as their primary goals. Mr. Miller reported on the recent discussions and current work of the Coalition. He advised that the Board was fortunate to get a place on this Coalition, and added that they are listening to the Board's concerns.

MINIMAL STANDARDS OF CARE COMMITTEE

Ms. Debolt referred the Board to proposed amendments to the current sexual misconduct rules in order to make the rules applicable to the licensed massage therapist, radiologist assistant, and acupuncturist; and to amend current wording to clarify certain terms and behaviors and activities prohibited by the rules. After Committee discussion, it was determined that the rules should include all the limited branches, and that naprapaths and mechanotherapists would be added to the draft amendments. Ms. Debolt stated that the goal is to say that no licensee of the Medical Board can cross those sexual boundaries.

Ms. Debolt continued that following discussion, the Committee also asked that stricken language from 4731-26-02(A) be retained in the rule.

Ms. Debolt stated that there was also some discussion about the fact that the draft rules, as amended, use the expression, "behavior, gesture or expression," and not just the word, "conduct." She stated that there was some concern that that might be more confusing or harder for as far as practitioner compliance.

Dr. Steinbergh stated that some Committee members spoke in support of retaining the word, "conduct," in the rule. She stated that the sexual misconduct rules are quite clear in defining misconduct. It includes "behavior, gesture or expression."

Dr. Stephens suggested using the words, "conduct including behavior, gesture, or expression."

Dr. Steinbergh agreed with Dr. Stephens' suggestion.

Dr. Mahajan stated that his concern is that patients might misinterpret a physician's "behavior, gesture or expression." He stated that the more suggestions you give to the patients, the more things might come up. It might be emphasized too much.

Ms. Debolt stated that there was discussion at the Committee that those allegations could arise under the current language.

Dr. Steinbergh stated that "misconduct" is defined in the Board's rules.

September 10, 2009

Dr. Stephens stated that she thinks it's important to keep it because a lot of sexual harassment isn't physical touching. It's gestures, the way someone looks you up and down, or focuses on your breasts or private parts when talking to you. It's all those things.

Dr. Mahajan stated that he doesn't want cases coming before the Board because a patient didn't like the way a physician looked at her/him. He stated that there will be a lot more cases coming before the Board than need to come. The issues that are important will get buried because the Board will get loaded with all these things.

Ms. Debolt stated that it's important to note that the definition of "sexual misconduct" uses the words, "behavior, including expressions and gestures."

Dr. Mahajan stated that he just doesn't want to highlight something more than the Board means to.

Dr. Talmage stated that the other safeguard that you have is that complaints are triaged, and by the time it gets to the Secretary and Supervising Member, there is data on whether or not there was a chaperone in the room, or whether this was an accidental touch that was misinterpreted. He doesn't think there's a danger of this type of case coming to the Board in excessive numbers. The screening process before it gets to the Board is sufficient to weed out those cases that can't be proven or were accidental or unintended.

DR. STEINBERGH MOVED TO APPROVE FOR OFFICIAL FILING THE PROPOSED AMENDMENTS TO RULES 4731-26-01, 4731-26-02, AND 4731-26-03, OHIO ADMINISTRATIVE CODE. AS AMENDED BY THE COMMITTEE AND BOARD. MR. HAIRSTON SECONDED THE MOTION. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

DISCIPLINARY POLICY & GUIDELINES COMMITTEE

Dr. Suppan advised that the Committee identified the scope of the project and went through that with the Ad Hoc Committee, whose members are: Dr. Talmage, Mr. Albert, Dr. Amato, Dr. Steinbergh, Mr. Hairston and herself. They set up a time table for which sections of the Disciplinary Guidelines they would look at on different dates. Meetings will last about an hour, and will be scheduled from October through January. She stated that the meetings would be held either before or after the Board meetings.

REVIEW OF FEDERATION OF STATE MEDICAL BOARDS (FSMB) BYLAWS

Dr. Steinbergh stated that she is this year's chair for the Federation's Bylaws Committee, and there is a meeting at the end of October. The Federation has asked states to evaluate the bylaws and make suggestions. Dr. Steinbergh reviewed the areas of the bylaws that Dr. Crane, Chair of the Federation, has asked the Committee to address. Dr. Steinbergh asked that Board members contact her with any suggestions for change they may have.

Dr. Stephens expressed disappointment that, in a newspaper article about the Levine case, she was incorrectly identified in a quotation reference. Dr. Stephens stated that she did not make any comments during the Board's

September 10, 2009

consideration of that case.

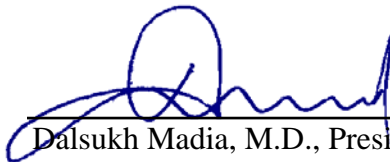
At this time Dr. Madia advised that the Board would take a brief recess and reconvene in Room 335. Drs. Amato and Stephens left the meeting at this time.

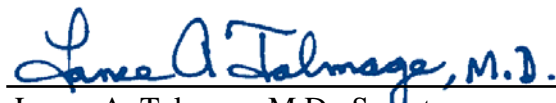
A general discussion regarding the Medical Board's sexual misconduct rules was held.

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

Thereupon at 10:35 a.m. on September 10, 2009, the September 9 – 10, 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 September 9 - 10, 2009, as approved on October 14, 2009.


Dalsukh Madia, M.D., President


Lance A. Talmage, M.D., Secretary

(SEAL)

