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June 13, 2012

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**MINUTES****THE STATE MEDICAL BOARD OF OHIO****June 13, 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: J. Craig Strafford, M.D., Secretary; Lance A. Talmage, M.D., Acting Supervising Member; Dalsukh Madia, M.D.; W. Frank Hairston; Marchelle L. Suppan, D.P.M.; Kris Ramprasad, M.D.; Laurie O. Elsass; Mark A. Bechtel, M.D.; and Donald R. Kenney, Sr. The following member did not attend the meeting: Anita Steinbergh, D.O., Vice-President.

Also present were: Richard A. Whitehouse, Executive Director; Kimberly C. Anderson, Assistant Executive Director; Sara Vollmer, Assistant Executive Director; Susan Loe, Assistant Executive Director, Program Management and Operations; Sallie J. Debolt, General Counsel; Joan K. Wehrle, Education & Outreach Program Manager; Rebecca J. Marshall, Chief Enforcement Attorney; David P. Katko, Marcie Pastrick, Mark Blackmer, Angela McNair, Daniel Zinsmaster, and Sheldon Safko, Enforcement Attorneys; Melinda Snyder and Heidi Dorn, Assistant Attorneys General; Patricia Davidson, Chief Hearing Examiner; Gregory Porter, Gretchen Petrucci and Danielle Blue, Hearing Examiners; Danielle Bickers, Compliance Supervisor; Annette Jones, Compliance Officer; Kay Rieve, Administrative Officer; Barbara Jacobs, Senior Executive Staff Attorney; and Benton Taylor, Executive Assistant to the Executive Director.

MINUTES REVIEW

**Dr. Madia moved to approve the draft minutes of the May 9-10, 2012, Board meeting, as written. Mr. Hairston seconded the motion.** All members voted aye. The motion carried.

EXECUTIVE SESSION

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

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- 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. Loe, Ms. Debolt, Ms. Wehrle; Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Rieve, Ms. Weaver, Ms. Jacobs, and Mr. Taylor in attendance.

The Board returned to public session.

#### APPLICANTS FOR LICENSURE

**Mr. Hairston 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 limited practitioner applicants listed in Exhibit "C," the acupuncturist applicants listed in Exhibit "D," the anesthesiologist assistant applicants listed in Exhibit "E," and to grant Certificates of Good Standing to the limited branch schools listed in Exhibit "F." Dr. Suppan seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- 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: Miles E. Drake, Jr., M.D.; and Michael Bruce Gladson, M.D.

A roll call was taken:

ROLL CALL:

Dr. Strafford	- aye
Mr. Hairston	- aye
Dr. Ramprasad	- aye
Dr. Suppan	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye
Dr. Bechtel	- aye
Dr. Talmage	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye

The motion carried.

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:

Dr. Strafford	- aye
Mr. Hairston	- aye
Dr. Ramprasad	- aye
Dr. Suppan	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye
Dr. Bechtel	- aye
Dr. Talmage	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye

The motion carried.

Dr. Mahajan noted that, in accordance with the provision in section 4731.22(F)(2), Ohio 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 this matter. In the matter before the Board today, Dr. Strafford and Dr. Talmage served as Secretary and Supervising Member.

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

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

MILES E. DRAKE, JR., M.D., Case No. 11-CRF-095

Dr. Mahajan directed the Board's attention to the matter of Miles E. Drake, Jr., M.D. 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 Dr. Drake. Five minutes would be allowed for that address.

Dr. Drake was represented by his attorney, John Izzo.

Mr. Izzo stated that Dr. Drake has filed no objections and he agrees with the Hearing Examiner's recommendation

Dr. Drake expressed gratitude to the Board and its staff for the opportunity to continue in the practice of medicine. Dr. Drake stated that he in no way underestimates the severity of his illness, which has cost him his tenured faculty position, his practice, his home, and his family.

Dr. Drake continued that he is grateful for the support he has received from the Board staff, and particularly the support and encouragement of the late Supervising Member, Mr. Albert. Dr. Drake apologized for his failures of omission and commission with respect to compliance with his Consent Agreement, and expressed particular remorse that he did not live up to Mr. Albert's expression of confidence in him when he allowed Dr. Drake's probationary terms to be lessened. Dr. Drake stated that he had found that he shared many interests with Mr. Albert; consequently, he may have focused on those commonalities during his meetings and failed to always attend to what was expected of him. Dr. Drake stated that he misinterpreted the affability and concern of the Board members and the professional decorum of the Board staff as acceptance of his efforts to comply with his Consent Agreement.

Dr. Drake stated that he has been as chastised and frightened as it is possible for a human being to be regarding the shortcomings of his efforts to comply. Dr. Drake stated that he is determined to do better and he takes full responsibility for his procrastination, denial, and delay, character flaws with which he has been afflicted since childhood. Dr. Drake assured the Board and the public that he is sober, spiritually transformed, and he may safely practice medicine. Dr. Drake asked the Board to accept the Hearing Examiner's recommendation and give him another chance to demonstrate compliance.

Dr. Mahajan asked if the Assistant Attorney General would like to respond. Ms. Dorn stated that she would like to respond.

Ms. Dorn agreed with the Hearing Examiner's findings that Dr. Drake did not comply with his Consent Agreement. However, Ms. Dorn felt that the Proposed Order is too light a sanction in this case. Ms. Dorn was pleased that Dr. Drake acknowledged his shortcomings and mistakes, but stated that it is too little and too late for such recriminations at this point.

Ms. Dorn continued that Dr. Drake has consistently failed to comply with this Consent Agreement multiple times and in multiple ways. Specifically, Dr. Drake failed to submit quarterly declarations of compliance or turned them in months late, failed to submit a controlled substances log, failed to submit urine drug screens or to submit them in a manner prescribed in his Consent Agreement, failed to nominate a monitoring physician, failed to submit acceptable documentary evidence of his attendance at Alcoholic Anonymous (AA) meetings, and failed to complete required courses on medical record-keeping.

Dr. Talmage exited the meeting at this time.

Ms. Dorn stated that the record of Dr. Drake's quarterly office conferences indicate a pattern of non-compliance. Ms. Dorn stated that it is wonderful the Dr. Drake got along with Mr. Albert, but Dr. Drake's contract was with the Board and he did not comply with its terms. Ms. Bickers, the Board's Compliance Supervisor, testified that she repeatedly warned Dr. Drake that he had to comply, but this seemed to have no effect. Ms. Dorn stated that Dr. Drake's unwillingness to do anything to keep his license demonstrates that the practice of medicine is not a priority in his life right now.

Ms. Dorn noted that other probationers are in circumstances similar to Dr. Drake's, but are still able to submit the required paperwork and fulfill the terms of their consent agreements. Ms. Dorn stated that it would be a poor precedent for other probationers to see someone ignore their consent agreement and suffer no consequences. Ms. Dorn opined that Dr. Drake should have some time out from the practice of medicine. Ms. Dorn requested that, if the Board chooses to impose only probationary terms, those terms should include monitoring standards and provide a defined punishment for any failure to comply.

**Dr. Madia moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Miles E. Drake, Jr., M.D. Mr. Hairston seconded the motion.**

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

Dr. Madia stated that Dr. Drake presently practices at an urgent care center in Canal Winchester, Ohio. Dr. Drake also practices neurology and sees 15 to 20 patients per day for headache treatment, pain management, and addiction medicine.

Dr. Madia stated that on February 9, 2005, Dr. Drake was cited by the Board for alcohol addiction and subsequently entered into a Step I Consent Agreement, which suspended his license. On October 12, 2005, Dr. Drake's suspension was extended by five months because he violated his suspension by prescribing a psychotropic drug. In June 2006, Dr. Drake entered into a Step II Consent Agreement which reinstated his license and imposed probationary conditions, including attending AA meetings and having a supervising physician. In July 2008, Dr. Drake's Step II Consent Agreement was extended by the Secretary and Supervising Member until 2011 due to non-compliance. In December 2008, Dr. Drake's probationary terms were modified to reduce the frequency of his required AA meetings, drug screens, and personal appearances.

Dr. Madia stated that despite being given multiple chances, Dr. Drake never complied with his Consent Agreements. Dr. Drake did not provide required documentation of his compliance or a controlled substance log. Dr. Drake never nominated someone to be his supervising physician, whose task it would have been to assure that Dr. Drake's urine drug screens were random and supervised. The Ohio Physicians Health Program (OPHP) had been acting as Dr. Drake's supervising authority, but in July 2009 OPHP notified the Board that it would no longer monitor Dr. Drake due to his non-compliance. Since that time, Dr. Drake has submitted his own urine screens which have been neither random nor supervised. Dr. Madia stated that Dr. Drake sometimes met with friends and had a friend sign an AA log attesting that Dr. Drake

attended an AA meeting. Dr. Madia stated that because of Dr. Drake's non-compliance with most aspects of his Consent Agreement, the Board does not know if Dr. Drake is free of alcohol or drugs.

Dr. Madia stated that he disagreed with the Proposed Order, which would extend Dr. Drake's probationary terms by one year with no suspension. Dr. Madia stated that he asked the staff to prepare an alternative order which would suspend Dr. Drake's license for a minimum of three months and establish conditions for reinstatement. Dr. Madia stated that he had considered the possibility of revoking Dr. Drake's license and stated that he would like to hear from other Board members in this matter.

Mr. Kenney opined that a suspension of three months is insufficient and recommended the Dr. Drake's license be permanently revoked. Mr. Kenney stated that Dr. Drake has violated every Consent Agreement he has entered into and opined that Dr. Drake does not believe the Board will prohibit him from practicing medicine. Mr. Hairston agreed, stating the Dr. Drake has not taken the Board seriously. Ms. Elsass agreed that a three-month suspension is too lenient. Ms. Elsass stated that Dr. Drake has treated his Consent Agreements like a list of suggestions and has made a farce of the agreements. Ms. Elsass was uncertain if she would support a permanent revocation of Dr. Drake's license. Dr. Madia stated that he would support a non-permanent revocation of Dr. Drake's medical license. Dr. Ramprasad stated that rules were set for Dr. Drake and broken too many times. Dr. Ramprasad stated that the number of violations would lead him to support revocation, and possibly permanent revocation.

Dr. Mahajan commented that in earlier years, Dr. Drake was a very well-known neurologist. Dr. Mahajan stated that he could not say what kind of physician Dr. Drake is today.

**Dr. Madia moved to amend the Proposed Order to revoke Dr. Drake's license to practice medicine and surgery in Ohio. Mr. Hairston seconded the motion.**

Dr. Mahajan stated that he would now entertain discuss of the proposed amendment.

Dr. Madia commented that he agreed with the Hearing Examiner's Findings of Fact and Conclusions of Law in the Report and Recommendation.

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

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to amend carried.

**Mr. Hairston moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Miles E. Drake, Jr., M.D. Dr. Madia seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to approve carried.

MICHAEL BRUCE GLADSON, M.D., Case No. 12-CRF-002

Dr. Mahajan directed the Board's attention to the matter of Michael Bruce Gladson, M.D. He advised that objections were filed to Ms. Blue's Report and Recommendation and were previously distributed to Board members.

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

Dr. Gladson was represented by his attorney, Elizabeth Collis.

Ms. Collis stated that the Hearing Examiner has recommended permanent denial of Dr. Gladson's application for licensure. Ms. Collis stated that she has filed objections that alerted the Board to similar and, in Ms. Collis' opinion, more serious cases in which the Board has offered licensure.

Dr. Gladson stated that he has been licensed to practice medicine in Georgia for over 30 years. Dr. Gladson's Georgia medical license is still active and has never been subject to discipline. Dr. Gladson stated that he specialized in adolescent, adult, and geriatric psychiatry. While living in Georgia, Dr. Gladson had an office in the Atlanta area and a rural office in Blue Ridge, Georgia. Dr. Gladson stated that he had prescribed controlled substances to psychiatric patients when appropriate.

Dr. Gladson continued that about 30% of his patients in his Blue Ridge office were being treated for chronic pain. Dr. Gladson stated that his chronic pain patients were primarily referred to him by physicians who knew that Dr. Gladson had experience with pharmacology and psychopharmacology. Dr. Gladson stated that he also has a degree in pharmacy, has been a researcher in clinical pharmacology, and has had additional training in pain management. Dr. Gladson stated that he followed all guidelines when treating his chronic pain patients; Dr. Gladson would discontinue pain medications if a patient was

suspected of abusing or diverting them. Dr. Gladson stated that despite having two offices, he never made a great deal of money.

In the spring of 2010, Dr. Gladson's wife accepted a faculty position at Hebrew Union College in Cincinnati, to begin in 2011. In the summer of 2010, Dr. Gladson completed the online Federation Credentials Verification Service (FCVS) application for state licensure in various states. Dr. Gladson stated that at that time, he thought that was all he needed to complete to obtain Ohio licensure.

Dr. Gladson stated that in October 2010, agents from the Drug Enforcement Agency (DEA) came to his Blue Ridge office unannounced, closed the office, took patient records, and questioned his staff and patients in the waiting room about Dr. Gladson's prescribing habits. Dr. Gladson stated that he was not allowed to call his attorney. Dr. Gladson stated that he was advised that if he voluntarily surrendered his DEA certificate, it would show that he was being compliant with the government. Thinking that this would be a temporary surrender of his certificate, he signed the voluntary surrender. Dr. Gladson stated that he was never offered a hearing or told the basis of the DEA investigation, and he still does not know why his office had been investigated.

Dr. Gladson stated that in December 2010, he learned that he needed to complete a supplemental Ohio application in addition to the FCVS application. On the Ohio application, Dr. Gladson was uncertain if he needed to disclose the voluntary surrender of his DEA certificate. Therefore, Dr. Gladson contacted his Georgia attorney, who replied by e-mail. Dr. Gladson thought that the email advised him that since there was no action against his Georgia medical license and no criminal charges had been filed, there was "nothing to disclose to Ohio." In hindsight, Dr. Gladson felt that he should have been more careful in completing his Ohio application, and perhaps forwarded the entire application to his Georgia attorney for review or retained an Ohio attorney.

Dr. Gladson stated that in the spring of 2011, he was notified that the Ohio Board had questions about his application. At that point, Dr. Gladson retained an Ohio attorney and was advised to supplement his Ohio application and provide information about the voluntary surrender of his DEA certificate. Dr. Gladson stated that he has complied and fully cooperated with the Ohio Board's investigation.

Dr. Gladson stated that he would like to practice psychiatry in Ohio. Dr. Gladson stated that he has no interest in or intention of treating pain patients in Ohio. Dr. Gladson continues his attempts to have his DEA certificate reissued so that he can prescribe medications to psychiatric patients. Dr. Gladson urged the Board to grant him Ohio licensure.

Dr. Mahajan asked if the Assistant Attorney General would like to respond. Ms. Snyder stated that she would like to respond.

Ms. Snyder stated that this is a two-part case. First, it is undisputed that Dr. Gladson voluntarily surrendered his DEA certificate. The second part, that Dr. Gladson lied on his Ohio application about his voluntary surrender, is very much in dispute.

Ms. Snyder continued that Dr. Gladson voluntarily surrendered his DEA certificate during a raid on his

clinic by the DEA. Dr. Gladson testified that before he signed the voluntary surrender, he read it and checked the box that indicated that he is surrendering because he had allegedly failed to comply with federal requirements pertaining to controlled substances. Dr. Gladson testified that on the day he signed the surrender, he took the surrender to an attorney who specialized in the criminal defense of DEA charges. Ms. Snyder felt this is a very important fact because Dr. Gladson later claimed that he did not understand that the voluntary surrender was not temporary.

Ms. Snyder stated that two months after the voluntary surrender, Dr. Gladson applied to the State Medical Board of Ohio for a license. On that application, Dr. Gladson answered “no” to the question “have you ever been denied or have you ever surrendered a state or federal controlled substance or drug registration, had it revoked, terminated, or restricted in any way.” Ms. Snyder noted that even if Dr. Gladson thought his voluntary was temporary, he should have answered “yes” to the question because of the phrase “restricted in any way.” Ms. Snyder noted that, according to his testimony, Dr. Gladson’s practice was cut by about 40% following the surrender, and therefore he clearly knew the surrender had some effect because he could no longer prescribe controlled substances.

Ms. Snyder noted that two weeks prior to submitting his application to the Ohio Board, he applied to the DEA to regain his certificate. In the DEA application, Dr. Gladson answered “yes” to an almost identical question: “Has the applicant ever surrendered (for cause) or had a federal controlled substance registration revoked, suspended, restricted, or denied, or has any such action pending?” Ms. Snyder stated that Dr. Gladson answered this question truthfully because he knew the DEA would know the truth.

Ms. Snyder stated that Dr. Gladson knew the nature of his surrender and he knew what the question on the Ohio application was asking, and he answered untruthfully. Ms. Snyder stated that Dr. Gladson is a seasoned practitioner and not a young physician who may have been confused by the question. Ms. Snyder agreed with the Hearing Examiner’s belief that Dr. Gladson intentionally lied to the Ohio Board to obtain a license. Ms. Snyder asked the Board to adopt the Proposed Order of permanent denial.

**Dr. Madia moved to approve and confirm Ms. Blue’s Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Michael Bruce Gladson, M.D. Mr. Hairston seconded the motion.**

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

Dr. Bechtel briefly reviewed Dr. Gladson’s career. Dr. Bechtel noted that Dr. Gladson established a practice in Atlanta in 2002 and opened a satellite office in Blue Ridge, Georgia, in 2004. Dr. Bechtel stated that the Blue Ridge office eventually became the major focus of Dr. Gladson’s practice and he worked there four days a week. In addition to psychiatric patients, Dr. Gladson began seeing an increasing number of chronic pain patients. Dr. Bechtel stated that Dr. Gladson had estimated that about 30% of his patients were on controlled substances. In 2008, Dr. Gladson stopped accepting private insurance and began charging \$95.00 to \$150.00 per visit, though he continued to accept Medicare and Medicaid.

Dr. Bechtel continued that on October 27, 2010, the local sheriff and DEA agents entered Dr. Gladson’s Blue Ridge office. It was during that investigation that Dr. Gladson voluntarily surrendered his DEA certificate to prescribe controlled substances. On December 16, 2010, Dr. Gladson applied to have his

DEA certificate reinstated. That DEA application asked if Dr. Gladson had ever surrendered his certificate for cause or had a federal controlled substance registration revoked. Dr. Gladson answered “yes” to that question.

On December 30, 2010, Dr. Gladson submitted an application for licensure to the State Medical Board of Ohio. That application is still pending. The Ohio application asked if Dr. Gladson had ever been denied or ever surrendered a state or federal controlled substance or drug registration, and Dr. Gladson answered “no” to that question. Dr. Bechtel noted that this question is very similar to the aforementioned question on the DEA application.

Dr. Bechtel noted Dr. Gladson’s contention that, upon consultation with his attorney, he felt he had been advised to answer “no” on the Ohio application. Dr. Bechtel read directly from email Dr. Gladson received from his attorney: “Michael, I have looked online at the Ohio website, but I could not access an application form (unless I missed it to check whether you need to update with any changes in responses, although I am not certain there would be any to apply -- you were not arrested, you have a full, unrestricted GA license).” Dr. Bechtel also noted statements made by Dr. Gladson alluding that the request for him to voluntarily surrender his DEA certificate was unlawful.

Dr. Bechtel felt that the important point in this case is that two weeks before denying to the Ohio Board that he had surrendered a DEA certificate, he admitted to that on a DEA application. Dr. Bechtel stated that he supports the Proposed Order of permanent denial.

Dr. Madia stated that he also agrees with the Proposed Order. Dr. Madia stated that Dr. Gladson answered the question truthfully on a DEA application and opined that he purposely lied on his Ohio application in order to get a license.

Mr. Kenney noted that Dr. Gladson still retains his Georgia medical license and asked why that state has allowed him to continue practice. Dr. Bechtel responded that he has not seen the results of the DEA investigation.

Dr. Ramprasad stated that he had concerns about the kinds of medications Dr. Gladson had been prescribing and the fact that he was accepting cash payments instead of billing private insurance. Dr. Ramprasad stated that he examined the relevant questions on both the DEA application and the Ohio application, and found them to be virtually identical. Dr. Ramprasad stated that because of the circumstances surrounding the surrender of his DEA certificate and his dishonesty on his Ohio application, he supports permanent denial.

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

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye

Dr. Madia	- aye
Dr. Bechtel	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye

The motion to approve carried.

#### PROPOSED FINDINGS AND PROPOSED ORDERS

##### AMY LYNN BEAVER, P.A., Case No. 11-CRF-104

Dr. Mahajan directed the Board's attention to the matter of Amy Lynn Beaver, P.A. He advised that the Board issued a Notice of Opportunity for Hearing to Ms. Beaver, 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 Petrucci, who prepared Proposed Findings and Proposed Order, and it is now before the Board for final disposition.

**Mr. Hairston moved to find that the allegations as set forth in the November 9, 2011, Notice of Opportunity for Hearing in the matter of Ms. Beaver have been proven to be true by a preponderance of the evidence and to adopt the Amended Proposed Findings and Proposed Order. Dr. Madia seconded the motion.**

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

Dr. Suppan stated that in December 2010, Ms. Beaver entered into a Consent Agreement. On November 9, 2011, the Medical Board notified Ms. Beaver that it proposes to take disciplinary action against her license based on allegations that she had violated her Consent Agreement. Specifically, it was alleged that Ms. Beaver consumed Vidodin which had not been legitimately prescribed to her, provided a urine sample that was positive for amphetamines, failed to submit quarterly declarations of compliance, failed to appear for three Board interviews, failed on multiple occasions to call in and/or timely call in for urine screens, failed to submit multiple urine screens, failed on multiple occasions to submit documentation of her attendance at alcohol and drug rehabilitation meetings, failed to submit and/or ensure the submission of multiple psychiatric reports, and failed to submit answers to the Board's interrogatories. Dr. Suppan stated that these acts constitute violation of conditions placed by the Board on Ms. Beaver's license to practice as a physician assistant, impairment of her ability to practice according to acceptable and prevailing standards, and failure to cooperate with an investigation.

Dr. Suppan stated that on or about May 24, 2011, the Board sent interrogatories to Ms. Beaver that were due no later than July 24, 2011. According to documentation from the U.S. Postal Service, Ms. Beaver signed for that package, and therefore she knew she was receiving correspondence from the Medical Board. Upon agreement with Ms. Beaver's counsel, the due date was extended to July 6, 2011.

Dr. Talmage returned to the meeting at this time.

Dr. Suppan stated that Ms. Beaver failed to provide answers to the interrogatories. Dr. Suppan stated that the interrogatories were resent on two subsequent occasions, and each time Ms. Beaver failed to respond.

Dr. Suppan stated that there is some question of whether or not there was valid service of the Notice of Opportunity for Hearing to Ms. Beaver. The Hearing Examiner concluded that the evidence did not support valid service. However, Dr. Suppan pointed out the Section 119.07, Ohio Revised Code, requires that the Notice be sent to the last address of record. Section 119.07 further contemplates that the Post Office may forward the Notice to a valid forwarding address if there is a failure of delivery. Dr. Suppan stated that because the package was signed for, it was not unclaimed and there was valid service. Dr. Suppan stated that the delivery is presumed valid unless Ms. Beaver rebuts that presumption.

Dr. Suppan asked that this matter be tabled so that an amended Proposed Findings and amended Order can be prepared for review by the Board members.

**Dr. Madia moved to table this topic. Ms. Elsass seconded the motion.** All members voted aye. The motion carried.

LYNN ANN JOHNSON, Case No. 12-CRF-012

Dr. Mahajan directed the Board's attention to the matter of Lynn Ann Johnson. He advised that the Board issued a Notice of Opportunity for Hearing to Ms. Johnson, 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 Blue, who prepared Proposed Findings and Proposed Order, and it is now before the Board for final disposition.

**Ms. Elsass moved to find that the allegations as set forth in the February 8, 2012 Notice in the matter of Lynn Ann Johnson have been proven to be true by a preponderance of the evidence and to adopt Ms. Davidson's Proposed Findings and Proposed Order. Dr. Bechtel seconded the motion.**

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

Mr. Hairston stated that Ms. Johnson submitted an application for a massage therapy license on March 18, 2011. The Board ordered Ms. Johnson to attend an examination to determine whether she is impaired based on her history of a conviction for underage drinking, conviction for driving or having physical control of a vehicle while under the influence of drugs, and a conviction for drug abuse. As a result of the examination, Ms. Johnson was determined to be impaired in her ability to practice massage therapy until she completes a Board-approved program of outpatient treatment. Mr. Hairston stated that as of May 17, 2012, the Board had not received information that Ms. Johnson had commenced treatment.

Mr. Hairston stated that he agrees with the Proposed Order to deny Ms. Johnson's application for licensure. Mr. Hairston also noted that in the Proposed Order, the word "certificate" should be replaced with the word "application."

A vote was taken on Ms. Elsass' motion:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to approve carried.

#### FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Mahajan advised that, in the following matter, the Board issued a Notice of Opportunity for Hearing, 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. The matter is therefore before the Board for final disposition. Dr. Mahajan stated that the following matter is disciplinary in nature, and therefore, the Secretary and Supervising Member cannot vote. In this matter, Dr. Strafford and Dr. Talmage served as Secretary and Supervising Member.

#### CHARLOTTE EILEEN HOVEY, M.D., Case No. 12-CRF-037

Dr. Ramprasad stated that on April 11, 2012, the Board issued a Notice of Opportunity for Hearing to Dr. Hovey and no response has been received. Dr. Ramprasad stated that in Colorado, Dr. Hovey was found to have mental or physical limitations. Dr. Hovey entered into an Interim Agreement with the Colorado Medical Board, without suspension, in which Dr. Hovey agreed to stop practicing until such time that the case was resolved. Dr. Ramprasad stated that the issue is whether Dr. Hovey is able to practice under normal circumstances. Dr. Ramprasad stated that considering the Dr. Hovey is not currently practicing in Colorado and has not replied to the Board's Notice, he favors a non-permanent revocation of Dr. Hovey's Ohio medical license.

**Dr. Ramprasad moved to find that the allegations as set forth in the April 11, 2012 Notice in the matter of Charlotte Eileen Hovey, M.D., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective upon mailing, revoking the license of Dr. Hovey to practice medicine and surgery in Ohio. Dr. Bechtel seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye

Dr. Madia	- aye
Dr. Bechtel	- aye
Dr. Talmage	- abstain
Ms. Elsass	- aye
Mr. Kenney	- aye

The motion carried.

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

WALTER A. DOBSON, 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. Madia moved to send the Citation Letter to Dr. Dobson. Mr. Hairston seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to send carried.

RICHELLE MARIE REYNOLDS - 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. Reynolds. Mr. Hairston seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye

Dr. Mahajan	- aye
Dr. Madia	- aye
Dr. Bechtel	- aye
Dr. Talmage	- abstain
Ms. Elsass	- aye
Mr. Kenney	- aye

The motion to send carried.

JESSICA MARIE SOTO – 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 Ms. Soto. Dr. Madia seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion carried.

**Dr. Madia moved to table this topic in case of possible additional citations. Ms. Elsass seconded the motion.** All members voted aye. The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

KEITH PAUL HANLON, M.T. – PERMANENT SURRENDER

**Dr. Madia moved to ratify the Proposed Permanent Surrender with Mr. Hanlon. Mr. Hairston seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye

Dr. Mahajan	- aye
Dr. Madia	- aye
Dr. Bechtel	- aye
Dr. Talmage	- abstain
Ms. Elsass	- aye
Mr. Kenney	- aye

The motion to ratify carried.

LOUIS W. BRITTINGHAM, JR., D.O. – PERMANENT RETIREMENT

**Mr. Hairston moved to ratify the Proposed Permanent Retirement with Dr. Brittingham. Dr. Madia seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to ratify carried.

BRIAN FREDERIC GRIFFIN, M.D. – STEP I CONSENT AGREEMENT

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

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to ratify carried.

W. ANDREW HIGHBERGER, M.D. – STEP II CONSENT AGREEMENT

**Dr. Bechtel moved to ratify the Proposed Step II Consent Agreement with Dr. Highberger. Dr. Ramprasad seconded the motion.**

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

Dr. Ramprasad stated that he agrees with the permanent practice restriction in this Consent Agreement. Dr. Ramprasad asked why the Agreement requires only urine screens and has no requirement for a practice plan. Ms. Marshall replied that in this particular case, the physician's relapse involved anesthesia drugs, which he will no longer have access to since he will not be allowed to practice anesthesiology. Therefore, the standard urine screen panels are requested. Ms. Marshall noted that if information is received indicating the need for additional testing, the Secretary and Supervising Member can request that.

Regarding the issue of a practice plan, Ms. Marshall stated that the details of this case were reviewed by the Secretary and Supervising Member and they approved the Consent Agreement based on all the information available. This information included written assessments from addictionologists about the physician's fitness to return to practice and what restrictions and monitoring should be in place.

Mr. Kenney asked if the Secretary and Supervising Member could ask for additional testing based solely on the physician's history, rather than waiting for new information to arise. Ms. Marshall replied that historically, the Secretary and Supervising Member have not routinely selected additional testing for probationers unless specific information indicates that it is warranted.

Dr. Mahajan asked if future Consent Agreements in similar cases could include language allowing the Board to randomly order additional screens. Ms. Marshall replied that such language could be included in an agreement if the Secretary and Supervising Member felt it was appropriate.

Dr. Talmage suggested that the Board consult with an expert such as the Ohio Physicians Health Program regarding the cost and efficacy of additional tests. Ms. Bickers commented that when a practitioner is required to undergo any kind of drug testing, the Compliance Section reviews what tests would best detect the practitioner's drug of choice and seeks guidance from the Secretary and Supervising Member on how to proceed.

A vote was taken on Dr. Bechtel's motion to rarify:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye

Dr. Talmage	- abstain
Ms. Elsass	- aye
Mr. Kenney	- aye

The motion to ratify carried.

ADAM GEOFFREY MACE, M.D. – PROBATIONARY CONSENT AGREEMENT

**Dr. Madia moved to ratify the Proposed Probationary Consent Agreement with Dr. Mace. Mr. Hairston seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to ratify carried.

BRUCE J. MERKIN, M.D. – STEP II CONSENT AGREEMENT

Following Ms. Marshall's summary of this case, Dr. Suppan asked if the required polygraph testing would produce inaccurate information if the physician is abusing medications, since the drugs would alter his physiological responses. Ms. Marshall replied that that is a possibility. Ms. Marshall explained that the polygraph technician will ask a standard set of questions over time to establish a baseline; a deviation from the norm could result in an investigation.

Dr. Madia commented that he had never seen a provision for polygraph testing in a Consent Agreement before. Ms. Marshall stated that the physician's reinstatement assessment specifically recommended polygraph testing because the substances he relapsed on are not detectable on standard drug screenings. Dr. Suppan observed that this physician is an addictionologist and probably knows what drugs could be taken without detection. Ms. Marshall agreed and stated that this was probably another reason the polygraph testing was suggested.

Dr. Ramprasad was pleased that psychiatric therapy is included in the Consent Agreement. Dr. Ramprasad commented that many probationers may have underlying psychiatric problems that standard consent agreements do not address.

**Dr. Madia moved to ratify the Proposed Step II Consent Agreement with Dr. Merkin. Dr. Bechtel**

**seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to ratify carried.

JEFF B. ROMIG, M.D. – CONSENT AGREEMENT

**Dr. Madia moved to ratify the Proposed Consent Agreement with Dr. Romig. Dr. Bechtel seconded the motion.**

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

Dr. Ramprasad commented that this Consent Agreement provides for a 45-day suspension due, in part, to the physician having made false, fraudulent, deceptive, or misleading statements. Dr. Ramprasad opined that the Board's sanctions for such infractions seem to be inconsistent. Although Ms. Marshall could not discuss the specifics of this case, she stated that when the fact pattern of a case matches that of a previous case, the Board's action in that previous case is taken as instruction as to what discipline is appropriate. If a consent agreement is negotiated, it is based on that instruction and the guidance of the Secretary and Supervising Member.

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

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to ratify carried.

**Dr. Madia moved to table this topic in case of possible additional settlement agreements. Mr. Hairston seconded the motion.** All members voted aye. The motion carried.

Dr. Strafford exited the meeting at this time.

#### REINSTATEMENT REQUESTS

##### WESLEY F. HARD, M.D.

**Dr. Madia moved that the request for the reinstatement of the license of Wesley F. Hard, M.D., be approved, subject to the probationary terms and conditions as outlined in the November 10, 2010 Board Order for a minimum of five years. Dr. Bechtel seconded the motion.** A vote was taken:

ROLL CALL:	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion carried.

#### PROBATIONARY APPEARANCE

##### AMY WEIDMAN, M.D.

Dr. Weidman was making her initial appearance before the Board pursuant to the terms of the Board's Order of March 14, 2012. Ms. Bickers reviewed Dr. Weidman's history with the Board.

Dr. Suppan asked if Dr. Weidman has taken the courses that are required for reinstatement of her medical license. Dr. Weidman answered that she is registered for a course at Case Western Reserve University in September, but is hoping to take an earlier course at Northeast Ohio Medical University in July or August.

Dr. Madia asked how Dr. Weidman is currently passing her time. Dr. Weidman replied that she is working at home and gardening. Dr. Weidman continued that she has taken an online course on ethics in order to familiarize herself with the principles prior to her board-approved course. Dr. Weidman stated that she made a professional judgment error with regard to the patient in question. Dr. Weidman stated that taking care of someone you are personally related to, involved with, or have a friendship with is fraught with potential trouble because objectivity can become clouded. Dr. Weidman stated that it is not something she will do again.

Dr. Suppan asked if Dr. Weidman is enjoying her time off. Dr. Weidman replied that she has some anxiety about her practice and her patients, as well as her partners who have to carry her patient load until she returns. Dr. Weidman stated that she wants to return to practice as soon as possible.

**Dr. Madia moved to continue Dr. Weidman under the terms of the Board's Order of March 14, 2012. Dr. Suppan seconded the motion.** All members voted aye. The motion carried.

The Board took a brief recess at 2:40 p.m. and returned at 3:05 p.m. Dr. Talmage was not present when the meeting resumed.

#### PROPOSED FINDINGS AND PROPOSED ORDERS

**Dr. Suppan moved to remove the topic of Proposed Findings and Proposed Orders from the table. Mr. Hairston seconded the motion.** All members voted aye. The motion carried.

#### AMY LYNN BEAVER, P.A., Case No. 11-CRF-104

Dr. Suppan stated that amended Findings and an amended Order have been distributed to Board members for their review.

**Dr. Suppan moved to amend Proposed Finding #6 to read, "Service of the Notice was achieved in a manner prescribed in Section 119.07, Ohio Revised Code." Dr. Suppan further moved to add Proposed Finding #7, which reads, "Ms. Beaver failed to submit a request for hearing within 30 days of November 10, 2011." Dr. Suppan further moved to add Findings #8, #9, and #10 stating that the allegations were proven. Dr. Suppan further moved to amend the Order to say that, effective immediately, the certificate of Amy L. Beaver, P.A., to practice as a physician assistant in the state of Ohio be revoked. Mr. Hairston seconded the motion.**

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

Dr. Suppan stated that she offers this amendment because Ms. Beaver appears to be entrenched in the throes of her impairment and has not responded to the Board's Notice of Opportunity for Hearing. If adopted, the amended Order will give Ms. Beaver the opportunity, should she engage in meaningful recovery, to reapply for her Ohio physician assistant license.

#### ROLL CALL:

Mr. Hairston	- aye
Dr. Ramprasad	- aye
Dr. Suppan	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye
Dr. Bechtel	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye

The motion to amend carried.

**Dr. Madia moved to adopt the Amended Proposed Findings and Proposed Order, as amended, in the matter of Amy Lynn Beaver, P.A. Mr. Hairston seconded the motion. A vote was taken:**

ROLL CALL:	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to approve carried.

#### REPORTS AND RECOMMENDATIONS

**Dr. Ramprasad moved to reconsider the case of Miles E. Drake, Jr., M.D., for purposes of clarifying the Order. Dr. Madia seconded the motion. All members voted aye. The motion carried.**

#### MILES E. DRAKE, JR., M.D., Case No. 11-CRF-095

Ms. Debolt noted that earlier in the meeting, the Board members were presented with a written proposed amendment to the Proposed Order in the case of Dr. Drake. The written proposed amendment provided for a 30-day wind-down period prior to a proposed suspension. However, the written proposed amendment was never placed on the table for consideration and the Board instead amended the Proposed Order to revoke Dr. Drake's license. Ms. Debolt noted that prior to the Board's final vote, Dr. Drake's attorney asked if there would be a wind-down time before the revocation was effective. Although Ms. Debolt at that time answered that there was a wind-down period, there in fact was no such period provided for in the amendment the was actually adopted by the Board.

Ms. Debolt asked the Board to consider if the Order of revocation in the matter of Dr. Drake should have a 30-day wind-down period or if the revocation should be effective upon mailing of the Order.

Dr. Madia opined that it would be appropriate to provide for a 30-day wind-down period before the revocation is effective, during which time Dr. Drake will not be allowed to accept new patients and other standard stipulations.

**Dr. Madia moved to amend the Board's Order in the matter of Miles E. Drake, Jr., M.D., such that the revocation of Dr. Drake's license to practice medicine and surgery in Ohio become effective 30 days after the mailing of the Order. Dr. Madia further moved that the Board's standard language regarding such a 30-day period apply. Dr. Bechtel seconded the motion. A vote was taken:**

ROLL CALL:

Mr. Hairston	- aye
Dr. Ramprasad	- aye
Dr. Suppan	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye
Dr. Bechtel	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye

### PROBATIONARY APPEARANCES

#### DENISE M. BACHMAN, L.M.T.

Ms. Bachman was making her final appearance before the Board pursuant to her request for release from the terms of her March 10, 2010 Consent Agreement. Ms. Bickers reviewed Ms. Bachman's history with the Board.

Dr. Madia asked if Ms. Bachman understands that she must renew her license to practice massage therapy in Ohio. Ms. Bachman replied that she does understand. Dr. Suppan asked if Ms. Bachman has a system that will remind her of her obligation to renew. Ms. Bachman answered that she has placed her renewal dates on her calendar.

Dr. Suppan asked if Ms. Bachman is currently working. Ms. Bachman replied that she is currently working.

**Dr. Madia moved to release Ms. Bachman from the terms of her March 10, 2010 Consent Agreement. Mr. Hairston seconded the motion.**

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

Mr. Hairston asked Ms. Bachman to educate others in her profession about the need to timely renew their licenses. Ms. Bachman agreed.

**A vote was taken on Dr. Madia's motion.** All members voted aye. The motion carried.

#### ALLA MIKHILI, D.P.M.

Dr. Mikhli was making her final appearance before the Board pursuant to her request for release from the terms of the Board's Order of April 11, 2007. Ms. Bickers reviewed Dr. Mikhli's history with the Board.

Dr. Suppan asked if Dr. Mikhli is currently working. Dr. Mikhli replied that she works a couple of days per week with Michael Forman, D.P.M., and that this is working out well for her. Dr. Suppan asked what Dr. Mikhli's practice plans are following release from the Board's Order. Dr. Mikhli responded that she

will continue to work with Dr. Forman.

Dr. Suppan asked if Dr. Mikhli has made any progress with insurance companies. Dr. Mikhli replied that she has not made much progress. Dr. Suppan asked if Dr. Mikhli was barred from Medicare permanently. Dr. Mikhli responded that she was barred for 10 years, but she is trying to have that reduced to five years.

**Dr. Suppan moved to release Dr. Mikhli from the terms of the Board's Order of April 11, 2007. Mr. Hairston seconded the motion.** All members voted aye. The motion carried.

JOHN P. ELLIS, D.P.M.

Dr. Ellis was making his initial appearance before the Board pursuant to the terms of his December 14, 2011 Consent Agreement. Ms. Bickers reviewed Dr. Ellis' history with the Board.

Dr. Madia noted that this is not the first disciplinary action the Board has taken on Dr. Ellis. Dr. Madia stated that if Dr. Ellis continues to take such actions, the Board may revoke his medical license. Dr. Ellis stated that he understands.

Dr. Madia asked what Dr. Ellis is doing to help himself. Dr. Ellis replied that he is attending three Alcoholics Anonymous meetings per week, sees a psychotherapist monthly, and sees a psychiatrist quarterly. Dr. Ellis stated that he has been doing very well with his counseling.

Dr. Suppan asked if Dr. Ellis is currently on any medications. Dr. Ellis responded that he takes Prozac daily to control his impulse disorder.

Dr. Suppan asked about Dr. Ellis' situation in the years between his 1997 release from his previous Board Order and the December 2011 adoption of his current Consent Agreement. Dr. Ellis answered that he did well during that time, but the death of his sister, followed by the death of his brother and his diagnosis with Stage IV cancer, led to significant depression. Dr. Suppan asked how Dr. Ellis is doing currently. Dr. Ellis replied that he is doing well and sees an oncologist and otolaryngologist every two months.

Dr. Suppan asked if Dr. Ellis has a mentor or sponsor. Dr. Ellis answered that Atta Asef, D.P.M., has an office near his and they speak on a regular basis. Dr. Ellis also has a sponsor through AA who is a former patient of his.

Dr. Madia asked if Dr. Ellis does surgery or just has an office practice. Dr. Ellis replied that he assists in surgery, but does not perform solo surgery. Dr. Ellis explained that his surgical patients are referred back to his care about four to six weeks following surgery. In response to Dr. Madia and Dr. Suppan, Dr. Ellis stated that he has privileges at an outpatient surgery center but is credentialed only to assist in surgery.

**Dr. Madia moved to continue Dr. Ellis under the terms of his December 14, 2011 Consent Agreement. Dr. Bechtel seconded the motion.** All members voted aye. The motion carried.

Dr. Strafford returned to the meeting at this time.

ANTHONY H. LITTLE, L.M.T.

Mr. Little was making his initial appearance before the Board pursuant to the terms of his January 12, 2012 Consent Agreement. Ms. Bickers reviewed Mr. Little's history with the Board.

Dr. Madia asked if Mr. Little has learned anything from this experience. Mr. Little replied that he has learned. Mr. Little stated that since he passed the Medical Board's massage therapy examination one-and-a-half years ago, many of his colleagues have moved into the field while he has struggled to obtain his license. Mr. Little stated that he has complied with everything the Board has asked him to do and he is ready to move on with his career.

Dr. Suppan asked if Mr. Little belongs to any professional associations or something similar where he can get support from his peers on professional behavior. Mr. Little responded that he does not belong to any such organizations and opined that he does not need that sort of support. Mr. Little stated that he is a professional and he has made the necessary changes in his life to get himself to this point. Mr. Little stated that he is confident and he only needed an opportunity to prove himself, which he has already done.

Dr. Suppan stated that it would serve Mr. Little well to surround himself with friends so he has someone to go to when he needs help. Mr. Little agreed.

**Dr. Madia moved to continue Mr. Little under the terms of his January 12, 2012 Consent Agreement. Dr. Suppan seconded the motion.** All members voted aye. The motion carried.

JOSEPH F. LYDON, JR., M.D.

Dr. Lydon was making his initial appearance before the Board pursuant to the terms of his March 14, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Lydon's history with the Board.

Dr. Madia asked what kind of practice Dr. Lydon is currently doing. Dr. Lydon replied that during his three-year suspension, he joined the faculty of Bryant and Stratton College teaching medical terminology and physiology to medical assistants in training. Dr. Lydon stated that he is finishing out his teaching commitment and is speaking with institutions about returning to practice.

Dr. Talmage returned to the meeting at this time.

Dr. Madia asked what kind of practice Dr. Lydon intends to return to. Dr. Lydon answered that he will return to anesthesiology. Dr. Lydon stated that he had enjoyed being part of a surgical team and making a difference in patients' outcomes.

Dr. Madia noted that as an anesthesiologist, Dr. Lydon will have access to the same medications that he is addicted to. Dr. Lydon agreed, but noted that the same medications are also used in the emergency department, gastroenterology laboratory, and post-operative floors. Dr. Lydon stated that having been through the process of recovery and follow-up, he feels he is in the best shape of his career. Dr. Lydon

acknowledged that he is still recovering, in the present tense. Dr. Madia pointed out that in the other locations mentioned by Dr. Lydon, medications are given by a nurse, whereas an anesthesiologist personally gives the medications on a daily basis. Dr. Lydon agreed and noted that his Consent Agreement requires that he be administered Naltrexone, an opiate antagonist.

Dr. Suppan stated that a recent probationer stated that addiction never ends and his addiction was always outside the door waiting for him. Dr. Lydon agreed with that statement. Dr. Suppan asked Dr. Lydon to consider this before putting himself at risk by returning to the practice of anesthesiology. Dr. Lydon appreciated the Board's concerns.

Dr. Madia suspected the Dr. Lydon will have a difficult time finding a job and getting privileges in a hospital or outpatient surgery center. Dr. Lydon stated that he has spoken with institutions where he had trained and where similarly-impaired physicians have re-entered practice.

**Dr. Madia moved to continue Dr. Lydon under the terms of his March 14, 2012 Consent Agreement. Mr. Hairston seconded the motion.** All members voted aye. The motion carried.

MICHAEL C. MACATOL, M.D.

Dr. Mahajan stated that Dr. Macatol is not available and will be making a probationary appearance at a future meeting.

DOMINIC J. MAGA, D.O.

Dr. Maga was making his initial appearance before the Board pursuant to the terms of the Board's Order of March 9, 2011. Ms. Bickers reviewed Dr. Maga's history with the Board.

Dr. Madia asked if Dr. Maga understands why the Board took action. Dr. Maga replied that he understands the reason for the Board's action. Dr. Suppan asked if Dr. Maga filed his income tax return this year. Dr. Maga answered that he did file for this year as well as previous years.

Dr. Suppan asked how Dr. Maga felt about the ethics course he had taken. Dr. Maga answered that he loved the course and found the instructor, Dr. Homenko, very easy to talk to. Dr. Maga described some of the activities in the course. Dr. Suppan asked if Dr. Maga would consider telling his friends about the ethics course. Dr. Maga replied that he has already done so.

**Dr. Suppan moved to continue Dr. Maga under the terms of the Board's Order of March 9, 2011. Dr. Madia seconded the motion.** All members voted aye. The motion carried.

MAHENDRA K. MAHAJAN, M.D.

Dr. Mahendra Mahajan was making his initial appearance before the Board pursuant to the terms of his March 14, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Mahendra Mahajan's history with the Board.

Dr. Madia asked if Dr. Mahendra Mahajan is only taking Ambien or if he is taking other medications for major depression. Dr. Mahendra Mahajan replied that he also takes Lexapro and Trazodone. Dr. Madia asked if Dr. Mahendra Mahajan sees his psychiatrist regularly. Dr. Mahendra Mahajan answered that he sees his psychiatrist every month.

Dr. Madia asked how Dr. Mahendra Mahajan is handling his alcohol abuse. Dr. Mahendra Mahajan responded that he is grateful to God for what had happened to him. Dr. Mahendra Mahajan continued that his grief had been out of control and he used alcohol excessively. Dr. Mahendra Mahajan stated that he also had other problems at that time, including uncontrolled diabetes and surgery for irritable bowel syndrome. Dr. Mahendra Mahajan stated that he is thankful that he is being restored to his old self. Dr. Mahendra Mahajan stated that he attends three Alcoholic Anonymous meetings per week, attends caduceus meetings, and sees his therapist and his psychiatrist regularly. Dr. Mahendra Mahajan stated that he also volunteers at a hospital, a community center, and a summer camp.

Dr. Madia stated that Dr. Mahendra Mahajan is taking positive steps and encouraged him to keep it up.

**Dr. Madia moved to continue Dr. Mahendra Mahajan under the terms of his March 14, 2012 Consent Agreement. Dr. Bechtel seconded the motion.** All members voted aye. The motion carried.

SIVA RAO MURTHY, M.D.

Dr. Murthy was making his initial appearance before the Board pursuant to the terms of his March 14, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Murthy's history with the Board.

Dr. Madia asked what Dr. Murthy is currently doing. Dr. Murthy answered that he attends Alcoholics Anonymous and Narcotics Anonymous meetings, an aftercare program, and undergoes the Medical Board's random drug testing program. Dr. Murthy stated that he will soon begin seeing a psychiatrist for his history of depression. Dr. Murthy stated that it has been an eye-opening experience to be doing things away from work and medicine.

Dr. Madia asked if Dr. Murthy has good support. Dr. Murthy replied that he does have good support. Dr. Murthy stated that he and his ex-wife are very close and it has been very gratifying to be able to spend more time with his four children. Dr. Murthy stated that he has learned a lot about himself and how he deals with everyday issues.

**Dr. Madia moved to continue Dr. Murthy under the terms of his March 14, 2012 Consent Agreement. Ms. Elsass seconded the motion.** All members voted aye. The motion carried.

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

**Dr. Bechtel moved to remove the topic of citations from the table. Dr. Ramprasad seconded the motion.** All members voted aye. The motion carried.

JEFFREY TAIT NELSON, 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.

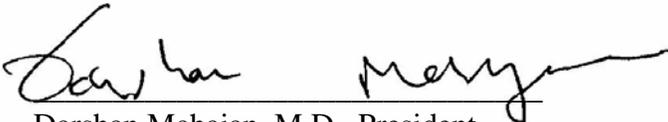
**Dr. Suppan moved to send the Citation Letter to Dr. Nelson. Dr. Madia seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Suppan	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion to send carried.

Thereupon, at 3:45 p.m., the June 13, 2012 session of the State Medical Board of Ohio was 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 June 13, 2012, as approved on July 11, 2012.

  
Darshan Mahajan, M.D., President

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

(SEAL)



**MINUTES****THE STATE MEDICAL BOARD OF OHIO****June 14, 2012**

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

Also present were: Richard Whitehouse, Executive Director; Sallie J. Debolt, General Counsel; Kimberly C. Anderson, Assistant Executive Director; Sara Vollmer, Assistant Executive Director; Susan Loe, Assistant Executive Director, Program Management and Operations; William J. Schmidt, Senior Counsel; Mike Miller, Program Manager for Policy and Governmental Affairs; Joan K. Wehrle, Education & Outreach Program Manager; Rebecca J. Marshall, Chief Enforcement Attorney; Danielle Bickers, Compliance Supervisor; Annette Jones, Compliance Officer; Heidi Dorn, Assistant Attorney General; Kay Rieve, Administrative Officer; Nicole Weaver, Chief of Licensure; Barbara Jacobs, Senior Executive Staff Attorney; and Benton Taylor, Executive Assistant to the Executive Director.

**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. No Board member wished to consider an item separately.

**Mr. Hairston moved to accept the Compliance staff's Reports of Conferences on May 7 & 8, 2012, with: Muhammad N. Akhtar, M.D.; Mark L. Allen, M.D.; Melissa K. Anderson, M.T.; Mark D. Baldwin, D.O.; Andrew J. Beistel, D.O.; Craig L. Bierer, D.O.; Robert L. Brandt, Jr., M.D.; Celeste D. Brewer-Edwards, P.A.; Lisa Ellen Burgan, M.T.; Terrance R. Conti, M.D.; Ericka L. Davis, P.A.; Franklin D. Demint, D.O.; Miles E. Drake, Jr., M.D.; Jennifer S. Dyer, M.D.; Thomas A. Gibbs, D.O.; Allison C. Grauer, M.D.; Brian F. Griffin, M.D.; John Mark Hatheway, M.D.; Nilesh B. Jobalia, M.D.; Sean M. Klepper, M.D.; Brian E. Leve, M.D.; Carol E. Lewis, M.D.; William G. Martin, M.D.; Zev R. Maycon, M.D.; David A. McMaken, M.D.; William J. Platt, D.O.; William Popovich, M.D.; James L. Reinglass, M.D.; Richard J. Ryan, M.D.; Alan D. Sabino, M.D.; Denise J. Signs, M.D.; Jon Berkley Silk, Jr., M.D.; Joseph P. Sitarik, D.O.; Rick D. St. Onge, M.D.; Rodney E. Stone, M.D.; Stephen A. Straubing, M.D.; Toby James Tippie, P.A.; Richard Mark Weil, M.D.; Randall Whitlock, Jr., P.A.; and Carmen L. Woolums, P.A.**

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

- To grant Gregory M. Beddell, M.D.'s request for approval of Douglas S. Wagner, M.D., to serve as the new monitoring physician;
- To grant Kory D. Brownlee, D.P.M.'s request for reduction in drug and alcohol rehabilitation meeting attendance to two per week with a minimum of 10 per month, discontinuance of the drug log requirement, discontinuance of the chart review requirement, and reduction in personal appearances to every six months;
- To grant Dustin M. Clark, M.D.'s request to discontinue the Naltrexone treatment requirement;
- To grant Mark E. DiLuciano, M.D.'s request for discontinuance of the random assay of waste medications, reduction in drug and alcohol rehabilitation meetings to two per week with a minimum of 10 per month, and reduction in appearances to one every six months;
- To grant Matthew R. Harris, D.O.'s request for elimination of the practice plan requirement, reduction in alcohol and drug rehabilitation meetings to two per week with a minimum of 10 per month, and reduction of drug screens to two per month;
- To grant Gregory Gene Johnson, M.D.'s request for approval of David L. Grossman, 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 Rebecca E. Johnson, M.D.'s request for approval of Jason M. Jerry, M.D., to serve as the treating psychiatrist and to conduct one of the two psychiatric assessments required for reinstatement;
- To grant Matthew D. Kellems, M.D.'s request for reduction in psychotherapy sessions to once per month, and reduction in psychiatric sessions to every quarter;
- To grant Byron C. Leak, M.D.'s request for approval of Nazim Syed, M.D., to serve as the new monitoring physician, and determination of the frequency and number of charts to be reviewed at 10 charts per month;
- To grant Paul D. Lopreato, P.A.'s request for approval of Robert E. Elliott, M.D., to serve as the treating psychiatrist;
- To grant Aiyappan Menon, M.D.'s request for reduction in drug and alcohol rehabilitation meetings to two per week with a minimum of ten per month;
- To grant Kimberly M. Nemeth, D.O.'s request for approval of Jeffrey A. Stanley, M.D., to serve as the monitoring physician, and determination of the number and frequency of charts to be reviewed at 10 charts per month;
- To grant Karen M. Orlosky, M.D.'s request for a waiver of her August 2012 and February 2013

appearances;

- To grant Kurt J. Palazzo, M.D.'s request for approval of Phillip D. Roberts, D.O., to serve as the new monitoring physician;
- To grant Parag Patel, M.D.'s request for reduction in personal appearances to every six months;
- To grant Jerry G. Purvis, Jr., M.D.'s request for approval of Mark S. Fettman, M.D., to conduct the psychiatric assessment required for reinstatement;
- To grant Bud E. Quintana, D.O.'s request for reduction in personal appearances to every six months, and reduction in drug and alcohol rehabilitation meetings to two per week with a minimum of 10 per month; and to deny Dr. Quintana's request to discontinue psychological counseling and to approve the Secretary and Supervising Member's recommendation to reduce psychological counseling to an as-needed basis;
- To grant Lawrence Gene Ratcliff, M.D.'s request for permission to administer, personally furnish, or possess controlled substances, and discontinuance of the chart review requirement;
- To grant Matthew C. Riesen, M.D.'s request for approval of Eric M. Layne, M.D., to conduct the psychiatric assessment required for reinstatement;
- To grant Dan Ryu, M.D.'s request for reduction in appearances to once every six months, and reduction in drug and alcohol rehabilitation meetings to two per week with a minimum of ten per month; and
- To grant Andreas Herbert Szokoloczy-Syllaba, D.O.'s request for approval of an increase in work hours to 55 hours per week.

**Dr. Bechtel seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Strafford	- abstain
	Mr. Hairston	- aye
	Dr. Ramprasad	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- abstain
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion carried.

#### ADMINISTRATIVE REPORT

Mr. Whitehouse invited the Board to discuss some issues related to Maintenance of Licensure (MOL) at the end of the meeting, if it so chooses. Mr. Whitehouse stated that, at the Board's direction, he sent information regarding MOL to major stakeholder associations. As a result, Mr. Whitehouse had conversations with representatives from the Ohio Osteopathic Association, the Ohio Podiatric Medical Association, the Academy of Medicine of Cleveland and Northern Ohio, and the Ohio Academy of Family Physicians. After the discussions, Mr. Whitehouse found that these organizations are willing to partner with the Medical Board on this subject. Mr. Whitehouse hopes to have similar discussions with the Ohio State Medical Association and the Ohio Society of Anesthesiologists.

Mr. Whitehouse stated that the Governor's Cabinet Opiate Action Team has formed a Reforming Prescribing Practices subcommittee. That subcommittee has itself produced two subcommittees, one on clinical triggers and one on metrics. Mr. Whitehouse stated that Dr. Strafford and Dr. Bechtel have agreed to serve on the subcommittees on clinical triggers and metrics, respectively.

Mr. Whitehouse noted that the roles and responsibilities of Secretary and Supervising Member have been examined to determine if any of their current burdens can be lifted. Mr. Whitehouse credited Ms. Bickers with the suggestion that the Secretary and Supervising Member's rounds with the staff could be accomplished by teleconferencing. Mr. Whitehouse stated that equipment will be installed in the Albert Multi-Purpose Conference Room to allow for teleconferencing; this will hopefully reduce the amount of time the Secretary and Supervising Member are required to donate to the Board.

Mr. Whitehouse stated that the Message Therapy Advisory Committee's next meeting will be on Thursday following next month's Board meeting. Mr. Whitehouse stated that any Board members who wish to appear at that meeting are invited to do so.

Mr. Whitehouse stated that Public Citizen's annual report on state medical boards has been released. Mr. Whitehouse noted that the State Medical Board of Ohio did remarkably well, ranking first among large boards and third among all boards with regard to disciplinary actions. Mr. Whitehouse was pleased that the Board received this ranking and stated that it is an important statistic in the context of the Board's activities. Mr. Whitehouse credited the work of the entire staff, stating that all parts of the Board must work together for the Board to accomplish its mission. Dr. Mahajan thanked the staff and expressed pride in the staff's accomplishments.

#### ELECTION OF SUPERVISING MEMBER

Dr. Mahajan asked Ms. Anderson to describe the Executive Committee's discussion of the position of Supervising Member. Ms. Anderson explained that Dr. Talmage, who is currently serving as Acting Supervising Member, will be unable to continue in that role as of July 1. Although Dr. Steinbergh had agreed to serve in that role on at least a temporary basis, her availability in July is also uncertain. Ms. Anderson stated that if a Supervising Member or Acting Supervising Member is not in place on July 1, it will be very difficult to bring any citations or consent agreements before the Board next month.

Dr. Mahajan stated that Dr. Bechtel has been gracious enough to accept this position.

**Dr. Madia moved that Dr. Bechtel become the Board's new Supervising Member. Dr. Strafford seconded the motion.** All members voted aye. The motion carried.

#### REPORTS BY ASSIGNED COMMITTEES

##### AD HOC BUDGET REVIEW COMMITTEE

Ms. Loe stated that Ms. Wehrle prepared a presentation on the Board's budget which was viewed by the *Ad Hoc* Committee. Specifically, the Committee focused on licensure and renewal fees, the Board's vacant staff positions, and a retirement projection report. A draft of frequently asked questions (FAQ's) was also developed.

Ms. Wehrle reviewed the slides of the PowerPoint presentation with the Board. Ms. Wehrle noted that the Board's 5C6 fund supports the Board's operation and the primary funding is from licensure renewal fees; the Board utilizes no funds from the General Revenue Fund. Ms. Wehrle further noted that because of sound fiscal management and conservative spending, there have been no changes in physician licensure or renewal fees since 1999. Despite this, the Board has increased productivity and absorbed additional responsibilities during that period. Ms. Wehrle also pointed out that during that time the number of licensees regulated by the Board has increased 32%, complaints on practitioners have increased 46%, and Board actions have increased 31%. Ms. Wehrle presented a graph showing that the Board's revenue has increased almost 2% annually and expenditures have increased about 3.9% annually. Ms. Loe stated that the increases in expenditure have been due to state mandates beyond the Board's control. Ms. Wehrle stated that under the Board's proposed new fees, the physician licensure fee will still be 5% below the national average and the physician renewal fee will be 8% below the national average. Ms. Loe thoroughly reviewed the draft FAQ's with the Board.

Dr. Madia opined that this information strongly supports the need for an increase in physician licensure and renewal fees. Dr. Madia noted that if the fee increases are approved, it is projected that another fee increase would not be needed for at least 10 years. The Board engaged in a thorough discussion of the Board's current fiscal situation, including the possibility of credit card convenience fees which the Board is currently unable to collect.

Dr. Ramprasad noted that \$20.00 of every physician renewal fee, or nearly \$500,000.00 per year, is funneled to the Physician Loan Repayment Program administered by the Department of Health. Dr. Madia stated that these funds are meant to support physicians who work in underserved areas. However, Dr. Madia is unaware of any physician having received these funds. After discussion, the Board asked Mr. Miller to determine the final disposition of these funds and, if they are not going towards their stated goal, to ask the legislature to remove the Board's requirement to send those monies.

Dr. Madia stated that this would be an appropriate time to discuss the possibility of increased licensure fees with the Ohio State Medical Association, the Ohio Osteopathic Association, and the Ohio Podiatric Medical Association. Mr. Whitehouse replied that he will invite discussions with those organizations.

Dr. Ramprasad stated that the Board must have contingency plans in case the increased fees are not

approved by the legislature. Dr. Ramprasad noted that the topic of Maintenance of Licensure (MOL) has upset some in the medical community and may prompt the associations to oppose an increase. Dr. Madia emphasized that the proposed increase in fees would not be used to support an MOL program, but rather would allow the Board to continue its present functions, decrease the time required for licensure, and adopt a more efficient e-licensing system.

#### FISCAL REPORT

Ms. Loe stated that the April Fiscal Report has been distributed to the Board Members. Ms. Loe noted that April had three pay periods instead of the usual two, and so expenditures were higher for that month. Ms. Loe also stated that, as a result of increased revenue and not filling vacant positions, the Board's cash balance is approximately the same as it was at the beginning of the fiscal year. Ms. Loe stated that revenue is typically increased in an even-numbered fiscal year and can be expected to be lower the following year.

#### LICENSURE UPDATE

Ms. Vollmer stated that the monthly licensure update has been distributed to Board members.

Ms. Vollmer stated that a meeting is being arranged with the Ohio Council of Medical School Deans to discuss the Board's physician application and training certificate application.

Ms. Vollmer stated that the Group 1 Committee discussed target dates for getting applicants for licensure onto the Board agenda for Board approval each month. Ms. Vollmer stated that the target date is one week before the Board meeting, which is the deadline of Agenda Supplement materials; all applicants with complete applications at that point are put on the agenda for approval. Regarding the apparent 30-day wait which some applicants have reported, Ms. Vollmer stated that it is generally 25 to 27 days after the receipt of an application before it is initially reviewed. This is due to the volume of applications and the fact that only two staff members are able to be devoted to that process. Depending on timing, some applicants have to wait until the following month's Board meeting to have their licensure approved.

The Board engaged in a general discussion of ways to expedite the licensure process. Ms. Vollmer stated that one of her requests to fill an additional position may be approved. Dr. Talmage noted that one additional person reviewing applications would reduce processing time by one third.

Dr. Ramprasad suggested that the Board seek a statutory change which would allow the Secretary and Supervising Member to approve clean applications without the approval of the full Board. Dr. Talmage defined "clean application" as an application which has no answers that warrant further investigation and no hits on a criminal background check. Dr. Talmage stated that the legislature could grant licensure authority for clean applications to the Secretary and Supervising Member, or even to the Board's Executive Director or staff. Current law requires the full Board to approve all licensure applications.

Dr. Madia opined that the Board should seek legislative changes in this regard, stating that it would be positive for all physicians. Mr. Whitehouse agreed and stated that the Board would still be involved in licensure because it would define what a clean application is. Mr. Whitehouse strongly suggested that the

Board pursue this matter. Dr. Mahajan and Dr. Strafford agreed and added that the definition of “clean application” should be reviewed by the Board periodically.

Mr. Hairston exited the meeting at this time.

#### LICENSURE APPLICATION REVIEWS

##### JON B. BRUSS, M.D.

Ms. Rieve stated that Dr. Bruss has been granted conditional approval of his application for licensure, conditional upon his taking and passing either the Special Purpose Examination or his specialty board recertification examination.

Ms. Rieve continued that Dr. Bruss has not received the Board’s Notice of Opportunity for Hearing due to a problem with service. Also, Ms. Rieve stated that Dr. Bruss has submitted information that he is current with his specialty board’s Maintenance of Certification requirements. Dr. Bruss is unable to take the recertification examination due to the board’s examination cycle.

Ms. Rieve stated that the Group 1 Committee recommends dismissing the Notice of Opportunity for Hearing and to approve Dr. Bruss’ application for licensure.

**Dr. Madia moved to dismiss the pending Notice of Opportunity for Hearing issued to Dr. Bruss on October 21, 2011. Dr. Madia further moved to approve Dr. Bruss’ request for licensure as presented. Dr. Bechtel seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Strafford	- aye
	Dr. Ramprasad	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion carried.

##### NICOLE TIGYER, L.M.T.

Ms. Rieve stated that Ms. Tigyer has applied for restoration of her license to practice massage therapy in Ohio and has not worked as a massage therapist since 2003. The Group 1 Committee recommends approving Ms. Tigyer’s application, provided she take and pass the MBLEx.

**Dr. Madia moved to approve Ms. Tigyer’s request for restoration of her massage therapy license, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEx). Dr.**

**Talmage seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Dr. Ramprasad	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye
	Dr. Bechtel	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Mr. Kenney	- aye

The motion carried.

#### APPLICATION FOR CLINICAL RESEARCH FACULTY CERTIFICATE

Ms. Vollmer stated that in anticipation of the passage of legislation establishing the Clinical Research Faculty Certificate, the Board had previously approved an application form for that certificate. Ms. Vollmer explained that before final passage of the bill, the legislature removed the provision requiring applicants to take and pass the Test of English as a Foreign Language Internet-Based Test (TOEFL iBT) to demonstrate command of spoken and written English. Consequently, the application form has been changed to remove references to the TOEFL iBT.

Ms. Vollmer stated that affidavit has also been changed so that the Dean or Chairperson attests to the applicant's compliance with a current Clinical Research Faculty Certificate when applying for renewal.

**Ms. Elsass moved to approve the changes to the Clinical Research Faculty Certificate application. Dr. Madia seconded the motion.** All members voted aye. The motion carried.

#### PROPOSED COMPLIANCE GUIDELINES

Ms. Bickers stated that the compliance guidelines adopted by the Board in 2007 has helped provide consistency in monitoring the Board's probationers. Since that time, the Board's consent agreements have included a new drug testing program. Ms. Bickers stated that the proposed additions to the compliance guidelines reflect the new drug testing program and monitoring associated with it. Ms. Bickers stated that although the Compliance Department has already been monitoring probationers with the new drug testing program, the Board's adoption of the proposed changes will formalize the process.

**Dr. Talmage moved to approve the proposed changes to the compliance guidelines. Dr. Strafford seconded the motion.** All members voted aye. The motion carried.

#### LEGISLATIVE UPDATES

**House Bill 292, Genetic Counselors:** Mr. Miller stated that this legislation was signed by the Governor on June 6. The bill included language establishing the Clinical Research Faculty Certificate. That portion

of the bill contained an emergency clause, and so it became effective immediately.

Mr. Miller continued that the remainder of the bill, which will become effective 90 days after the Governor's signature, requires the Medical Board to begin licensing and regulating genetic counselors. The bill also establishes the Visiting Clinical Professional Development certificate, which the Board developed in collaboration with Cincinnati Children's Hospital.

**House Bill 487, Mid-Biennium Budget Review:** Mr. Miller stated that this bill included language for the Conceded Eminence certificate and will become effective 90 days after the Governor's signature, which is expected this week. In addition, the bill changes the Board's chronic pain statute to allow the Board, through the rule-making process, to establish standards for consulting with another physician in the care of a patient with chronic pain. The bill also reiterates that neither physician assistants nor advanced practice nurses can exceed the Medical Board's rules pertaining to the treatment of chronic pain.

**Telemedicine:** Mr. Miller stated the he and Dr. Strafford met with the Health Policy Institute of Ohio with regards to their July forum "Moving Telehealth Forward in Ohio." Mr. Miller stated that he and Dr. Strafford will make a presentation at the forum and will be part of a stakeholder group discussing the direction of telemedicine and telehealth in Ohio. Also, draft language was developed that may form the basis of legislation on telemedicine.

Mr. Hairston returned to the meeting at this time.

Dr. Strafford asked the Board members to share their opinions on telemedicine and telehealth to ensure that he and Mr. Miller properly represent the Board's position to outside parties. The Board engaged in a thorough discussion of the topic of telemedicine. The Board most notably discussed minimal standards of care in telemedicine, appropriate examination and follow-up, prescribing issues, treatment of new vs. established patients, and the need for a physician to be able to trust the institution or healthcare professional who is physically present with the patient. All Board members agreed that telemedicine and telehealth will become much more common and the Board must be in a position to influence the development of standards of care around these technologies.

Mr. Whitehouse stated that he and the staff will provide the Board members with materials from past presentations and the Board's research on telemedicine.

**Chronic Pain Advisory Committee:** Mr. Miller stated that the Board's Chronic Pain Advisory Committee last met on May 16. At that meeting, Dr. Gary Franklin from Washington state discussed the chronic pain rules in his state. Mr. Miller stated that since that time, the Governor's Reforming Prescribing Practices Committee has started discussions of possible legislation creating prescribing thresholds and triggers for consultations. Mr. Miller stated that the Chronic Pain Advisory Committee is now waiting to see if legislation will be proposed and what the details of that legislation will be.

#### **PHYSICIAN ASSISTANT SUPERVISION AGREEMENT APPLICATIONS**

**STEVEN MANN, D.O., BARRY MARGED, D.O., & MICHAEL DAWES, M.D.**

Dr. Bechtel stated that this application is for Jon Benson, P.A.-C., to work in the above-mentioned physicians' practice, Immediate Urgent Care. Upon review, the Group 2 Committee felt that the proposed supervision agreement provides inadequate supervisory review. Specifically, the proposed agreement provides for review of Mr. Benson bi-monthly for the first six months and then every six months afterwards.

Dr. Bechtel continued that the primary concern of the Committee was that Mr. Benson would be working in an office in which a supervising physician is rarely present. Dr. Bechtel stated that while a physician assistant may practice without a supervising physician being present, they must be in an office which the supervising physician uses on a regular basis.

Dr. Bechtel stated that the Group 2 Committee recommends that this application be denied.

**Dr. Bechtel moved to deny the physician assistant supervision agreement application of Steven Mann, D.O., Barry Marged, D.O., and Michael Dawes, M.D., due to inadequate supervisory review and the physician assistant's proposed practice in an office not routinely used by a supervising physician. Dr. Madia seconded the motion.** All members voted aye. The motion carried.

#### URGENT CARE OF WAUSEON, LLC

Dr. Bechtel stated that this application is for Andrea Fox, P.A.-C., to work in the above-mentioned urgent care center. Dr. Bechtel stated that the offices in question are used by family practitioners in the daytime and become an urgent care center in the evening for after-hours evaluations of patients of the practice. Under the proposed agreement, Ms. Fox would have direct access to the practice's physicians in the evening. Also, Ms. Fox would be working in the same office which employs the supervising physician.

Dr. Bechtel stated that the Group 2 Committee recommends approval of this application.

**Dr. Bechtel moved to approve the physician assistant supervision agreement application of Urgent Care of Wauseon, LLC. Dr. Madia seconded the motion.** All members voted aye. The motion carried.

#### DISCUSSION OF MAINTENANCE OF LICENSURE

Dr. Mahajan noted that at its May 2012 meeting, the Board resolved to engage in a pilot study to determine the viability and desirability of adopting a Maintenance of Licensure (MOL) program. Dr. Mahajan invited Mr. Whitehouse to discuss this topic with the Board. Mr. Whitehouse stated that there are several questions regarding MOL that the Board needs to consider, including periodicity, portability, and reciprocity.

Mr. Whitehouse asked the Board to consider what action it is willing to take in the event that a physician fails to meet standards which the Board may establish in a hypothetical MOL program. Mr. Whitehouse commented that the Board's actions could range from refusal to renew a license to no action at all.

Dr. Madia opined that any physician who does not meet MOL standards should be given a specific timeframe in which to come into compliance; if the individual still fails to comply, the medical license should be revoked. Dr. Talmage agreed that a system of probation and remediation within a fixed time period would be appropriate. Dr. Talmage opined that if a physician cannot or will not engage in such remediation, they are not fit to practice and the Board should revoke their license. Dr. Talmage felt that revocation should be non-permanent in such cases, thus giving the physician an opportunity to obtain appropriate education and reapply for a medical license.

Dr. Ramprasad opined that it is inappropriate for the Board to consider possible punitive actions before defining what would be expected of a physician in an MOL system. Dr. Ramprasad stated that physicians are already burdened with many other requirements from hospitals and all levels of government. Dr. Ramprasad also stated that there is no scientific data to show that an MOL system would result in better physicians. Dr. Talmage disagreed and stated that a growing bibliography of articles shows a high rate of adverse outcomes related to incorrect medications, incorrect treatments, or improperly-administered treatments. Dr. Talmage also noted a study published in the Journal of the American Medical Association which showed that physicians rate their knowledge and skills 50% higher than their colleagues do.

Dr. Talmage stated that conscientious physicians always want to learn the best and newest treatments. However, Dr. Talmage stated that not all physicians are conscientious, and this is why a system like MOL is necessary. Dr. Talmage stated that MOL provides a non-punitive method of keeping a record of what physicians have done to maintain and improve their practices.

Dr. Madia agreed with Dr. Ramprasad's previous statement that the criteria of MOL should be discussed prior to consideration of possible disciplinary actions. Mr. Whitehouse agreed and stated that the intent of MOL is not to punish physicians.

Mr. Whitehouse asked if the Board agrees with the general premise that if a physician has met the certification standards of their specialty board, that should be sufficient to meet the Medical Board's MOL standards. All Board members agreed with that premise.

Mr. Whitehouse asked how an MOL system could address physicians who are not board certified and have no interest in seeking board certification. Discussion ensued among the Board members on this topic. Dr. Talmage opined that the Continuing Medical Education (CME) industry will respond to MOL by developing products that will meet the educational needs of non-board certified physicians. Dr. Ramprasad felt that specialty boards should follow the example of the American Congress of Obstetrics and Gynecology, which is in the process of developing a means by which non-board certified physicians in their specialty can demonstrate their competency.

Dr. Ramprasad stated that by the time MOL is instituted in approximately seven years and physicians are given a number of years beyond that to meet the requirements, non-board certified physicians will account for an even smaller percentage of the physician population. Mr. Whitehouse stated that there has been some confusion regarding the timeline for MOL implementation. Mr. Whitehouse stated that, while it may take seven to ten years to fully implement MOL, certain aspects of MOL can be instituted on a shorter timeframe if the Board decides to adopt it following the pilot study; the pilot study is expected to conclude

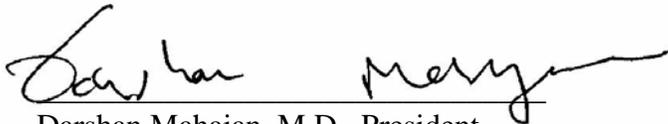
by the end of 2012 or shortly thereafter. Dr. Ramprasad stated that he had been given the strong impression that MOL, if adopted, would not begin for six to seven years. Dr. Talmage explained that the full manifestation of MOL as a mandatory system will probably take six to seven years, but data collection and determination of the efficacy of MOL would begin sooner.

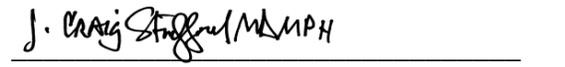
Dr. Bechtel noted that thousands of retired physicians throughout Ohio deliver care to indigent patients on a voluntary basis. Dr. Bechtel stated that these physicians are very concerned that MOL may negatively impact their ability to continue these services. Dr. Bechtel stated that he heard similar concerns from other states at the Federation of State Medical Boards' 2012 Annual Meeting. Mr. Whitehouse agreed that this is an important point to consider.

After further discussion, the Board agreed to continue this dialogue at future meetings.

Thereupon at 11:00 a.m., the June 14, 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 June 13-14, 2012, as approved on July 11, 2012.

  
Darshan Mahajan, M.D., President

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

(SEAL)

