

MINUTES**THE STATE MEDICAL BOARD OF OHIO****February 8, 2012**

Darshan Mahajan, 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: Anita Steinbergh, D.O., Vice-President; J. Craig Strafford, M.D., Secretary; Jack C. Amato, M.D., Supervising Member; Dalsukh Madia, M.D.; W. Frank Hairston; Kris Ramprasad, M.D.; Laurie O. Elsass; and Mark A. Bechtel, M.D. The following members did not attend: Lance A. Talmage, M.D., Secretary; and Marchelle L. Suppan, D.P.M.

Also present were: Richard A. Whitehouse, Executive Director; Kimberly C. Anderson, Assistant Executive Director; Sara Vollmer, Assistant Executive Director; Sallie J. Debolt, General Counsel; Rebecca J. Marshall, Chief Enforcement Attorney; David P. Katko, Marcie Pastrick, Karen Mortland, Mark Blackmer, Cheryl Pokorny, and Daniel Zinsmaster, Enforcement Attorneys; Kyle Wilcox, Melinda Snyder, Henry Appel, and Heidi Dorn, Assistant Attorneys General; Joan K. Wehrle, Education & Outreach Program Manager; Patricia Davidson, Chief Hearing Examiner; Greg Porter, Gretchen Petrucci, and Danielle Blue, Hearing Examiners; Danielle Bickers, Compliance Supervisor; Annette Jones, Compliance Officer; Gary Holben, Operations Administrator; Kay Rieve, Administrative Officer; Nicole Weaver, Chief of Licensure; Barbara Jacobs, Senior Executive Staff Attorney; Douglas Edwards, Chief of Investigations; Jacqueline A. Moore, Public Information Assistant; and Benton Taylor, Executive Assistant to the Executive Director.

MINUTES REVIEW

Dr. Madia moved to approve the draft minutes of the January 11-12, 2012 Board meeting. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

EXECUTIVE SESSION

Mr. Hairston moved that the Board declare Executive Session to confer with the Attorney General's representatives on matters of pending or imminent court action. Dr. Steinbergh seconded the motion. A vote was taken:

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - aye |
| | Dr. Amato | - aye |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |

Dr. Mahajan - aye

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session, with Mr. Whitehouse, Ms. Anderson, Ms. Vollmer, Ms. Debolt, Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Wehrle, Ms. Bickers, Ms. Jones, Ms. Rieve, Ms. Weaver, Ms. Jacobs, Ms. Moore, and Mr. Taylor in attendance.

The Board returned to public session.

APPLICANTS FOR LICENSURE

Dr. Steinbergh moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the physician applicants listed in Exhibit "A," the physician assistant applicants listed in Exhibit "B," the acupuncturist applicants listed in Exhibit "C," the anesthesiologist assistants lists in Exhibit "D", to grant Certificates of Good Standing to the limited branch schools listed in Exhibit "E," and to approve the results of the February 2012 Cosmetic Therapy Examination and to certify as passing and license those receiving a score of 75 or greater on their examination, and to certify as failing and deny licensure to those who received a score of less than 75 on the examination. Ms. Elsass seconded the motion. A vote was taken:

ROLL CALL:

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| Dr. Madia | - aye |
| Dr. Strafford | - aye |
| Dr. Amato | - aye |
| Dr. Ramprasad | - aye |
| Ms. Elsass | - aye |
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye |
| Dr. Mahajan | - aye |

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Mahajan announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Mahajan asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Phillip Jeffrey Truesdale; and Bruce S. Worrell, D.O. A roll call was taken:

ROLL CALL:

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| Dr. Madia | - aye |
| Dr. Strafford | - aye |
| Dr. Amato | - aye |
| Dr. Ramprasad | - aye |
| Ms. Elsass | - aye |
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye |
| Dr. Mahajan | - aye |

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

ROLL CALL:

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| Dr. Madia | - aye |
| Dr. Strafford | - aye |
| Dr. Amato | - aye |
| Dr. Ramprasad | - aye |
| Ms. Elsass | - aye |
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye |
| Dr. Mahajan | - aye |

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

PHILLIP JEFFREY TRUESDALE, Case No. 11-CRF-076

Dr. Mahajan directed the Board's attention to the matter of Phillip Jeffrey Truesdale. He advised that no objections were filed. Ms. Blue was the Hearing Examiner.

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

Mr. Truesdale stated that he has completed his education and has done everything in his power to change and become a better person. Mr. Truesdale also noted that he has passed the Medical Board's Massage Therapy Examination. Mr. Truesdale stated that he would appreciate being able to obtain his massage therapy license and continue with his career.

Dr. Mahajan asked if the Assistant Attorney General would like to respond. Mr. Wilcox stated that he would like to respond.

Mr. Wilcox stated that he supports the Hearing Examiner's Report and Recommendation, which does a good job of summarizing this matter.

Dr. Madia moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Phillip Jeffrey Truesdale. Mr. Hairston seconded the motion.

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

Dr. Madia stated that on March 3, 2010, Mr. Truesdale applied for a massage therapy license. On February 2, 2011, Mr. Truesdale was notified that the Board had reason to believe that Mr. Truesdale had an alcohol and drug abuse problem, a violation of Section 4731.22(B)(26), Ohio Revised Code. Mr. Truesdale was ordered to an evaluation at Glenbeigh Hospital, where he was ultimately diagnosed with alcohol abuse, cannabis abuse, and nicotine abuse. Although outpatient therapy was advised, Mr. Truesdale had not had treatment as of the date of his hearing.

Dr. Madia stated that he supports the Hearing Examiner's Proposed Order, which would grant a massage therapy license to Mr. Truesdale and suspend the license indefinitely. Further, upon reinstatement of Mr. Truesdale's license, he will be subject to probationary terms for a minimum of five years.

Dr. Steinbergh expressed concern about Mr. Truesdale's decision-making skills. Dr. Steinbergh opined that as an additional condition of reinstatement or restoration of his license, Mr. Truesdale should be required to take a course on professional ethics, or submit documentation of a professional ethics course he has already taken. Further, Dr. Steinbergh suggested that Mr. Truesdale be required to submit a written report on the course. Dr. Steinbergh opined that in his appearance before the Board today, Mr. Truesdale seemed to make light of this situation, and a report from Mr. Truesdale on the professional ethics course will assure the Board that he understands his responsibilities as a professional massage therapist.

Dr. Steinbergh moved to amend the Proposed Order to insert the following paragraph as Paragraph 3 of the "Conditions for Reinstatement or Restoration":

3. **Professional Ethics Course(s)**: At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Mr. Truesdale shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee.

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

Mr. Hairston seconded the motion. A vote was taken:

ROLL CALL:

Dr. Madia

- aye

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| Dr. Strafford | - abstain |
| Dr. Amato | - abstain |
| Dr. Ramprasad | - aye |
| Ms. Elsass | - aye |
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye |
| Dr. Mahajan | - aye |

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Phillip Jeffrey Truesdale. Dr. Madia seconded the motion. A vote was taken:

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|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to approve carried.

BRUCE S. WORRELL, D.O., Case No. 11-CRF-078

Dr. Mahajan directed the Board's attention to the matter of Bruce S. Worrell, D.O. He advised that objections were filed and were previously distributed to Board members. Ms. Blue was the Hearing Examiner.

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

Dr. Worrell was represented by his attorney, Eric Plinke.

Mr. Plinke stated that the facts underlying this matter are not in dispute. While Dr. Worrell was on an exclusion from Medicare, he took a position in an urgent care center in which he treated Medicare patients. Dr. Worrell pled guilty to this in court and full restitution was paid. Dr. Worrell received a sentence that did not include any prison time, other than the day of processing, and he has complied in all respects with the court's order. Mr. Plinke noted that the court documents demonstrate that Dr. Worrell assisted the government in its investigation and in his own conviction.

Mr. Plinke stated that the Hearing Examiner has recommended permanent revocation of Dr. Worrell's medical license, correctly citing honesty and integrity as fundamental issues for physicians. However, Mr. Plinke highlighted the stipulations before the court that the care provided by Dr. Worrell to the Medicare patients was of good quality and was the same as would have been provided by a physician not excluded from Medicare. Additionally, Mr. Plinke opined that, despite his wrongful actions, Dr. Worrell's integrity was demonstrated by his conduct in helping investigators, which led to his own conviction.

Mr. Plinke cited previous cases involving felonies committed by a physician which did not result in the permanent revocation of the physicians' licenses. Mr. Plinke stated that, like Dr. Worrell's case, the cases of Subramanya Prasad, M.D., and Hatem Dajani, M.D., also involved insight from the criminal justice system as to its evaluation of the wrongdoing of the respondent. Mr. Plinke further noted that Dominic Maga, D.O., had been sentenced to 18 months in prison and received a six-month suspension from the Medical Board. On this basis, Mr. Plinke asked the Board to allow Dr. Worrell the opportunity to demonstrate his fitness to return to the practice of medicine at some point in the future.

Dr. Worrell apologized to the Board for his actions and stated that he has tried to take account for his wrongdoing. Dr. Worrell stated that he had felt he had few options for providing for his family, despite exhaustive attempts to find employment. Dr. Worrell stated that although his exclusion from Medicare contributed to significant stress and financial desperation, he maintained his recovery program and sobriety.

Dr. Worrell continued that when an opportunity presented itself which would provide an hourly wage to support his family, he took it without fully appreciating the gravity of that decision. Dr. Worrell had rationalized his actions by telling himself he was providing good care to people who needed it and who would ultimately have gotten that care in any case. Dr. Worrell stated that at that time, he believed he was only risking a fine or further exclusion from Medicare. Dr. Worrell stated that when federal agents questioned him in 2009, he cooperated with the process. Dr. Worrell pled guilty and faced the consequences of his actions. Dr. Worrell stated that he also put safeguards in his practice to prevent this kind of flawed thinking, including having an attorney and an accountant review his procedures and policies.

Dr. Worrell stated that he had wanted to be a physician since he was a small child and felt that medicine was the best way to give back to others. Dr. Worrell noted that his son has also expressed an interest in medicine and that he would like to be active in the field should his son choose that path. Dr. Worrell realized that his actions and thought-process have put his ability to continue practicing medicine in grave danger and that he genuinely regrets his actions. Dr. Worrell stated that he was wrong in how he went about trying to provide for his family. Dr. Worrell stated that he has asked God for forgiveness and asked the Board to do the same.

Dr. Mahajan asked if the Assistant Attorney General would like to respond. Mr. Wilcox stated that he would like to respond.

Mr. Wilcox stated the he supported the Hearing Examiner's Proposed Order for permanent revocation.

Mr. Wilcox stated that Dr. Worrell has demonstrated an inability to conform to the law or to the mandates of the Board. Mr. Wilcox opined that Dr. Worrell lacks the character or integrity to be trusted with a medical license in Ohio.

Mr. Wilcox continued that Dr. Worrell was given a significant break in 2003 when his eight-count felony indictment for deception to obtain dangerous drugs was stayed and essentially expunged because he entered into a treatment-in-lieu program. While this allowed Dr. Worrell the opportunity to return to the practice of medicine, it also resulted in Dr. Worrell being excluded from Medicare and Medicaid for five years. Mr. Wilcox stated that when this exclusion hampered Dr. Worrell's ability to find employment, he consciously chose to ignore his exclusion and accepted employment at an urgent care facility treating Medicare and Medicaid patients. Mr. Wilcox stated that Dr. Worrell not only ignored the potential criminal repercussions of his actions, but also the terms of his Consent Agreement with the Medical Board.

Mr. Wilcox stated that the decision now before the Board is whether Dr. Worrell should be given another chance. Mr. Wilcox advised the Board to not give Dr. Worrell a second chance, noting that Dr. Worrell failed to take advantage of the second chance he was given in 2003 and continued to show a pattern of deception and inability to practice within the law.

Dr. Madia moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Bruce S. Worrell, D.O. Dr. Bechtel seconded the motion.

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

Dr. Steinbergh agreed with the Findings of Fact and Conclusions of Law of the Report and Recommendation. Dr. Steinbergh summarized that Dr. Worrell entered into a Step I Consent Agreement with the Medical Board in 2003 due to impairment and his actions in obtaining Vicodin for self-use. The federal court found Dr. Worrell to be eligible for treatment in lieu of conviction, and he was excluded from participation in Medicare, Medicaid, and all other federal health programs. In 2005, Dr. Worrell took a position at an urgent care center in Hamilton, Ohio, and the services he provided to Medicare and Medicaid patients were billed under a corporate number. Dr. Steinbergh emphasized the Dr. Worrell knew at that time that his actions were illegal. Dr. Steinbergh further noted that, despite the fact that breaking the law was a violation of his Consent Agreement, Dr. Worrell made regular declarations that he was in compliance with the terms of his Consent Agreement.

Dr. Steinbergh stated that when Dr. Worrell was caught, he agreed to cooperate. Dr. Steinbergh noted that, although Dr. Worrell avoided prison time, he did spend one day in jail, followed by supervised release for three years. Dr. Worrell was also required by the court to participate in home detention for 14 months, pay restitution of \$167,163.00, and pay a fine of \$30,100.00. Dr. Steinbergh stated that Dr. Worrell defrauded the government, and by extension defrauded all taxpayers.

Dr. Steinbergh stated that the quality of Dr. Worrell's care is not at issue and the Board is not making a determination on that subject. Dr. Steinbergh expressed concerns about Dr. Worrell's decision-making and his inability to be honest. Dr. Steinbergh opined that when someone is dishonest on this level, that person will probably repeat that behavior. Dr. Steinbergh supported the Proposed Order of permanent revocation,

stating that practicing medicine in Ohio is a privilege and that Dr. Worrell has lost that privilege.

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

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to approve carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

MEGAN MARIE XENAKIS, L.M.T., Case No. 11-CRF-114

Dr. Mahajan directed the Board's attention to the matter of Megan Marie Xenakis, L.M.T. He advised that the Board issued a Notice of Opportunity for Hearing to Ms. Xenakis, and documentation of service was received. There was no request for hearing filed, and more than 30 days have elapsed since the mailing of the Notice. This matter was reviewed by Hearing Examiner Porter, who prepared Proposed Findings and Proposed Order, and it is now before the Board for final disposition.

Dr. Madia moved to find that the allegations as set forth in the November 9, 2011 Notice in the matter of Megan Marie Xenakis, L.M.T., have been proven to be true by a preponderance of the evidence and to adopt Mr. Porter's Proposed Findings and Proposed Order. Dr. Steinbergh seconded the motion.

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

Mr. Hairston stated that the evidence establishes that Ms. Xenakis is currently unable or unwilling to comply with the Board's Order of January 13, 2010. Mr. Hairston stated that the Proposed Order will revoke Ms. Xenakis' license to practice massage therapy in Ohio. Mr. Hairston stated that, upon becoming effective, this Order will supersede the terms and conditions of the prior Board Order.

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

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |

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| Ms. Elsass | - aye |
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye |
| Dr. Mahajan | - aye |

The motion carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Mahajan advised that, in the following matters, the Board issued a Notice of Opportunity for Hearing, and documentation of service was received for each. There were no requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. The matters are therefore before the Board for final disposition. Dr. Mahajan stated that these matters are disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In these matters, Dr. Strafford and Dr. Talmage served as Secretary and Dr. Amato served as Supervising Member.

ROMULO A. ARMAS, M.D., Case No. 11-CRF-115

Dr. Steinbergh stated that Dr. Armas, an emergency physician, was disciplined by the Florida Board of Medicine because he failed to diagnose a cerebrovascular accident in a patient. Dr. Armas voluntarily surrendered his Florida medical license. Dr. Armas received a Notice of Opportunity for Hearing from the Ohio Medical Board; in response, Dr. Armas replied that he could not afford a hearing and that he did not trust lawyers to help him properly.

Dr. Steinbergh moved to find that the allegations as set forth in the December 14, 2011 Notice in the matter of Romulo A. Armas, M.D., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately, permanently revoking Dr. Armas' license to practice medicine and surgery in Ohio. Dr. Madia seconded the motion. A vote was taken:

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion carried.

DAVID WARREN DAWSON, M.D., Case No. 11-CRF-116

Dr. Ramprasad stated that Dr. Dawson was disciplined by the Oklahoma State Board of Licensure and Supervision for inappropriately prescribing medications to minors and continuing to dispense medications to patients who tested negative for those medications. Dr. Dawson was also held in contempt because he failed to obtain consent from his minor patients' parents, failed to keep medical records, and failed to maintain documentation of evaluations, treatments, or the medical necessity of the prescriptions.

Dr. Ramprasad moved to find that the allegations as set forth in the December 14, 2011 Notice in the matter of David Warren Dawson, M.D., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately, revoking Dr. Dawson's license to practice medicine and surgery in Ohio. Mr. Hairston seconded the motion. A vote was taken:

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion carried.

RAMON FAWZI FAKHOURY, M.D., Case No. 11-CRF-117

Dr. Madia stated that the Medical Board of California [California Board] issued an order against Dr. Fakhoury based on the allegation that he sexually molested four female patients. Under the California Board's order, Dr. Fakhoury can still see patients, but must have a board-approved female nurse as a chaperone when he examines female patients. This matter is still under investigation by the California Board.

Dr. Madia suggested that, because Dr. Fakhoury is currently able to practice in California and the matter is still under investigation, it would be proper to indefinitely suspend Dr. Fakhoury's Ohio license. As conditions for reinstatement, Dr. Madia suggested that Dr. Fakhoury be required to prove that he is able to practice medicine in California, take a course in physician/patient boundaries, and other standard stipulations. Dr. Madia further suggested that following reinstatement, Dr. Fakhoury be on probation for a minimum of five years and be required to have a chaperone when seeing patients.

Dr. Ramprasad expressed surprise at the nature of the California Order. Dr. Ramprasad suggested that revocation may be more appropriate in this case. Dr. Ramprasad explained that with revocation, the Board will not have to monitor Dr. Fakhoury and can re-examine the situation if and when Dr. Fakhoury reapplies for his Ohio medical license.

Dr. Madia agreed with Dr. Ramprasad and stated that he has just learned that in some past instances, the

California Board has dismissed charges against physicians when the physician left California. Dr. Madia stated that if Dr. Fakhoury leaves California and the case is withdrawn, the he could practice in Ohio under Dr. Madia's original suggestion. Therefore, Dr. Madia agreed that revocation is appropriate.

Dr. Madia moved to find that the allegations as set forth in the December 14, 2011 Notice in the matter of Ramon Fawzi Fakhoury, M.D., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately, revoking Dr. Fakhoury's license to practice medicine and surgery in Ohio. Dr. Steinbergh seconded the motion.

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

Dr. Steinbergh agreed with Dr. Madia's proposed order of revocation, noting that the action against Dr. Fakhoury's California medical license is significant. Dr. Steinbergh reiterated that the Board can reevaluate Dr. Fakhoury's case if and when he reapplies for his Ohio medical license. Dr. Steinbergh opined that the Board ought not to make its decision based solely on another board's action, but that the Ohio Board should make its own judgment based on the facts available.

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

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion carried.

AARON ALLEN MESCHER, Case No. 11-CRF-119

Ms. Elsass stated that Mr. Mescher has applied for a license to practice massage therapy in Ohio. On July 27, 2004, Mr. Mescher was convicted of one felony count of fraud on a financial institution. On September 27, 2005, Mr. Mescher was convicted of one felony count of conspiracy to commit offenses against the United States. On April 26, 2009, Mr. Mescher was convicted of one misdemeanor count of illegal sexually-oriented activity in a sexually-oriented business.

Ms. Elsass opined that, based on Mr. Mescher's felony and misdemeanor convictions, Mr. Mescher's application for a massage therapy license should be permanently denied.

Ms. Elsass moved to find that the allegations as set forth in the December 14, 2011 Notice in the matter of Aaron Allen Mescher, have been proven to be true by a preponderance of the evidence,

and that the Board enter an Order, effective immediately, permanently denying Mr. Mescher's application for a license to practice massage therapy in Ohio. Dr. Madia seconded the motion. A vote was taken:

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion carried.

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

JOSEPH CLAUDE CARVER, 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. Carver. Mr. Hairston seconded the motion. A vote was taken:

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to send carried.

WILLIAM B. CULLEN, M.D. – NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity for Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Mr. Hairston moved to enter an Order of Summary Suspension in the matter of William B. Cullen, M.D. in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Notice of Summary Suspension and Opportunity for Hearing. Dr. Madia seconded the motion.

Dr. Mahajan stated that he will now entertain discussion in the above matter.

Dr. Steinbergh noted that this physician is currently under the terms of a Step II Consent Agreement and is being monitored by the Board. Dr. Steinbergh further noted that the basis of this proposed action is the physician's practice at a specific pain management clinic where he is no longer employed. Dr. Steinbergh questioned why the proposed action is a summary suspension rather than a citation.

Ms. Marshall responded that this physician's Consent Agreement has a provision which states that if he violates the terms and conditions of the Agreement a summary suspension is triggered. Therefore, this physician has contractually agreed to that stipulation. Further, Ms. Marshall stated that although the summary suspension is based on the specified patients and timeframe, this physician does have an active medical license and is currently practicing.

A vote was taken on Mr. Hairston's motion to send:

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to send carried.

LAILA I. GOMAA, 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. Madia moved to send the Citation Letter to Dr. Gooma. Mr. Hairston seconded the motion. A vote was taken:

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |

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| Ms. Elsass | - aye |
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye |
| Dr. Mahajan | - aye |

The motion to send carried.

LYNN ANN JOHNSON – 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. Madia moved to send the Citation Letter to Ms. Johnson. Dr. Steinbergh seconded the motion.
A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to send carried.

COLIN THOMAS KELLEY, 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. Madia moved to send the Citation Letter to Dr. Kelley. Mr. Hairston seconded the motion.
A vote was taken:

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|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |

Dr. Mahajan - aye

The motion to send carried.

WILLIAM POPOVICH, 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. Madia moved to send the Citation Letter to Dr. Popovich. Dr. Steinbergh seconded the motion.

A vote was taken:

ROLL CALL:

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|----------------|-----------|
| Dr. Madia | - aye |
| Dr. Strafford | - abstain |
| Dr. Amato | - abstain |
| Dr. Ramprasad | - aye |
| Ms. Elsass | - aye |
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye |
| Dr. Mahajan | - aye |

The motion to send carried.

TIMOTHY ALLEN SCROGGINS, 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.

Mr. Hairston moved to send the Citation Letter to Dr. Scroggins. Dr. Madia seconded the motion.

A vote was taken:

ROLL CALL:

| | |
|----------------|-----------|
| Dr. Madia | - aye |
| Dr. Strafford | - abstain |
| Dr. Amato | - abstain |
| Dr. Ramprasad | - aye |
| Ms. Elsass | - aye |
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye |
| Dr. Mahajan | - aye |

The motion to send carried.

ERNESTO COMPENDIO TAN, 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. Tan. Mr. Hairston seconded the motion. A vote was taken:

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|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - abstain |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to send carried.

RATIFICATION OF SETTLEMENT AGREEMENTSPAUL P. CHU, M.D. – STEP II CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step II Consent Agreement with Dr. Chu. Mr. Hairston seconded the motion. A vote was taken:

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|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to ratify carried.

DAVID WALTER MASSIE, M.D. – SUPERSEDING STEP I CONSENT AGREEMENT

Dr. Madia moved to ratify the Proposed Superseding Step I Consent Agreement with Dr. Massie. Mr. Hairston seconded the motion.

Dr. Mahajan stated that he will now entertain discussion in the above matter.

Dr. Steinbergh commented that this proposed Superseding Consent Agreement is a very serious matter. Dr. Steinbergh stated that her initial reaction was to vote to disapprove the proposed Superseding Consent Agreement and to support revoking this physician's license. However, Dr. Steinbergh noted that in this proposed Superseding Consent Agreement, the physician acknowledges that the Board intends to pursue separate disciplinary actions for any other violations occurring on or after September 14, 2011, and that any resulting Board Orders would further supersede this Superseding Consent Agreement. Dr. Steinbergh noted that this physician has flagrantly disregarded previous consent agreements, including his last one which had a stayed permanent revocation.

Dr. Steinbergh stated that she will support this proposed Superseding Consent Agreement and hoped that the Board will continue to evaluate this physician. Dr. Ramprasad echoed Dr. Steinbergh's concerns, but also agreed to support the proposed Superseding Consent Agreement.

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

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|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to ratify carried.

KIP TANNER YOUNG, M.T. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
MASSAGE THERAPY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Mr. Young. Dr. Madia seconded the motion. A vote was taken:

| | | |
|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to ratify carried.

KAVITA A. J. KANG, D.O. – STEP II CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step II Consent Agreement with Dr. Kang. Mr. Hairston seconded the motion. A vote was taken:

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|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to ratify carried.

PAUL DOMINIC LOPREATO, P.A. – STEP I CONSENT AGREEMENT

Mr. Hairston moved to ratify the Proposed Step I Consent Agreement with Mr. Lopreato. Dr. Steinbergh seconded the motion. A vote was taken:

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|------------|----------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to ratify carried.

JEAN CHOY-ZANNONI, M.D. – CONSENT AGREEMENT

Dr. Madia moved to ratify the Proposed Consent Agreement with Dr. Choy-Zannoni. Mr. Hairston seconded the motion.

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

Although pleased that this proposed Consent Agreement included a one-year suspension, Dr. Steinbergh expressed concern about settling these types of cases which involve Workers' Compensation fraud, telecommunications fraud, and theft. Nonetheless, Dr. Steinbergh found this proposed Consent Agreement to be substantial and reluctantly agreed to support it.

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

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |
| | Mr. Hairston | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion to ratify carried.

The Board took a brief recess at 2:10 p.m. and returned at 2:35 p.m.

PROBATION AND REINSTATEMENT CONSENT AGENDA

Dr. Mahajan advised that at this time he would like the Board to consider the probationary reports and probationary requests on today's consent agenda. Dr. Mahajan asked whether any Board member wished to consider a probationary report or request separately. Dr. Ramprasad brought to the Board's attention that Mark D. Baldwin, D.O., is requesting permission to administer, personally furnish, and possess controlled substances.

Dr. Madia moved to accept the Compliance staff's Reports of Conferences on January 9 and 10, 2012, with: Mohammad A. Adas, M.D.; Robert E. Barkett, Jr., M.D.; John D. Brownlee, M.D.; Carolyn A. Chambers, M.D.; Paul E. Duncan, M.D.; Matthew H. Evenhouse, M.D.; Mark E. Goldsmith, M.D.; Marjorie M. Haas, M.D.; Shane R. Hanzlik, M.D.; Sandra K. Harewood, M.D.; Christopher McKinley Heben, P.A.; Josh U. Hill, P.A.; William Wayne Hollifield, M.D.; Gregory Gene Johnson, M.D.; James M. Kemper, D.O.; Bobby C. Lenox, Jr., D.O.; Elizabeth B. Lottes, D.O.; Karen L. Luman, M.T.; David W. Massie, M.D.; Bruce J. Merkin, M.D.; Douglas S. Moinuddin, M.D.; Jason R. Molder, M.T.; Michael J. O'Brien, D.O.; Steven Thomas Reed, M.D.; Chris Allen Rhoades, M.D.; Neil A. Salas, M.D.; Madelyn Sartain, D.O.; Jeffrey E. Shook, D.P.M.; Richard S. Skoblar, M.D.; Jeffery L. Stambough, M.D.; and Duncan S. Stearns, M.D.

Dr. Madia further moved to accept the Compliance staff's Reports of Conferences and the Secretary and Supervising Member's recommendations as follows:

- **To grant Mark D. Baldwin, D.O.'s request for permission to administer, personally furnish, or**

possess controlled substances;

- To grant Mark E. Blair, M.D.'s request for approval of Richard A. Nockowitz, M.D., to serve as the new monitoring physician;
- To grant John P. Ellis, D.P.M.'s request for approval of Atta Asef, D.P.M., to serve as the monitoring physician; determination of the frequency and number of charts to be reviewed at 10 charts per month; approval of Gregory B. Collins, M.D., to serve as the treating psychiatrist; and approval of Joseph W. Janesz, Ph.D., to serve as the treating psychotherapist;
- To grant Jackson L. J. Flanigan, M.D.'s request for approval of James W. Keller, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per month;
- To grant Philip M. Hutchison, D.O.'s request for approval of *Intensive Course in Controlled Substance Management* and *Intensive Course in Medical Record Keeping*, both offered by Case Western Reserve University;
- To grant Kavita A. Kang, D.O.'s request for approval of Richard F. Huspen, D.O., to serve as the new treating psychiatrist;
- To grant Shannon R. (Kelley) Kleine, L.M.T.'s request for release from the terms of her February 13, 2008 Consent Agreement;
- To grant Melissa J. Marker, D.O.'s request for approval of *Intensive Course in Controlled Substance Management*, offered by Case Western Reserve University; and approval of *Intensive Course in Medical Record Keeping*, offered by Case Western Reserve University;
- To grant Earl C. Scheidler, D.O.'s request for approval of *Intensive Course in Controlled Substance Management*, offered by Case Western Reserve University;
- To grant Rick Skibicki, M.D.'s request for reduction in psychiatric sessions from every eight weeks to every three months; and
- To grant Kyle Wayne Stephens, M.D.'s request for reduction in appearances from once every three months to once every six months; and reduction in drug and alcohol rehabilitation meetings from three per week to two per week with a minimum of 10 per month.

Dr. Steinbergh seconded the motion. A vote was taken:

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|------------|---------------|-----------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - abstain |
| | Dr. Amato | - abstain |
| | Dr. Ramprasad | - aye |
| | Ms. Elsass | - aye |

| | |
|----------------|--------|
| Mr. Hairston | - aye |
| Dr. Bechtel | - aye |
| Dr. Steinbergh | - aye* |
| Dr. Mahajan | - aye |

The motion carried.

*Dr. Steinbergh noted that she abstains in the matter of Mark D. Baldwin, D.O.

ADMINISTRATIVE REPORT

Mr. Whitehouse stated that the Board's *ad hoc* committee on Maintenance of Licensure (MOL) will meet next month, and the Board's *ad hoc* committee on licensure fees will meet in April.

Mr. Whitehouse stated that Ms. Loe has prepared documentation for all Board members regarding operating costs. The Executive Committee had opined that Ms. Loe's report was informative and responsive to the Board's questions.

Mr. Whitehouse stated that he has met with Ms. Loe and Mr. Miller regarding the budget process as it pertains to the decision to seek a fee increase to support ongoing operations. Mr. Miller will prepare a document providing an approach and timeline for action as requested by the Board. Additional information will also be provided to Board members to assist them in responding to any questions they may receive from outside individuals and entities. Mr. Whitehouse also stated Senior Staff will continue to work towards increasing efficiency and identifying potential cost-saving measures.

Mr. Whitehouse noted that cost recovery was a topic of conversation at last month's Board meeting, including the possibility of recovering costs for hearings. Mr. Whitehouse wished to also keep open the possibility of recovering costs for investigative activities, to the extent that it is feasible to administratively identify such costs.

Mr. Whitehouse stated that he'd be happy to respond to any questions about his report.

DISCUSSION OF NCBTMB EXAMINATION

Ms. Vollmer stated that she has provided a summary of a proposal for reviewing the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination, pursuant to the Board's consideration of using it as a licensing examination. Ms. Vollmer suggested that the Board agree with the NCBTMB's proposal regarding safeguards to protect the content of the examination. The NCBTMB has proposed that a five-member committee be formed as follows: Two members appointed by the chair of the Board's Massage Therapy Advisory Committee; one appointed by the Ohio Chapter of the American Massage Therapy Association; one appointed by the Ohio Chapter of American Bodywork and Massage Professionals; and one appointed by the Ohio Council of Massage Therapy Schools. This committee will review the NCBTMB examination for appropriateness as a licensing examination. Medical Board staff will also aid the committee to ensure the examination meets the Board's statutory and administrative

requirements.

Ms. Vollmer continued that under this proposal, none of the committee members would have any affiliation with the Massage and Bodywork Licensing Examination (MBLEx). Further, service on the committee would be voluntary and no compensation would be offered. The time limit for reviewing the examination would be one eight-hour day. All committee members would be asked to sign a confidentiality agreement. In addition, a representative from the NCBTMB will be present to ensure that the examination is protected. The examination will not be photocopied or photographed, and no notes will be taken on the questions in the examination. A psychometrician may also be available for questions. Following the review, the committee will formulate a recommendation to the Board as to whether they believe the examination is appropriate for entry-level licensure.

Ms. Vollmer further suggested, as was done when the Board was considering adopting the MBLEx, that 20 people who took the Board's December 2011 Massage Therapy Examination be allowed to take the NCBTMB examination. This group would consist of 10 who passed the Board's examination and 10 who failed it. This group's performance on the NCBTMB examination could then be compared to their performance on the Board's examination. The NCBTMB has agreed to allow such a group to take their examination free of charge.

Ms. Vollmer provided a timeline by which the new rule will be drafted by May 2012. This would allow for the subsequent rule promulgation process to have the rule in place by the target date of January 14, 2013.

Dr. Mahajan asked if Ms. Vollmer foresaw any problems with recruiting members for the proposed committee. Ms. Vollmer foresaw no such problems, but anticipated possible difficulty in finding 20 test-takers who will agree to take another examination. Dr. Strafford asked if those who failed the Board's December 2011 Massage Therapy Examination and then pass the NCBTMB examination would become eligible for licensure. Ms. Vollmer replied that they would only become eligible for licensure if the NCBTMB examination is ultimately approved.

The Board members agreed to accept the NCBTMB's proposal for review of their examination.

REPORTS BY ASSIGNED COMMITTEES

FIREARMS POLICY

Ms. Anderson stated that in August 2011, the Board agreed to allow Board investigators to carry firearms for safety issues as part of their duties. Since that time, the draft policy has been discussed with the union and the process for approval is ongoing. Ms. Anderson stated that some changes to the draft policy were discussed with the Executive Committee and are now before the Board for approval. Ms. Anderson outlined the changes as follows:

- Investigators currently employed by the Board will have the ability to opt out of requirements to carry firearms. Ms. Anderson noted that, thus far, two investigators have chosen to opt out.

- Investigators carrying firearms will be required to complete and pass a 40-hour firearms course at the Ohio Peace Officers Training Academy and requalify annually.
- The Medical Board will provide the firearms and ammunition.
- Any investigator involved in a deadly-force incident will be placed on administrative leave until the situation can be fully investigated and reviewed.
- 40 hours prior to an investigator leaving the Board's employment, they will be required to turn in their firearm and ammunition.
- The phrase "in self-defense or defense of another" has been added regarding the appropriate use of a firearm.

Dr. Steinbergh stated that she continues to be opposed to this policy. Dr. Steinbergh opined that the Medical Board is a professional board, not a policing agency, and she therefore has grave concerns about investigators using firearms. Dr. Steinbergh was pleased that the policy requires investigators to contact law enforcement to respond to criminal activity if there is no threat of death or serious bodily injury. Dr. Steinbergh also wanted to ensure that any investigators using firearms will be protecting themselves with vests.

Dr. Steinbergh expressed concerns about any investigator who is taking medications prescribed by a physician. Dr. Steinbergh felt that the Chief of Investigations should know what medications the investigators are taking and make certain they would not impair the investigator in the use of a firearm. Ms. Anderson agreed and stated that a provision of the draft policy addresses that issue.

Dr. Steinbergh stated that, although she has abstained from approving this policy because she opposes the concept, she appreciates the fine work that Ms. Anderson has done in developing the policy.

Ms. Anderson stated that the Board plans to purchase three protective vests, one in the possession of each of the three investigator supervisors. These vests would be made available to investigators who will be going into search warrant situations. Mr. Edwards stated that the cost of each vest will be \$460.00 to \$470.00.

Dr. Madia moved to approve the proposed Firearms Policy as presented. Dr. Strafford seconded the motion. All members vote aye, except Dr. Steinbergh, who abstained, and Mr. Hairston, who voted nay. The motion carried.

FISCAL REPORT

Ms. Loe stated that the November 2011 and December 2011 Fiscal Reports have been distributed to all Board members. Ms. Loe noted that the December 2011 Fiscal Report marks the half-way point of Fiscal Year 2012 and is indicative of where the Board is in regards to this year's budget. Ms. Loe noted that revenue is slightly down, most likely due to the relatively low number of people taking the Board's Massage Therapy Examination as that examination is being phased out. Ms. Loe commented that in

January 2012, revenue began to reflect the recent increase in the massage therapy license renewal fee. Ms. Loe also noted that, due to increased cognizance of revenue and expenditures, the Board's expenditures for Fiscal Year 2012 are expected to be about 94% or 95% of the allocated budget.

PROBATIONARY APPEARANCES

MARK L. ALLEN, M.D.

Dr. Allen was making his initial appearance before the Board pursuant to the terms of his November 9, 2011 Consent Agreement. Dr. Allen was also requesting approval of Teodoro A. Luna, M.D., to serve as an additional monitoring physician, and determination of the number and frequency of charts to be reviewed.

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

Dr. Madia asked how Dr. Allen is doing. Dr. Allen replied that he is doing well.

Dr. Madia noted that Dr. Allen specializes in both anesthesiology and pain medicine. Dr. Madia asked which specialty Dr. Allen is currently practicing. Dr. Allen replied that he is currently practicing pain medicine and is also taking histories and performing physicals.

Dr. Madia asked Dr. Allen to describe his practice. Dr. Allen responded that he does evaluations and treatment plans at a pain management practice in Warren, Ohio, as well as histories and physicals for the Ohio Department of Transportation in the Cleveland area. Dr. Madia asked if Dr. Allen prescribes narcotics for pain patients. Dr. Allen answered that he does prescribe narcotics on a limited basis and keeps a log of his prescriptions. Dr. Madia asked if Dr. Allen intends to return to the practice of anesthesiology. Dr. Allen replied that he has no such plans currently.

Dr. Steinbergh asked how Dr. Allen is doing in his recovery. Dr. Allen replied that he is doing very well and asked if he could read from a prepared statement. Dr. Steinbergh opined that a statement would be a great teaching moment for the medical students in attendance. Dr. Mahajan agreed.

Dr. Allen stated that he has learned a great deal from his history with the Board and is now confident that his future will be different because he is committed to his sobriety. Dr. Allen thanked the Board for giving him a second chance and supporting him through his relapse. Dr. Allen commented that the first step of any journey is the most difficult. Dr. Allen stated that the first step in the 12-Step Program is to admit you are powerless over your addiction, which is a very difficult step. Dr. Allen stated that the 12-Step Program has helped him recognize that he is powerless over his disease and he has no control over it without his Higher Power and his sobriety support group.

Dr. Allen compared addiction to diabetes, which must be monitored and managed with the help of physicians. However, Dr. Allen noted that most find it difficult to think of addiction as something that can be treated with a daily program and maintenance. Dr. Allen stated that he can overcome the compulsion of his addiction by being committed to his recovery process every day. Dr. Allen stated that when he

relapsed about two years ago, it was devastating not only for himself, but also for his family, his partners, and most especially his patients. Dr. Allen stated that he is committed to his recovery program and will work on it one day and one step at a time.

Dr. Steinbergh asked what meetings Dr. Allen is attending and how often. Dr. Allen answered that he attends Alcoholics Anonymous meetings three to five times per week, caduceus meetings once per week, and aftercare meetings with his psychologist.

Dr. Steinbergh stated that she does not oppose Dr. Allen's requests regarding the approval of Dr. Luna as a monitoring physician. Dr. Steinbergh felt that Dr. Allen's prior request conveyed the notion that Dr. Allen would be taking histories and performing physicals, but would not be making diagnoses. Dr. Steinbergh stated that history and physical examinations always involve a diagnosis. Dr. Allen agreed and apologized for the poor wording of his initial request. Dr. Allen stated that he had not intended to downplay the importance of histories and physicals, but had only wanted to point out that he would not be writing prescriptions or doing treatments.

Dr. Steinbergh moved to continue Dr. Allen under the terms of his November 9, 2011 Consent Agreement. Dr. Steinbergh further moved to approve Teodoro A. Luna, M.D., to serve as an additional monitoring physician and determine the frequency and number of charts to be reviewed at 10 charts per month. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

CRAIG L. BIERER, D.O.

Dr. Bierer was making his initial appearance before the Board pursuant to the terms of his November 9, 2011 Consent Agreement.

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

Dr. Steinbergh asked how Dr. Bierer is doing in his recovery. Dr. Bierer replied that the process has been tough. Dr. Bierer stated that he was released from Shepherd Hill treatment center last week, has been attending meetings daily, and has a new sponsor. Dr. Bierer stated that it was devastating to have to close his orthopedic practice, where he was a solo practitioner. Dr. Bierer stated that he is spending more time with his children and doing more housework.

Dr. Steinbergh commented that Dr. Bierer is a young, well-trained orthopedic surgeon who has had to close his practice. Dr. Steinbergh stated that Raymond Albert, former Supervising Member of the Board, would offer encouragement to impaired physicians who sought work in manual labor until they were able to return to the practice of medicine. Dr. Steinbergh stated that this is a part of recovery. Dr. Steinbergh had great hope that Dr. Bierer would recover and be able to return to medicine at this early stage in his career.

Dr. Steinbergh asked what groups meetings Dr. Bierer attends. Dr. Bierer replied that he attends aftercare meetings, caduceus meetings, and Alcoholics Anonymous meetings. Dr. Bierer commented that one of his

meetings is a men-only group.

Dr. Steinbergh asked if Dr. Bierer understands his Consent Agreement. Dr. Bierer replied that he understands his Consent Agreement.

Dr. Steinbergh moved to continue Dr. Bierer under the terms of his November 9, 2011 Consent Agreement. Dr. Madia seconded the motion. All members voted aye. The motion carried.

JENNIFER S. DYER, M.D.

Dr. Dyer was making her initial appearance before the Board pursuant to the terms of her December 14, 2011 Consent Agreement.

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

Dr. Madia asked Dr. Dyer to describe the downloadable diabetic application she has developed. Dr. Dyer responded that diabetics can use the application to journal their blood sugar levels. The application gives the user points which they can use to download a song from i-Tunes. Dr. Dyer stated that the application provides motivation for sufferers of chronic diseases like diabetes. Dr. Dyer stated that the application can be downloaded for \$0.99 and was developed as an entrepreneurial product by the company she started. Dr. Dyer stated that physicians can see the journals and use it as a tool to reduce hospital readmissions and complications due to diabetes.

Dr. Madia asked if Dr. Dyer is interested in returning to the practice of medicine. Dr. Dyer replied that she is currently producing other applications for hospitals and business, but she is considering returning to medicine on a part-time basis.

Dr. Steinbergh asked Dr. Dyer to describe her recovery. Dr. Dyer replied that she has suffered from anorexia for basically all of her life. Dr. Dyer stated that she is currently receiving very good treatment from the Center for Balanced Living and is learning good coping mechanisms. Dr. Dyer stated that this is the most stressful experience she has ever had, but she is surviving and thriving. As a result, Dr. Dyer has developed confidence in herself.

Dr. Steinbergh asked if Dr. Dyer is getting psychiatric or psychological care and support. Dr. Dyer answered that she does not have a formal psychiatric diagnosis, but she does see a psychiatrist in compliance with her Consent Agreement. Dr. Steinbergh noted that Dr. Dyer has been prescribed Lexapro. Dr. Dyer stated that Lexapro has been prescribed by her primary care physician due to anxiety. Dr. Dyer stated that she also sees a psychologist two times per month.

Dr. Steinbergh asked if Dr. Dyer had any questions about her Consent Agreement. Dr. Dyer replied that she had no questions.

Dr. Steinbergh moved to continue Dr. Dyer under the terms of her December 14, 2011 Consent Agreement. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

CAROL E. LEWIS, M.D.

Dr. Lewis was making her initial appearance before the Board pursuant to the terms of her November 9, 2011 Consent Agreement.

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

Dr. Steinbergh asked how Dr. Lewis is doing. Dr. Lewis replied that she is doing well.

Dr. Steinbergh asked if Dr. Lewis is currently in training. Dr. Lewis responded that her medical license is currently suspended and she is not working as a physician. Dr. Lewis stated that she is currently working part-time for a traffic engineering company. Dr. Lewis stated that she is working to fulfill the requirements to have her license reinstated, including studying to take the Special Purpose Examination (SPEX).

Dr. Mahajan asked if Dr. Lewis is currently taking any medications. Dr. Lewis replied that she is currently taking three medications prescribed by her psychiatrist.

Dr. Steinbergh asked what Dr. Lewis is doing in terms of recovery. Dr. Lewis stated that the first step of the 12-Step Program is admitting that she is powerless over alcohol. Dr. Lewis stated that while she could admit that she was powerless, she had a very difficult time accepting that. Dr. Lewis stated that she got into trouble because she thought she could drink something with an extremely low alcohol content. Dr. Lewis stated that that was a terrible mistake and she has paid a tremendous price for that. Dr. Lewis stated that she is now extremely diligent about her exposure to alcohol, and even gave away all the towelettes she used to wash her glasses because they contained alcohol. Dr. Lewis thanked the Board for giving her another chance to be a physician, which she described as a tremendous privilege and responsibility.

Dr. Lewis continued that her recovery includes attending Alcoholics Anonymous meetings at least three times per week, working with a sponsor, and keeping company with sober people. Dr. Lewis stated that in lieu of attending caduceus meetings, she is part of International Doctors and Alcoholics Anonymous, which includes hundreds of physicians like herself.

Dr. Steinbergh urged Dr. Lewis to be diligent and continue her efforts at recovery.

Dr. Steinbergh moved to continue Dr. Lewis under the terms of her November 9, 2011 Consent Agreement. Dr. Madia seconded the motion. All members voted aye. The motion carried.

ALAN D. SABINO, M.D.

Dr. Sabino was making his initial appearance before the Board pursuant to the terms of his November 9, 2011 Consent Agreement.

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

Dr. Madia asked how Dr. Sabino is doing. Dr. Sabino replied that he is doing well. Dr. Sabino stated that he has never been in this situation and he is very humbled.

Dr. Madia asked if Dr. Sabino had been in practice or in training prior to the suspension of his medical license. Dr. Sabino answered that he had been in practice as an anesthesiologist for eight years. Dr. Madia noted that Dr. Sabino had abused versed, fentanyl, and dilaudid, all medications which anesthesiologists use every day. Dr. Sabino stated that he had abused those medications for a four-month period.

Dr. Madia asked how Dr. Sabino's recovery is going. Dr. Sabino responded that he is doing well in his recovery. Dr. Sabino continued that he had had a second skull fracture and a cervical spine injury from an accident. Dr. Sabino stated that he had legal prescriptions for the medications to get him through the healing process. Dr. Sabino later found that he was unable to stop the medications without developing withdrawal symptoms. Dr. Sabino self-reported because he could not stop taking the medications and he knew it was wrong. Dr. Sabino stated that it was a terrible mistake and he has felt extremely guilty and sorrowful.

Dr. Madia asked if Dr. Sabino planned to return to anesthesiology when his license is reinstated. Dr. Sabino replied that he does plan to return to anesthesiology. Dr. Sabino stated that after his injuries healed, he had only taken medications to stop the symptoms of withdrawal. Dr. Sabino stated that 10 days into his 28-day treatment program, he no longer had any urge to use narcotics. Dr. Sabino stated that he remains on guard for any signs of dependence.

Dr. Madia stated that if Dr. Sabino returns to the practice of anesthesiology, he will have daily access to medications. Dr. Sabino stated that he plans to be ever-vigilant and will have someone monitor him. Dr. Sabino also stated that he will undergo urine screenings.

Dr. Steinbergh commented that Dr. Sabino's injuries were the result of an accident. Dr. Sabino explained that he is a cyclist and participates in races. Dr. Sabino stated that his May 2011 accident resulted in a second skull fracture, a cervical spine injury, and he was deaf for a month. Dr. Sabino was legally prescribed pain medications as part of his recovery, but could not stop the medications without withdrawal symptoms. Dr. Steinbergh commented that Dr. Sabino did the right thing by self-reporting.

Dr. Steinbergh asked if Dr. Sabino's colleagues had suspected that he was impaired. Dr. Sabino replied that, to his knowledge, no one at work suspected his problem, he had no patient complaints, and he was never the subject of a lawsuit. Dr. Sabino stated that he had only used his medications in the evening. Dr. Sabino stated that his colleagues once suspected something when he became "a little loopy" due to muscle relaxants he was taking for the flu, but nothing resulted from that.

Dr. Madia asked if Dr. Sabino had taken fentanyl from his patients for self-use. Dr. Sabino replied that he never withheld needed medication from his patients, but on a few occasions took the excess waste medication that remained.

Dr. Steinbergh asked if Dr. Sabino recognizes what has happened to him. Dr. Sabino replied that he had

never engaged in drug-use, smoking, or drinking before in his life, even when his friends were doing so. Dr. Sabino opined that this situation was probably the culmination of a heavy work schedule and inability to spend time with his children. Dr. Sabino stated that he had been working 100 hours a week and worked 90 days in a row between June and August. Dr. Sabino stated that his coping mechanisms had been cycling and running, but he had been unable to find time for that, either. Dr. Sabino stated that this is not an excuse for his actions.

Dr. Steinbergh asked Dr. Sabino to describe his recovery program. Dr. Sabino answered that he completed a 28-day treatment program. Dr. Sabino stated that he is in an aftercare program in California, where his home and family are. Dr. Sabino stated that he also attends three Alcoholics Anonymous meetings per week and attends caduceus meetings when in Ohio. Dr. Sabino also sees an addiction specialist and a psychiatrist.

Dr. Steinbergh asked if Dr. Sabino is also licensed in California and, if so, if the Medical Board of California is also monitoring Dr. Sabino. Dr. Sabino replied that he is licensed in California. Dr. Sabino stated that the Medical Board of California is aware of his Ohio Consent Agreement, but has not yet taken any action of its own.

Dr. Steinbergh asked if Dr. Sabino is currently practicing medicine in California. Dr. Sabino answered that he is not practicing medicine in California and would prefer to fulfill all of his Ohio requirements before doing so. Dr. Steinbergh asked if Dr. Sabino plans to return to Ohio to practice. Dr. Sabino replied that he has no plans to practice in Ohio.

Dr. Steinbergh reiterated Dr. Madia's concerns regarding the practice of anesthesiology. Dr. Steinbergh stated that Dr. Sabino will spend the rest of his life in recovery, and access to medications has led to relapse in anesthesiologists in the past. Dr. Sabino agreed that he will have to be very vigilant and will comply with whatever conditions the Board sets forth.

Dr. Mahajan asked if Dr. Sabino felt there is anything anesthesiologists and other physicians who deal with addicting medications can do to avoid falling victim to addiction. Dr. Sabino stated that in his case, a lifestyle change was effective. Dr. Sabino stated that he will continue to attend Alcoholics Anonymous meetings, which he finds very helpful despite that fact that he abused narcotics and not alcohol.

Dr. Ramprasad exited the meeting at this time.

Dr. Madia and Dr. Sabino discussed the various current methods of preventing medication diversion in medical facilities. Dr. Madia and Dr. Sabino agreed that the strictest controls should be implemented in all facilities.

Dr. Sabino opined that he may have gotten into this situation because he had been confident that he would never do anything like this, and therefore dropped his guard. Dr. Sabino stated that he must be ever-vigilant because addiction does not go away. Dr. Steinbergh opined that Dr. Sabino is at high risk and urged him to be on guard against relapse.

Dr. Steinbergh moved to continue Dr. Sabino under the terms of his November 9, 2011 Consent Agreement. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

Mr. Hairston exited the meeting at this time.

REPORTS BY ASSIGNED COMMITTEES

LICENSURE APPLICATION REVIEW

HIRAM G. BEZERRA, M.D.

Dr. Madia stated that Dr. Bezerra trained in internal medicine and cardioradiology in Brazil, and then completed a 12-month fellowship at Massachusetts General Hospital in 2008. Since that time, Dr. Bezerra has been working at University Hospitals in Cleveland on a visiting faculty license. Dr. Bezerra is asking the Board to deem his training and experience in Brazil and his 12-month fellowship in the United States to be equivalent to 24 months of graduate medical education for purposes of licensure.

Dr. Madia stated that the Group 1 Committee recommended denying Dr. Bezerra's request because he has not completed 24 months of graduate medical education.

Dr. Madia moved to deny Dr. Bezerra's request to deem his training and experience as equivalent to 24 months of graduate medical education. Dr. Amato seconded the motion. A vote was taken:

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| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - aye |
| | Dr. Amato | - aye |
| | Ms. Elsass | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion carried.

LICENSURE UPDATE

Ms. Vollmer stated that she has provided a copy of the Licensure Update to all Board members. Ms. Vollmer reported that two items have already been completed: The criminal history form, and the elimination of required verifications for anything other than full licenses in other states. Ms. Vollmer stated that another item, simplifying the content of the licensure webpage, may be completed by the end of the week. Efforts to revise the recommendation form to increase its usefulness continue.

Ms. Vollmer stated that members of the staff had a conference call with staff from the Federation of State Medical Boards (FSMB) to work on getting more documents online and exchanging data in an easier manner. Ms. Vollmer stated that the meeting was positive and the FSMB staff is now discussing the

matter internally.

Dr. Madia stated that most of the objectives of the licensure update project should be implemented by the end of June 2012. Dr. Madia stated that the goal is to be able to license an individual with a clean application within two weeks, which would represent a 25% to 30% reduction in that timeframe. Dr. Madia stated that Ms. Vollmer and the rest of the staff have done a wonderful job on this project.

TREATMENT PROVIDER APPLICATION

OAKVIEW BEHAVIORAL HEALTH CENTER

Ms. Bickers stated that Oakview Behavioral Health Center is requesting approval to be a Board-approved provider for outpatient assessments, outpatient treatments, return-to-work evaluations, and aftercare for the Board's licensees. Ms. Bickers stated that Oakview Behavioral Health Center meets the Board's requirements for rendering these services. Dr. Madia stated that the Group 1 Committee recommended approval of this request.

Dr. Madia moved to approve the application for Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from Oakview Behavioral Health Center. Dr. Amato seconded the motion. A vote was taken:

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|------------|----------------|-------|
| ROLL CALL: | Dr. Madia | - aye |
| | Dr. Strafford | - aye |
| | Dr. Amato | - aye |
| | Ms. Elsass | - aye |
| | Dr. Bechtel | - aye |
| | Dr. Steinbergh | - aye |
| | Dr. Mahajan | - aye |

The motion carried.

LEGISLATIVE UPDATE

Dr. Madia noted that Mr. Miller is currently attending a meeting at the Statehouse and is not present. Dr. Madia asked Dr. Strafford to report on the meeting he and Mr. Miller had earlier this morning.

Dr. Strafford stated that he and Mr. Miller met with Representative Schuring, the sponsor of the legislation regarding acupuncture and Oriental medicine. Dr. Strafford stated that the Board's requests for a language requirement and disclosure to the patient of the nature and effects of medications were granted. Dr. Strafford also anticipated cooperation on establishing a mechanism to report adverse reactions. Representative Schuring also invited the Board to take this opportunity to suggest other changes that may need to be made to the statutes governing the practice of acupuncture in Ohio.

Dr. Mahajan asked Dr. Madia to comment on the legislation regarding visiting medical faculty certificates.

Dr. Madia expressed concern about physicians who have not passed the United States Medical Licensing Examination (USMLE) or obtained certification from the Educational Commission for Foreign Medical Graduates (ECFMG) being able to practice in Ohio under this certificate, without the Board knowing about their training, background, or capability. Dr. Madia stated that institutions are asking that this three-year certificate be made renewable an unlimited number of times. Dr. Madia stated that this proposal would allow the certificate holders to stay in Ohio indefinitely, without anyone knowing how much research they are conducting and how much clinical practice they are performing.

Dr. Madia stated that the Group 1 Committee discussed this issue and recommended that holders of the visiting medical faculty certificate be required to have ECFMG certification. The committee further recommended that the certificate should only be able to be renewed one time. Ms. Elsass opined that patient notification and consent forms should also be required. Dr. Madia agreed.

Dr. Mahajan noted that another issue is the ability of the certificate holders to bill for their services. Dr. Mahajan stated that if the practitioners are here for research, then they should have grants and other forms of funding. Therefore, they should not be billing for their clinical practice. Dr. Madia and Dr. Steinbergh agreed.

Ms. Debolt stated that the opposing argument often presented to the Board is that, if research physicians cannot renew their certificate, they will take their research and the jobs associated with it to another state. Dr. Steinbergh noted Dr. Amato's observation that many small communities are in need of physicians who cannot be licensed because they do not meet the Board's requirements, yet large hospital systems can skirt those requirements by getting a visiting medical faculty certificate for otherwise unqualified physicians. Dr. Steinbergh stated that this is not fair to the other physicians in Ohio.

Ms. Debolt stated that the staff produced a document showing the significant difference between the sheer number of requirements, as well as the rigorousness of the requirements, of full licensure compared to that of the visiting medical faculty certificate. The comparison failed to sway the proponents of the legislation. Ms. Debolt stated that Mr. Miller and Dr. Ramprasad are currently in a meeting on this issue. Ms. Debolt opined that Dr. Ramprasad, a foreign medical graduate who fulfilled all the requirements for full licensure in this state, is a good representative of the Board in this matter.

RULE ON PHYSICIANS PRESCRIBING TO SELF AND FAMILY MEMBERS

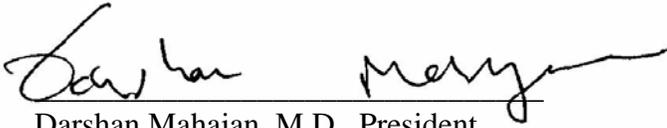
Ms. Anderson stated that, at Dr. Ramprasad's request, an article outlining the Board's rule on physicians prescribing to themselves and to family members has been prepared and posted on the Board's website.

Thereupon at 4:10 p.m., the February 8, 2012, meeting of the State Medical Board of Ohio was duly adjourned by Dr. Mahajan.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on February 8, 2012, as approved on March 14, 2012.

20519

February 8, 2012



Darshan Mahajan, M.D., President



J. Craig Strafford, M.D., M.P.H., Secretary

(SEAL)

