

MINUTES**THE STATE MEDICAL BOARD OF OHIO****September 12, 2012**

Darshan Mahajan, M.D., President, called the meeting to order at 1:00 p.m. in the Administrative Hearing Room, 3rd Floor, the James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Anita M. Steinbergh, D.O., Vice President; J. Craig Strafford, M.D., Secretary; Mark A. Bechtel, M.D., Supervising Member; Lance A. Talmage, M.D.; Dalsukh Madia, M.D.; W. Frank Hairston; Marchelle L. Suppan, D.P.M.; Kris Ramprasad, M.D.; Laurie O. Elsass; and Donald R. Kenney, Sr.

Also present were: Richard A. Whitehouse, Executive Director; Sara Vollmer, Assistant Executive Director; Kimberly Anderson, 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; Marcie Pastrick, Karen Mortland, Mark Blackmer, Dan Zinsmaster, Cheryl Pokorny, and Sheldon Safko, Enforcement Attorneys; Katherine Bockbrader, Kyle Wilcox, Henry Appel, Melissa Snyder, and Heidi Dorn, Assistant Attorneys General; Patricia Davidson, Chief Hearing Examiner; Gregory Porter, and Danielle Blue, Hearing Examiners; Gary Holben, Operations Administrator; Kevin Beck, Investigator Supervisor; Danielle Bickers, Compliance Supervisor; Annette Jones, Compliance Officer; Kay Rieve, Administrative Officer; Nicole Weaver, Chief of Licensure; Barbara Jacobs, Senior Executive Staff Attorney; Jacqueline A. Moore and Fonda Brooks, Public Information Assistants; and Benton Taylor, Executive Assistant to the Executive Director.

MINUTES REVIEW

Dr. Steinbergh moved to approve the draft minutes of the August 8-9, 2012, Board meeting, as written. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

EXECUTIVE SESSION

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

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

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

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session at 1:00 p.m., with Mr. Whitehouse, Ms. Vollmer, Ms. Anderson, Ms. Loe, Ms. Debolt, Ms. Wehrle; Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Bickers, Ms. Jones, Ms. Rieve, Ms. Weaver, Ms. Jacobs, Ms. Moore, Ms. Brooks, and Mr. Taylor in attendance. At 1:10 p.m., all staff except Mr. Whitehouse, Ms. Loe, and Ms. Debolt exited the Executive Session.

The Board returned to public session at 1:15 p.m.

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 massage therapy applicants listed in Exhibit "C," the acupuncturist applicants listed in Exhibit "D," the anesthesiologist assistant applicants listed in Exhibit "E," to grant Certificates of Good Standing to the limited branch schools listed in Exhibit "F," and to approve the results of the August 2012 Cosmetic Therapy Examination and to certify as passing and license those receiving a score of 75 or greater on their examination, and to certify as failing and deny licensure to those who received a score of less than 75 on the examination. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:

Dr. Strafford - aye
Dr. Bechtel - aye
Mr. Hairston - aye
Dr. Suppan - aye
Dr. Steinbergh - aye
Dr. Mahajan - aye
Dr. Madia - aye
Dr. Talmage - aye
Ms. Elsass - aye
Mr. Kenney - aye
Dr. Ramprasad - 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: Jose Villavicencio, M.D.; Samuel J. Christian, M.D.; Terry Alan Dragash, D.O.; Yemi M. Fasakin, M.D.; Tumanya Nikol Jones, P.A.; Ali Khan, M.D.; Charmaine Nicole Reese; and Ernesto Compendio Tan, M.D.

A roll call was taken:

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

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

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

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 any disciplinary matters. In the matter before the Board today, Dr. Strafford served as Secretary, Dr. Bechtel served as Supervising Member, and Dr. Talmage served as Secretary and/or Acting 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.

JOSE VILLAVICENCIO, M.D., Case No. 11-CRF-046

Dr. Mahajan directed the Board's attention to the matter of Jose Villavicencio, M.D. He advised that objections were filed and have been previously distributed to Board members. Ms. Petrucci was the Hearing Examiner.

Dr. Mahajan stated that Dr. Villavicencio has filed a motion for the Medical Board to review his objections to the rulings on evidence, motions, and on procedural matters adopted by the Hearing Examiner during the Hearing.

Dr. Steinbergh moved to deny Dr. Villavicencio's motion. Dr. Madia seconded the motion. A vote was taken:

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

The motion to deny the motion carried.

Dr. Mahajan continued that a request to address the Board has been timely filed on behalf of Dr. Villavicencio. In accordance with a ruling by the President, Dr. Villavicencio and the Assistant Attorneys General will each be allowed 10 minutes to address the Board. Dr. Mahajan explained that normally only five minutes are allowed to address the Board, but an exception was made in this particular case. Dr. Mahajan stated that the Board is unlikely to make another exception in the future.

Dr. Villavicencio was represented by his attorney, Douglas Graff.

Mr. Graff stated that Dr. Villavicencio's case is unusual in many respects. First, Mr. Graff noted a significant time gap between the patient care in question and the date of Dr. Villavicencio's hearing. Also, Mr. Graff stated that there is significant alternative litigation which he believes has impacted how Dr. Villavicencio's matter has been handled by the Board. Mr. Graff opined that the administrative action

brought against Dr. Villavicencio was brought solely to circumvent a civil case pending before the Franklin County Court of Common Pleas.

Mr. Graff stated that this case revolves around the Board's attempt to secretly depose Dr. Villavicencio in 2008. Mr. Graff stated that when he [Mr. Graff] attempted to record that deposition, he was charged with interfering in the Board's processes. Subsequently, Mr. Graff filed for and received a temporary restraining order against the Board with the goal of affording physicians their basic civil liberties during a Board investigation. Mr. Graff stated that the court has not yet ruled on the underlying issue or a permanent injunction. Mr. Graff stated that the Board improperly nullified the application of that case by bringing this intervening administration action against Dr. Villavicencio.

Mr. Graff continued that Dr. Villavicencio had asked the Board to review the Hearing Examiner's rulings on procedural hearing motions. Mr. Graff opined that it is the obligation of the Board to review the objections to the Hearing Examiner's rulings, stating that there is no fairness or due process in a system that ignores fundamental issues of jurisdiction, the scope of the allegations to be considered, and the admissibility of evidence. Mr. Graff stated that it is a clear violation for the Board to merely agree with whatever the Hearing Examiner does. Mr. Graff noted that, while the Board members are not attorneys, they are aided by a bevy of attorneys. Mr. Graff opined that the Board's motion to deny, without any discussion, Dr. Villavicencio's request to review the Hearing Examiner's rulings undermines what the Board is supposed to do when it appoints a hearing officer in its stead.

Mr. Graff stated that Dr. Villavicencio was precluded from a fair hearing by the inclusion of highly irrelevant and inflammatory coroner reports. Mr. Graff stated that the coroner reports were not maintained in Dr. Villavicencio's medical record, were not authenticated during the hearing, and should not have been admitted as evidence. Mr. Graff also stated that the patients' deaths raised in the citation letter were never charged against Dr. Villavicencio and the discussions of the deaths in the hearing were irrelevant. Mr. Graff opined that the fact of the deaths is overtly prejudicial and was included only to incense, inflame, and influence the Board and the public against Dr. Villavicencio.

Mr. Graff stated that the key to understanding Dr. Villavicencio's case is to consider and properly weigh his education, training, and practice experience at the time he began his private practice. From 1993 to 2005, Dr. Villavicencio was an emergency physician treating emergency patients. Mr. Graff stated that Dr. Villavicencio learned to be suspicious of patients who may be seeking drugs. Mr. Graff stated that in switching to family practice, Dr. Villavicencio needed to trust his patients and not necessarily believe that they were being deceptive to obtain drugs. Mr. Graff stated that this is a fundamental shift in the physician/patient relationship.

Mr. Graff continued that at the time Dr. Villavicencio opened his practice, the state of Ohio did not have an effective prescription monitoring system. Mr. Graff stated that when the Ohio Automated Rx Reporting System (OARRS) was implemented, Dr. Villavicencio was an early and eager participant in the program and was even chastised for overusing it. Mr. Graff stated that Dr. Villavicencio continues to increase his practice through education and certification in his area of specialty and in diversion of medications.

Mr. Graff asked the Board to consider that at the approximate time Dr. Villavicencio opened his practice,

the Ohio State University had just closed its pain clinic, flooding the Columbus area with many patients requiring continued pain management. Mr. Graff stated that every patient whose record was reviewed by Board began their physician/patient relationship with Dr. Villavicencio as a continuation of a treatment plan started by a prior physician and then modified by Dr. Villavicencio as appropriate.

Mr. Graff noted that the State's expert, Robert Kelly, M.D., presented credible testimony at the hearing; however, on the day of the hearing Dr. Kelly found that he did not know how to access, read, or interpret the medical records of Dr. Villavicencio and his system. Mr. Graff stated that Dr. Kelly had not reviewed the patients' intake forms or the nursing notes when drafting his report, and he was not informed that he only had parts of the medical records. Mr. Graff stated that Dr. Kelly was improperly influenced by the coroner reports that had been improperly provided to him during his review of the records. Mr. Graff stated that while Dr. Kelly's testimony is informative and could aid the Board in addressing its concerns, Dr. Kelly's ultimate conclusions must be received within the context of his lack of knowledge about Dr. Villavicencio's actual medical practice.

Mr. Graff requested that the Board dismiss the action against Dr. Villavicencio. Mr. Graff asked that, should the Board choose to impose a penalty, either a suspension or a revocation be imposed rather than a permanent revocation and that a period be allowed for Dr. Villavicencio to wind down his practice.

Dr. Villavicencio noted that in nearly seven years of investigation, this is the first time he has found himself facing fellow physicians. Dr. Villavicencio stated that he has been accused of running a pill mill, of gross incompetence, and of causing the deaths of some of his patients. Dr. Villavicencio stated that investigators from the Attorney General's office and the Medical Board have focused on the medical records of 16 of his 2,000 patients and examined them using the standards of 2012.

Dr. Villavicencio stated that if the Board had sent investigators to his office, they would have found the following: Dr. Villavicencio's practice routinely performs 10 to 15 drug screens every day; most of his patients worked physical jobs, and treatment with anti-inflammatory medications, physical therapy, and injections have allowed them to continue working so they can pay down their mortgages and put food on the table; his practice struggles every day to get past insurance denials, obtain medical records, and pre-authorize medications with limited resources; and that his practice constantly changes the way it practices in order to adapt to changing times.

Dr. Villavicencio stated that when he opened his clinic in 2005, the emphasis was on relieving pain. Dr. Villavicencio stated that he gladly accepted the first patients when the Ohio State University closed its pain management clinic, but opined that he should have asked why a venerable institution would close its pain clinic. Dr. Villavicencio stated that the practice was new to him as he had worked for more than 10 years as an emergency physician, but he had welcomed the challenge. Dr. Villavicencio stated that he had sought the help and mentorship of a number of pain management physicians in Columbus, enrolled in pain management courses, and read journals and books. Dr. Villavicencio stated that his practice instituted routine drug screens in 2005; by contrast, Dr. Villavicencio noted that the University of Illinois pain management clinic did not begin drug screens until 2008. Dr. Villavicencio also stated that he became certified in addiction medicine and has returned hundreds of patients to gainful employment through his practice's Suboxone program.

Dr. Villavicencio stated that he has reviewed the patient records in question and, though Dr. Villavicencio is not fully responsible for their actions, he has accepted responsibility over their deaths. Dr. Villavicencio stated that it was a difficult learning process for him to realize that every patient, even responsible patients, may on occasion abuse and misuse their medications. Dr. Villavicencio stated that in the emergency department, he suspected and doubted every patient, but as a family practitioner he cannot approach a patient thinking that they are lying to him. Dr. Villavicencio stated that managing pain is over and above the resources of any individual physician or clinic. Dr. Villavicencio stated that since his practice started using OARRS, there has been a significant reduction in deaths.

Dr. Villavicencio stated that he is a person of good will and is a good physician who truly cares about his patients. Dr. Villavicencio stated that he finds himself working 11 hours in his office, then working more hours at home. Dr. Villavicencio stated that he is secure in the fact that he has done the best for his patients and they have prayed for him in this critical time in his life. Dr. Villavicencio asked the Board to continue giving him the privilege of practicing medicine in this great state.

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

Ms. Bockbrader stated that Dr. Villavicencio is correct that there is no allegation that Dr. Villavicencio caused the death of these patients, and the Hearing Examiner appropriately made no such finding. Ms. Bockbrader stated that the issue in this case is whether Dr. Villavicencio violated the minimal standards of care with the 16 patients in question.

Ms. Bockbrader noted that the Hearing Examiner's Report and Recommendation extensively details Dr. Villavicencio's substandard treatment and prescribing practices. Ms. Bockbrader emphasized that the standards and rules applied by the Hearing Examiner were those standards and rules that were in place at the time the conduct occurred. Ms. Bockbrader stated that Dr. Villavicencio admitted that he violated the Board's intractable pain rules with these patients.

Ms. Bockbrader noted that in one month, Patient 11 received prescriptions from Dr. Villavicencio for 90 tablets of 40 mg Oxycontin, 60 tablets of 80 mg Oxycontin, and 480 Roxicodone. Some patients received more than 300 mg of oxycodone per day. Ms. Bockbrader also stated that up to 400 mg of oxycodone per day were given to a couple of patients whom Dr. Villavicencio said he gave special treatment to because they had done repair work in his office.

Ms. Bockbrader stated that Patient 7 had an inconsistent urine screen and gave the standard excuse that the screen must be someone else's. In fact, Patient 7 stated that the screen couldn't be his because it did not show marijuana, which he used regularly. Ms. Bockbrader stated that, not only did Dr. Villavicencio fail to address the inconsistent screen, he also failed to address the fact that Patient 7 admitted to the regular use of marijuana and continued to prescribe him increasing levels of narcotics.

Ms. Bockbrader stated that one of the most shocking cases involved Patient 15, who was 13-years-old at the time of treatment. At the first visit, Dr. Villavicencio prescribed Patient 15 Vicodin. Although Dr.

Villavicencio claimed to be just continuing a prescription that Patient 15's prior physician had given her, he actually doubled the dose of Vicodin on that first visit. On the second visit, Dr. Villavicencio prescribed Vicodin and Xanax to Patient 15. Later, after Patient 15 had tested positive for marijuana and negative for the Vicodin he was prescribing, Dr. Villavicencio did not address those issues with her or her parents, but continued to prescribe Vicodin and Xanax.

Ms. Bockbrader stated that Patient 16 came into an appointment wearing an ankle monitor because he had been arrested for selling cocaine. Dr. Villavicencio said that he did not ask Patient 16 about the situation because he did not realize it could be related to use of prescription drugs. Dr. Villavicencio had argued that he had been too naïve and trusting, but Ms. Bockbrader found it difficult to believe that anyone would be that naïve and trusting.

Ms. Bockbrader noted that in his objections, Dr. Villavicencio had argued that in his years of practice in the emergency department patients had always told the truth, so he was used to believing them. Ms. Bockbrader contrasted that with Dr. Villavicencio's statements today that as an emergency physician he had suspected and doubted every patient. Ms. Bockbrader noted Dr. Villavicencio's testimony that he took four pain management classes from 2005 to 2008, indicating that he had the knowledge to detect drug-seeking behavior. Ms. Bockbrader stated that Dr. Villavicencio's patients did not necessarily lie to him, noting that Patient 7 had volunteered the information that he used marijuana regularly.

Ms. Bockbrader stated that most physicians, when presented with these drug-seeking behaviors, would reduce or stop the prescribing of narcotics or take some other action. However, Dr. Villavicencio actually increased the patients' medications. Ms. Bockbrader stated that no matter what the patients' behavior, Dr. Villavicencio explained that the patient was undertreated and needed more drugs. When Dr. Villavicencio was asked about patients obtaining pain medications from multiple physicians, he replied that it is very common for patients to do that because they cannot get sufficient relief from the medications they get from one physician. Ms. Bockbrader opined that that is a shocking statement from a physician who is supposed to be meeting the standards of care and acting in the best interest of his patients.

Ms. Bockbrader continued that Dr. Villavicencio admits that much of his conduct was below the standards of care, but that he has since changed his practices. Ms. Bockbrader stated that any changes Dr. Villavicencio has made do not excuse his violations and should be given little or no weight in the Board's deliberations, noting a lack of direct evidence of actions addressing drug-seeking behavior and that problematic practices were still taking place as of 2008.

Ms. Bockbrader opined that Dr. Villavicencio still has not learned his lesson. Ms. Bockbrader stated that Dr. Villavicencio testified that if he found evidence today that a patient was selling drugs, he would dismiss the patient; however, he also testified that if that patient had significant findings on their MRI and appeared to be undertreated, then he would keep them as a patient and address that issue. Ms. Bockbrader stated that selling drugs has nothing to do with being undertreated and that Dr. Villavicencio is still always looking for an excuse to give someone additional drugs.

Ms. Bockbrader recommended that the Board adopt the Hearing Examiner's Proposed Order to permanently revoke Dr. Villavicencio's license.

Dr. Steinbergh moved to approve and confirm Ms. Petrucci's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Jose Villavicencio, M.D. Mr. Hairston seconded the motion.

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

Dr. Madia briefly reviewed Dr. Villavicencio's career. Dr. Madia stated that in 2004, Dr. Villavicencio opened his private practice in Columbus and was eventually seeing 20 to 30 patients per day. Dr. Madia stated that one red flag about Dr. Villavicencio's practice was that, although the practice was primary care internal medicine, 90% of his patients were chronic pain patients. Dr. Madia stated that, although a legal definition of a pain clinic did not exist at that time, one would have to consider the practice to have been a pain clinic. Dr. Madia noted Dr. Villavicencio's testimony that he had not been prepared to treat patients with chronic pain, but he slowly learned and took some courses. One reason Dr. Villavicencio had so many pain patients was the recent closure of the Ohio State University pain management clinic, whose patients were diverted to Dr. Villavicencio.

Dr. Madia continued that Dr. Villavicencio used two kinds of medical record: Handwritten progress notes and electronic medical records. Dr. Madia observed that Dr. Villavicencio's records show identical notes, even with the same grammatical errors, for different patients and for different visits by the same patient. Dr. Madia stated that such records cannot be trusted or relied upon.

Dr. Madia briefly reviewed the career of the State's expert, Dr. Kelly, including his current position as Assistant Director of the family practice residency program at the Cleveland Clinic. Dr. Madia noted that Dr. Kelly takes pain management courses every year and has experience in managing chronic pain as a family physician. Dr. Kelly was unable to access Dr. Villavicencio's electronic medical records, but he reviewed the progress notes for all 16 patients and concluded that he could not rely on what he was reading due to the repetitive nature of the notes.

Dr. Madia briefly reviewed some of the patients in question. Dr. Madia stated that Patient 1 presented to Dr. Villavicencio with a diagnosis of Chronic Obstructive Pulmonary Disease (COPD), back pain, and a skin rash. Dr. Villavicencio did not treat Patient 1's COPD, but did treat her back pain with narcotics, Xanax, and Valium.

Patient 2, who was in an automobile accident, also presented to Dr. Villavicencio with back pain. Dr. Villavicencio ordered an MRI, but does not note the results of the MRI in the progress notes. Dr. Villavicencio prescribed narcotics for Patient 2.

Patient 9 was a 48-year-old female with a history of back pain and weakness on one side. Dr. Villavicencio diagnosed a cerebrovascular accident and lumbar spondylosis, and prescribed narcotics. On Patient 9's third and fourth visits, Dr. Villavicencio put her on Coumadin, but there is no documentation of why Coumadin was prescribed. Also, there is no documentation that Dr. Villavicencio checked Patient 9's PT level each month, which must be done for patients on Coumadin. Dr. Villavicencio also continued to increase Patient 9's narcotics dosage with no reason documented in the record. Patient 9 died of an overdose of cocaine and Fentanyl four days after her last visit with Dr. Villavicencio.

Patient 15 was a 13-year-old diabetic female. Dr. Madia stated that Patient 15's record makes no mention of who is treating her diabetes. Dr. Madia also commented that he does not know many internists who will see a 13-year-old patient. Instead of treating Patient 15's diabetes, Dr. Villavicencio treated her back pain and prescribed narcotics on the first visit, adding Xanax and Ambien later. Dr. Madia stated that treating a 13-year-old patient with narcotics, Xanax, and Ambien is below the standards of care and, in light of Patient 15's diabetes, could have been a life-threatening situation.

Patient 10 died of a drug overdose of cocaine, alcohol, and methadone. Dr. Madia noted that Dr. Villavicencio did not prescribe methadone to Patient 10 and it must have been obtained from a different source.

Dr. Madia stated that there were several occasions with these 16 patients when the urine test was positive for something Dr. Villavicencio had not prescribed, and therefore the patient must have been receiving medications from multiple physicians. Dr. Madia stated that this is a clear indication that the patient is addicted and possibly diverting medications, yet Dr. Villavicencio took no action. Dr. Madia stated that Dr. Villavicencio could have helped these patients by referring them to a pain specialist, an addictionologist, or to law enforcement.

Dr. Madia concluded that Dr. Villavicencio's practice was well below the standards of care as applied at the time he was treating the patients. Dr. Madia stated the Dr. Villavicencio did harm to these patients. Dr. Madia stated the he fully agrees with the Proposed Order of permanent revocation.

Dr. Steinbergh noted that the Board has taken action on physicians based on conduct far older than the conduct in question in this case. Dr. Steinbergh stated that Dr. Villavicencio rendered the care in question from 2005 to 2008, and he was cited by the Board in April 2011. Dr. Steinbergh stated that this is not an unusual timeframe, stating that the Board builds a case when it learns of potential violations regardless of when the care in question took place.

Dr. Steinbergh also commented on the motion to deny Dr. Villavicencio's request that the Board review the Hearing Examiner's rulings. Dr. Steinbergh stated that the Board follows administrative law and it relies on the Hearing Examiners to develop cases and gather information. Dr. Steinbergh opined that the Board's processes would literally halt if the Board had to review all the Hearing Examiners' rulings on evidence and motions. Dr. Steinbergh stated that the Medical Board thoroughly reviews the Hearing Examiner's Report and Recommendation in each case and comes to its own conclusions, as reflected in the meeting minutes.

Dr. Steinbergh stated that she agrees with the Findings of Fact, Conclusions of Law, and the Proposed Order of permanent revocation in the matter of Dr. Villavicencio.

Dr. Ramprasad noted previous comments regarding the standard of care now as compared to the standard of care at the time that Dr. Villavicencio treated these patients. Dr. Ramprasad observed that Patient 4 had two prescriptions at a cost of \$1,200.00, yet the patient could not afford x-rays. Dr. Ramprasad stated that Patient 8 received increasing dosages of medication even though Dr. Villavicencio knew the patient was

using street drugs. Dr. Ramprasad stated that Patient 11 received excessive doses of oxycodone, morphine, and methadone each day. Dr. Ramprasad stated that these actions are below the standard of care regardless of the time period.

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

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

The motion to approve carried.

SAMUEL J. CHRISTIAN, M.D., Case No. 12-CRF-017

Dr. Mahajan directed the Board's attention to the matter of Samuel J. Christian, M.D. He advised that no objections were filed. Ms. Petrucci was the Hearing Examiner.

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

Ms. Dorn stated that she agrees with the Hearing Examiner's Findings of Fact and Conclusions of Law that Dr. Christian did execute a voluntary surrender of his Drug Enforcement Agency (DEA) certificate to prescribe Schedules II-V medications and, in doing so, violated the Board's rules. However, Ms. Dorn disagreed with the Proposed Order of no further action. Ms. Dorn opined that, at the very least, Dr. Christian's surrender of his DEA prescribing privileges suggests an underlying alleged prescribing issue; otherwise, the DEA would not have requested the surrender. Ms. Dorn noted that Dr. Christian did not appear at his hearing and his attorney did not present any evidence one way or the other.

Ms. Dorn stated that there is no question that the surrender of Dr. Christian's DEA certification constituted a violation of the Medical Practices Act. Therefore, Ms. Dorn recommended one of two possible penalties. First, Ms. Dorn recommended an indefinite suspension until Dr. Christian can complete a prescribing course and submit a practice plan for approval by the Board. Second, Ms. Dorn recommended placing a formal prescribing limitation on Dr. Christian's license until he can demonstrate that he has received a new DEA certification, in addition to a prescribing course and practice plan. Ms. Dorn opined that either of these options would ensure that the public is adequately protected and allow the Board to take additional action in the future if it should be necessary.

Dr. Mahajan asked if the counsel for Dr. Christian would like to respond. Mr. Richard Cline stated that he would like to respond.

Mr. Cline stated that Ms. Dorn is correct when she indicates the Dr. Christian did not present any evidence at the hearing. Mr. Cline stated that he has some legal arguments about the effect of the DEA surrender, but he felt that they were inappropriate to make to the Board and would instead make them to a court at some future date. Mr. Cline stated that the important factors are that Dr. Christian voluntarily signed the form indicating the he intended to relinquish his prescriptive authority. Mr. Cline stated that there is no indication in the record of any evidence showing that Dr. Christian ever abused his prescriptive authority. For that reason, Mr. Cline felt that the Hearing Examiner made the appropriate recommendation that the Board take no further action or perhaps consider a reprimand.

Mr. Cline noted that there are two mitigating factors in Dr. Christian's case. First, Dr. Christian has no prior disciplinary action. Second, there is no adverse impact on anyone. Mr. Cline stated that there is no evidence of aggravating factors. Mr. Cline distinguished Dr. Christian's case from those of other physicians' who have come before Board for having to relinquish their prescriptive authority. Mr. Cline stated that in the cases of Dr. Banks and Dr. Abunku, there was significant evidence that the physicians had abused the prescriptive authority they had been granted. Mr. Cline stated that in the Dr. Abunku case, he surrendered his prescriptive authority as part of a settlement negotiation with the DEA. Mr. Cline stated that none of these facts are present in Dr. Christian's case.

Mr. Cline requested that the Board approve the Hearing Examiner's Proposed Order of no further action.

Dr. Madia moved to approve and confirm Ms. Petrucci's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Samuel J. Christian, M.D. Dr. Steinbergh seconded the motion.

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

Dr. Ramprasad stated that Dr. Christian obtained his DEA registration in 1988 and held it until he surrendered it in June 2011. Dr. Ramprasad stated that Dr. Christian signed the statement, "In view of my desire to terminate handling of the controlled substances listed in the Schedule II, III, IV, and V...I agree/consent that this document shall authorize the Administration of Drug Enforcement Administration to terminate/revoke my registration without an order, show-cause, or hearing."

Dr. Ramprasad stated that this was a voluntary surrender, but there was no evidence of the show-cause as to why this was executed. The Hearing Examiner has suggested that, because there is no evidence, no further action should be taken. Dr. Ramprasad noted two complicating factors. First, it is not known why the surrender was executed. Dr. Ramprasad stated that it could be that Dr. Christian simply didn't want that responsibility anymore, or it could be that there may be problems that could affect Dr. Christian's patients. Second, Dr. Ramprasad cannot determine if Dr. Christian's surrender was permanent or if he has the ability to regain his DEA certification in the future.

Dr. Ramprasad suggested that a reprimand would be appropriate. Dr. Ramprasad also suggested, if

possible, that there be some mechanism in place to notify the Board if Dr. Christian regains his DEA certification.

Dr. Steinbergh agreed with Dr. Ramprasad. Dr. Steinbergh stated that the concern is that there is a reason that Dr. Christian surrendered his DEA certificate. Dr. Steinbergh stated that although she does not know the reason, she cannot logically dismiss the case or support no further action. Dr. Steinbergh suggested that the Board could reprimand Dr. Christian. Alternatively, Dr. Steinbergh suggested that the Board could revoke Dr. Christian's license and make reinstatement contingent upon providing evidence regarding the DEA surrender. Dr. Steinbergh acknowledged that Dr. Christian may have surrendered his DEA certificate simply because he was tired of using it, but Dr. Steinbergh considered this to be a remote possibility.

Dr. Steinbergh moved to amend the Proposed Order to a Reprimand. Dr. Madia seconded the motion.

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

Mr. Hairston stated that he agrees with Ms. Dorn and suggested that the Board consider indefinitely suspending Dr. Christian's license.

Dr. Ramprasad suggested that Dr. Christian be required to take a prescribing course if he regains his DEA certificate. Dr. Steinbergh opined that there is not enough evidence in the hearing record as to why Dr. Christian surrendered his DEA certificate to justify requiring courses. Mr. Hairston stated that he had suggested an indefinite suspension so that the Board can learn more about the situation. However, Mr. Hairston stated that he would support a reprimand.

Dr. Steinbergh asked if there is any evidence that Dr. Christian holds a medical license in any other state. Ms. Debolt replied that the hearing record makes no mention of out-of-state licenses. Responding to an inquiry from Dr. Suppan, Ms. Debolt stated that to gather that information the Board would have to remand the matter back to the Hearing Examiner to take additional evidence on that question.

Dr. Steinbergh stated that she supports reprimand because there is no evidence in the hearing record that Dr. Christian violated any rule except in surrendering his DEA certification.

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

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

Ms. Elsass	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Petrucci's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Samuel J. Christian, M.D. Ms. Elsass seconded the motion. A vote as taken:

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

The motion to approve carried.

TERRY ALAN DRAGASH, D.O., Case No. 12-CRF-019

Dr. Mahajan directed the Board's attention to the matter of Terry Alan Dragash, D.O. He advised that objections were filed and have been previously distributed to Board members. Ms. Petrucci was the Hearing Examiner.

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

Dr. Dragash was represented by his attorney, Stanley Dritz.

Dr. Dragash stated that he takes full responsibility for his past actions and thanks God for giving him a second chance at life, beginning with his treatment at Shepherd Hill. Dr. Dragash stated that he is involved with Alcoholics Anonymous, Caduceus, aftercare, and he has a sponsor. Dr. Dragash stated that it has been 20 months since this journey began and it was the first time in his life that he had time or reason to take a good look at himself and where his life is going. Dr. Dragash stated that previously, he had only thought of himself in a one-dimensional plane as a physician and had never asked for help for anything. Dr. Dragash stated that during his recovery, he has had a chance to redevelop his spirituality and the importance of connections with friends, family, self, and God.

Dr. Dragash stated that he has been compliant with his Consent Agreement's requirements for drug screens, meetings, paperwork, and evaluation by two addictionologists. Dr. Dragash stated that he is fully involved in his life-long recovery and feels that he is ready to return to the practice of medicine at this time. Dr. Dragash felt that he will be a better person and physician for his experience.

Mr. Dritz stated that if the Board were a physician, the Board could pat itself on the back and say, "We have healed this patient." Dr. Dritz also acknowledged that Dr. Dragash's healing process is an ongoing process. Mr. Dritz noted that the Proposed Order is for an additional nine months of suspension. Dr. Dritz noted that, presently, Dr. Dragash has already been suspended for 20 months and that an additional nine months would result in a total suspension of over two years. Dr. Dritz asked the Board to impose the nine-month suspension from January 2012, when Dr. Dragash became eligible to reapply for his license.

Mr. Dritz stated that Dr. Dragash is a very worthwhile physician and has never had any problems with patient care. Mr. Dritz stated that he once saw a lawyer make one of the best closing arguments by saying, "My client has been in jail for six months and enough is enough." Mr. Dritz stated that his client has been under suspension for 20 months and enough is enough. Mr. Dritz opined that it is a good time for Dr. Dragash to return to medicine. Mr. Dritz urged the Board to continue monitoring Dr. Dragash, but opined that the Board should not have any concerns about returning Dr. Dragash to the practice of medicine.

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 case is about Dr. Dragash's honesty. Ms. Snyder stated that in a 2008 deposition taken by the Board, Dr. Dragash was asked a very straight-forward question: "Have you ever used cocaine?" Ms. Snyder noted that the question was not "Do you habitually use cocaine?" or "Are you using cocaine right now?" Dr. Dragash answered "no" to this question. Ms. Snyder stated that, in fact, Dr. Dragash used cocaine beginning in 1983 and used again in 2002. Ms. Snyder stated that the Board discovered these facts when Dr. Dragash was arrested for cocaine possession and was diagnosed with cocaine dependence. The Board suspended Dr. Dragash's license at that time. In the process of asking for his license to be reinstated, it came to light that Dr. Dragash had used cocaine at those earlier times.

Ms. Snyder stated that Dr. Dragash had been untruthful to the Board three times about his prior cocaine use: First in his 2008 deposition, second in his written response to questions from the Board which were being used by the Secretary and Supervising Member to determine the appropriate length of his suspension, and third in investigatory interrogatories in 2012. Ms. Snyder stated that Dr. Dragash is constantly trying to downplay his use of cocaine to the Board and avoid the consequences.

Ms. Snyder continued that the effects of untruthful answers on the Board's ability to protect the public from an impaired physician are great. Ms. Snyder stated that the Board relies on information given to it by its licensees. Ms. Snyder stated that the stage of Dr. Dragash's recovery has nothing to do with his honesty in this matter, noting that he lied to the Board from 2008 to 2011 in various states of recovery. Ms. Snyder opined that it is unbelievable that Dr. Dragash did not understand the question. Ms. Snyder stated that when one is asked whether one has ever used cocaine, one knows what one is being asked and one knows the answer.

Ms. Snyder requested that the Board accept the Proposed Order of an additional nine months of suspension.

Dr. Madia moved to approve and confirm Ms. Petrucci's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Terry Alan Dragash, D.O. Mr. Hairston seconded the motion.

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

Dr. Ramprasad stated that Dr. Dragash initially had a patient arrested for cocaine possession in March 2008. In the patient's deposition, he implied that Dr. Dragash was using cocaine. On January 2, 2011, Dr. Dragash was arrested for possession of cocaine, whereupon he entered Shepherd Hill for inpatient treatment. At that time, Dr. Dragash reported to the Shepherd Hill personnel that he had used cocaine in the 1980's. In his questionnaire to the Board in March 2011, Dr. Dragash was asked when he had started abusing cocaine and he answered "January or February 2009." Dr. Ramprasad stated that Dr. Dragash did not complete his recommended treatment and he was found not to be capable of practicing. Dr. Dragash pled guilty to possession of cocaine in lieu of court conviction.

Dr. Ramprasad continued that on July 13, 2011, Dr. Dragash entered into a Consent Agreement with the Medical Board which is still in effect today. Dr. Ramprasad noted that when Dr. Dragash was asked why he had answered "no" to the question "Have you ever used cocaine?" he indicated that he was only using occasionally. Dr. Ramprasad stated that since that time, Dr. Dragash has entered treatment and Dr. Whitney, director of addiction problems at Shepherd Hill, has reported that Dr. Dragash has worked hard and is able to practice.

Dr. Ramprasad stated that the questions asked of Dr. Dragash were not complicated and opined that there was intent to mislead. Dr. Ramprasad stated that he has his own personal questions about whether Dr. Dragash is able to practice and stay off cocaine. However, Dr. Ramprasad stated that he supports the Hearing Officer's Report and Recommendation and the Proposed Order to extend Dr. Dragash's suspension for an additional nine months to ensure he complies with all the terms of the prior Consent Agreement.

Dr. Steinbergh, responding to Mr. Dritz's previous statement, stated that in some cases enough is not necessarily enough. Dr. Steinbergh stated that as she read through this case, she thought she might agree with making the additional suspension time effective as of January 2012. However, Dr. Steinbergh stated that this case is not truly about impairment. Dr. Steinbergh stated that Dr. Dragash has a serious impairment and noted that one of his comments was that he had struggled with whether or not it was use or abuse. Dr. Steinbergh stated that when it comes to an illegal substance like cocaine, when you use, you abuse. Dr. Steinbergh stated that Dr. Dragash illegally used cocaine for a long time and then lied about it to the Board. Because of this, Dr. Steinbergh opined that enough is not enough.

Dr. Steinbergh stated that when one goes through the 12 steps, one has to make amends, take ownership of the situation and stop lying. Dr. Steinbergh stated that the Board believes in the disease model of addiction and always hopes physicians will recover, but the physician cannot lie in the process. Dr. Steinbergh

stated that she agrees with the Findings of Fact, Conclusions of Law, and Proposed Order. Dr. Steinbergh also stated that she agrees with all the comments of Dr. Ramprasad.

Dr. Suppan noted Mr. Dritz's comment that if the Board were a physician, then the Board would have healed the patient in this case. Dr. Suppan stated that recovery is not a matter of being healed, but it is a journey and something that will always be with Dr. Dragash throughout his lifetime. Regarding the notion that extending Dr. Dragash's suspension for nine months will keep him away from his patients, Dr. Suppan stated that that is Dr. Dragash's responsibility, not the Board's. Dr. Suppan stated that the Board will do everything it can to support Dr. Dragash's recovery.

Mr. Hairston agreed with the Proposed Order and stated that the Board must take this action to protect the people of the state of Ohio.

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

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

The motion to approve carried.

YEMI M. FASAKIN, M.D., Case No. 11-CRF-020

Dr. Mahajan directed the Board's attention to the matter of Yemi M. Fasakin, M.D. He advised that objections were filed and have been previously distributed to Board members. Ms. Blue was the Hearing Examiner.

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

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

Ms. Collis stated that Dr. Fasakin has applied for a license to practice medicine and surgery in Ohio. In March 2012, the Board proposed to deny Dr. Fasakin's application based on an action taken by another state. Ms. Collis stated that Dr. Fasakin's medical license was publically reprimanded by the state of Texas for supervising a physician assistant who was later found to be unlicensed, leaving pre-signed

prescriptions for the physician assistant to utilize, and failing to adequately supervise his staff. Ms. Collis stated that Dr. Fasakin's Texas license was not suspended, though he was required to temporarily surrender his Drug Enforcement Agency (DEA) certificate, take some continuing medical education, and pay a fine. Ms. Collis stated that Dr. Fasakin is in full compliance with the Texas order and he anticipates having all probationary terms lifted next month.

Ms. Collis noted that the Board only cited Dr. Fasakin for the action taken by the Texas Board, not with practicing below the standard of care, surrendering his DEA certificate, or providing false information to the Ohio Board. Ms. Collis stated that Dr. Fasakin has always been honest and forthright with the Ohio Board and he fully disclosed the Texas action on his Ohio application. Ms. Collis stated that Dr. Fasakin fully cooperated with the investigations of both medical boards and has taken full responsibility for his actions. Ms. Collis noted that when Dr. Fasakin learned that the physician assistant was not licensed, he immediately resigned from his position. Ms. Collis stated that the Ohio Board has previously licensed applicants who had discipline in another state, as outlined in the objections, and has even licensed people who have lied to the Board.

Ms. Collis stated that Dr. Fasakin has spent a lifetime training to be a physician. The hearing included testimony from multiple physicians who either trained Dr. Fasakin or trained with him, and all testified that Dr. Fasakin is bright, hard-working, conscientious and a well-valued physician. Ms. Collis stated that Dr. Fasakin erred by moonlighting in a clinic where, it was later determined, one of the employees did not hold a valid license. Ms. Collis stated that, although there were red flags that something was not right, those red flags may not be recognized by a young physician just out of his fellowship in his first clinic job. Ms. Collis stated that Dr. Fasakin is a much wiser physician now and will bring a different perspective to the practice of medicine due to his experience.

Dr. Fasakin stated that last year, he completed a fellowship in gastroenterology at Baylor College of Medicine and he has been offered a position in a private practice in Lima, Ohio. Dr. Fasakin explained that during his fellowship he took a part-time moonlighting position in order to make extra money. This was Dr. Fasakin's first position outside his training program. Dr. Fasakin stated that he went through an intensive background check before being hired, but he did not realize that that was not the case for other employees.

Dr. Fasakin continued that he was assigned to work with a physician assistant and a nurse practitioner. Dr. Fasakin stated that he had worked with physician assistants in his fellowship and he understood their role and scope of practice in Texas. Dr. Fasakin stated that his role at the clinic was to personally examine all new patients, to supervise the physician assistant and the nurse practitioner, and to review all patient charts and prescribing. Dr. Fasakin stated that in Texas, physicians can delegate the prescribing of controlled substances and can supervise physician assistants without having to be on-site, though this is not the accepted practice in Ohio.

Dr. Fasakin stated that he found the physician assistant at the clinic to be knowledgeable and hard-working, and he never suspected that he did not have a valid physician assistant license. When he learned otherwise, Dr. Fasakin immediately resigned his position and cooperated with the Texas Medical Board's investigation. Dr. Fasakin also agreed to a public reprimand. Dr. Fasakin stated that he is in full

compliance with the Texas Board's order and expects to be released from its terms next month.

Dr. Fasakin stated that when he applied for an Ohio license, he fully disclosed the Texas action and cooperated with the Ohio Board's investigation. Dr. Fasakin stated that he has chosen to work in Ohio because he has been offered a position to work in an underserved community where he can apply his training. Dr. Fasakin stated that he has learned a great deal and he will never again work in a situation where he does not have knowledge of the education, training, or licensure of his colleagues. Dr. Fasakin also stated that he will never again work with a physician assistant. Dr. Fasakin stated that he is no longer a naïve young physician; he has taken great care to research his prospective employer, reviewed Ohio laws and rules, and will personally examine and treat all of his patients.

Dr. Fasakin stated that he has spent a total of 14 years in training preparing for his dream job, and he has found that dream job in the great state of Ohio. Dr. Fasakin respectfully requested that the Board grant him a license and allow him to take the position in Ohio for which he is trained.

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 she was glad to hear Mr. Fasakin say some of the things he said today, because in his hearing when he was asked what he had learned from his experience, he replied that he had learned to check the credentials of the physician assistants and others he will work with. Ms. Snyder stated that that is an important lesson, but she expressed concern that Dr. Fasakin missed serious red flags in the clinic he had worked for.

Ms. Snyder stated that Dr. Fasakin worked part-time in the clinic on Saturdays, Sundays and some evenings. Dr. Fasakin was a salaried employee and the clinic was owned by a chiropractor. Dr. Fasakin was the only physician on staff; the physician assistant would see all the patients and then Dr. Fasakin would review the files whenever he worked and sign off on the physician assistant's care. Ms. Snyder stated that in Texas, this is an acceptable practice. However, the physician assistant was an unlicensed individual who was dispensing narcotics.

Ms. Snyder stated that, although it sounds today as if Dr. Fasakin has learned his lesson, the Texas Medical Board found some very significant violations in this case. Ms. Snyder stated that all the facts that the Texas Medical Board relied upon are not known. However, Ms. Snyder opined that the facts must have been significant because the Texas Medical Board found that Dr. Fasakin failed to meet the minimal standards of care, aided and abetted the practice of medicine by an unlicensed person, and engaged in unprofessional conduct. The Texas Medical Board also required Dr. Fasakin to voluntarily surrender his DEA certificate.

Ms. Snyder stated that it is not known why the Texas Medical Board chose to reprimand Dr. Fasakin as opposed to another penalty, but the findings of that case are significant in determining whether or not Dr. Fasakin has the character and fitness to be granted a license in Ohio.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and

Proposed Order in the matter of Yemi M. Fasakin, M.D. Dr. Madia seconded the motion.

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

Ms. Elsass stated that Dr. Fasakin has applied for a license to practice medicine and surgery in Ohio and he has been offered a position as a gastroenterologist in Ohio. The Texas Medical Board issued an Agreed Order that publically reprimanded Dr. Fasakin and placed terms and conditions on his Texas medical license. Ms. Elsass noted that Dr. Fasakin disclosed all these facts on his Ohio application. The Agreed Order was based upon Dr. Fasakin's conduct at a pain clinic in which he pre-signed prescriptions for narcotics, aided and abetted medical practice by an unlicensed individual, and did not adequately supervise staff while acting as a supervising physician. The Texas Board also found that Dr. Fasakin failed to meet the minimal standards of care in prescribing narcotics to 10 patients and that his medical records were sparse, inadequate, or largely illegible.

Ms. Elsass continued that the Agreed Order required Dr. Fasakin to do the following: Surrender his DEA registration certificate, take and pass the medical jurisprudence examination given by the Texas Medical Board, complete a medical record course by the University of California San Diego Physician Assessment and Clinical Education Program, complete at least 16 hours of continuing medical education in the subject of identification and treatment of chronic pain, complete eight hours of continuing medical education in the subject of risk management, and pay an administrative fine of \$5,000.00. Ms. Elsass stated that Dr. Fasakin is currently in compliance with his Agreed Order.

Ms. Elsass stated that she agrees with the Report and Recommendation's Findings of Fact and Conclusions of Law. However, Ms. Elsass opined that the Proposed Order of permanent denial is too harsh. Ms. Elsass stated that Dr. Steinbergh has an amendment she wishes to offer.

Dr. Steinbergh stated that one of the positive aspects of this case is that Dr. Fasakin told the truth on his application. Dr. Steinbergh noted that in his hearing, Dr. Fasakin commented that he had learned a lesson, realized his mistakes, and he has been moving forward for the past three-and-a-half years. Dr. Steinbergh opined that Dr. Fasakin can be licensed to practice medicine in Ohio, with certain conditions.

Dr. Steinbergh moved to amend the Proposed Order to read as follows:

It is hereby ORDERED that:

- A. **GRANT OF PHYSICIAN LICENSURE, SUSPENSION:** The application of Yemi M. Fasakin, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements. That certificate shall be immediately SUSPENDED for an indefinite period of time, but not less than 90 days.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Fasakin's certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration**: Dr. Fasakin shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Evidence of Unrestricted Licensure in Texas**: At the time he submits his application for reinstatement or restoration, Dr. Fasakin shall provide written documentation acceptable to the Board verifying that Dr. Fasakin otherwise holds a full and unrestricted license to practice medicine and surgery in the State of Texas.
3. **Evidence of Unrestricted DEA Certificate**: At the time he submits his application for reinstatement or restoration, Dr. Fasakin shall provide the Board with acceptable documentation evidencing his full and unrestricted Drug Enforcement Administration [DEA] Certificate of Registration.
4. **Personal/Professional Ethics Course(s)**: At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Fasakin shall provide acceptable documentation of successful completion of a course or courses dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

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

5. **Controlled Substances Prescribing Course(s)**: At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Fasakin shall provide acceptable documentation of successful completion of a course or courses dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Fasakin submits the documentation of successful completion of the course(s) dealing with the prescribing of controlled substances, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

The courses completed by Dr. Fasakin pursuant to the order of the Texas Board may be considered by the Board with respect to this requirement; however, should the Board accept those courses toward fulfillment of this requirement, Dr. Fasakin shall also submit to the Board a written report describing the courses, setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

6. **Medical Records Course(s)**: At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Fasakin shall provide acceptable documentation of successful completion of a course or courses on maintaining adequate and appropriate medical records. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Fasakin submits the documentation of successful completion of the course(s) on maintaining adequate and appropriate medical records, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

7. **Examination on Law Relating to Practice of Medicine and Surgery**: Prior to submitting his application for reinstatement or restoration, Dr. Fasakin shall take and pass an examination to be administered by the Board or its designee related to the content of the Revised Code or Administrative Code relating to the practice of medicine and surgery in Ohio. In the event Dr. Fasakin failed this examination, he must wait at least three months between re-examinations.
8. **Additional Evidence of Fitness to Resume Practice**: In the event that Dr. Fasakin has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 Ohio Revised Code, to require additional evidence of his fitness to resume practice.

- C. **PROBATION:** Upon reinstatement or restoration, Dr. Fasakin's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:
1. **Obey the Law:** Dr. Fasakin shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Declarations of Compliance:** Dr. Fasakin shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there had been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Fasakin's certificate is restored or reinstated or as otherwise directed by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Personal Appearances:** Dr. Fasakin shall appear for an interview before the full Board or its designated representative during the third month following the month in which Dr. Fasakin's certificate is restored or reinstated, or as otherwise directed by the Board. Dr. Fasakin shall also appear in person upon his request for termination of the probationary period, and/or as otherwise directed by the Board.
 4. **Practice Plan:** Within 30 days of the date of Dr. Fasakin's reinstatement or restoration, or as otherwise determined by the Board, Dr. Fasakin shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Fasakin's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Fasakin shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Fasakin submits his practice plan, he shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Fasakin and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Fasakin and his medical practice, and shall review Dr. Fasakin's patient charts. The chart review may be done on a random

basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Fasakin and his medical practice, and on the review of Dr. Fasakin's patient charts. Dr. Fasakin shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Fasakin's declarations of compliance.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Fasakin shall immediately so notify the Board in writing. In addition, Dr. Fasakin shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Dr. Fasakin shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any physician proposed to serve as Dr. Fasakin's monitoring physician, or may withdraw its approval of any physician previously approved to serve as Dr. Fasakin's monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

5. **Required Reporting of Change of Address:** Dr. Fasakin shall notify the Board in writing of any change of address and/or principal practice address within 30 days of change.
 6. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Fasakin is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Fasakin's certificate will be fully restored.
- E. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Fasakin violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

F. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Fasakin shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Fasakin shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Fasakin receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Fasakin provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Fasakin receives from the Board written notification of the successful completion of her probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Fasakin shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate. Also, Dr. Fasakin shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Fasakin receives from the Board written notification of the successful completion of his probation.
3. **Required Documentation of the Reporting Required by Paragraph F:** Dr. Fasakin shall provide this Board with one of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to

whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

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

Mr. Hairston seconded the motion.

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

Dr. Steinbergh stated that this amendment gives Dr. Fasakin an opportunity to practice in Ohio and it gives the Medical Board an opportunity to be certain that Dr. Fasakin has an unrestricted medical license in Texas and regains his DEA certificate. It also indicates to Dr. Fasakin that the Ohio Board takes the Texas Order very seriously. Dr. Steinbergh stated that the provision for an examination on the laws regarding the practice of medicine in Ohio will ensure that Dr. Fasakin is familiar with Ohio's laws.

Dr. Madia advised Dr. Fasakin that, though he says now that he will never practice with a physician assistant, he may eventually have to considering how the medical field is evolving.

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

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Yemi M. Fasakin, M.D. Mr. Hairston seconded the motion. A vote was taken:

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

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

The motion to approve carried.

TUMANYA NIKOL JONES, P.A., Case No. 12-CRF-043

Dr. Mahajan directed the Board's attention to the matter of Tumanya Nikol Jones, P.A. Dr. Mahajan stated that this matter is not disciplinary in nature, and therefore all Board members may vote.

Dr. Mahajan advised that objections were filed to Ms. Blue's Report and Recommendation and have been previously distributed to Board members. However, the objections were not filed in a timely manner. Dr. Mahajan asked if there is a motion to accept Ms. Jones' objections for consideration by the Board.

Dr. Suppan moved to accept Ms. Jones' objections for consideration by the Board. Dr. Strafford seconded the motion. A vote was taken:

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

The motion to accept the objections carried.

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

Ms. Jones requested that the Board approve her application for a provisional certificate to prescribe as a physician assistant. Ms. Jones opined that the evidence she presented at her hearing showed the clinical relevance of her coursework and accreditation. Ms. Jones further opined that she was able to show that she met the requirements outlined in the Ohio Revised Code.

Ms. Jones continued that regarding the concern for the relevance of the program, 20 hours of the program she completed were dedicated to the nutritional needs of the body and the effects of diet on health, as well as the effects of mental attitudes on health. Ms. Jones stated that these courses were based on books written by medical doctors. Ms. Jones stated that medical journals have similar information about the effects of nutrition, psychology and emotions on health. Ms. Jones stated that these courses fit into the courses accepted in the Ohio Administrative Code (OAC) in the areas of psychology and neuroscience.

Ms. Jones stated that although nutrition is not listed in the OAC, the textbook for her nutrition course was written by a medical doctor and included biochemistry, which is listed as a clinically-relevant course in the OAC. Ms. Jones stated that nutrition is relevant to the practice of a physician assistant as it directly affects many common diseases treated in medical practice, including diabetes, hypoglycemia, hypertension, hyperlipidemia, obesity, constipation, hemorrhoids, celiac disease, vitamin deficiencies, and others.

Ms. Jones stated that the first 20 hours of her program had five more hours than some of the current programs that are being accepted as a master's program for a certificate to prescribe. In addition, Ms. Jones stated that the courses she took are more clinically relevant than courses in programs that are currently accepted. For instance, Ms. Jones noted that courses from the University of Nebraska Medical Center include ethics, healthcare management, healthcare policy, scientific writing, and Canadian health care policy. Ms. Jones stated that none of these courses have any relevance to clinical practice or pharmacology, but they are nonetheless accepted.

Ms. Jones stated that the Nebraska program has only 15 hours of course study, with the rest of the hours being clinical experience working at your current job. Ms. Jones stated that students essentially pay the school for a diploma by working at their current job for 800 hours and getting credit for it. Ms. Jones likened this to paying \$11,000.00 to \$15,000.00 for a diploma and then being allowed to prescribe. Ms. Jones compared this to her program, in which she completed 60 hours of coursework and she was given no credit for life experience or experience at past or current jobs.

Ms. Jones stated that the second portion of her program included complementary medicine. Ms. Jones stated that some of the courses focused on physical modalities such as physical therapy, massage therapy, acupuncture and acupressure. Ms. Jones noted that physical therapy is one of the approved courses in the OAC. Ms. Jones also noted that many medical and hospital-based pain clinics currently use acupuncture, massage therapy and physical therapy for the treatment of pain. Ms. Jones stated that these methods are widely accepted in the practice of medicine and are approved by the Ohio Bureau of Worker's Compensation as valid treatment options.

Ms. Jones stated that other courses she took in her program included information on herbs and homeopathy, particularly their side-effects and interactions with medication. Ms. Jones stated that education on the interaction of herbs and medication is related to pharmacology and is beneficial since

many of today's prescription medications originated from a plant-based product or herb. Ms. Jones stated that as people choose herbs or vitamins, it is important that a provider be able to advise their patients on the possible risks and interactions.

Ms. Jones stated that herbs and homeopathy have become so important that the Physician Desk Reference (PDR) has published a version for herbal medicine. Ms. Jones stated that this reputable reference realizes the relevance of food, nutritional supplements, and herbs in medical practice. Ms. Jones stated that she used a copy of the PDR for Herbal Medicine while taking courses at the Clayton College of Natural Health.

Ms. Jones stated that in a 2008 survey of U.S. hospitals conducted by the American Hospital Association, 37% of responding hospitals indicated that they offer one or more complementary medical therapies, including the two most highly respected hospitals in Ohio, the Ohio State University Wexner Medical Center and the Cleveland Clinic. Ms. Jones stated that the same therapies were taught in her coursework at Clayton College. Ms. Jones stated that since these therapies are clinically relevant at these hospitals, they would be considered clinically relevant to practice in Ohio.

Ms. Jones stated that 70 medical schools in the United States are now offering courses in integrative medicine, including nutrition, acupuncture, herbs and homeopathy. Mr. Jones noted that the Ohio State University College of Medicine offers minors in integrative health and wellness.

Regarding accreditation, Ms. Jones stated that Clayton College was accredited by an American Naturopathic Accreditation Board until May of 2010. Ms. Jones stated that that accreditation is recognized by the Council for Naturopathic Medical Education, which is recognized by Specialized Professional Accreditors, which in turn is recognized by Council for Higher Education Accreditation. Ms. Jones stated that this meets the requirement for the program to be accredited by a regional accrediting agency listed in the Ohio Revised Code.

Ms. Jones stated that based on the information, the program content and course of study she completed meets the requirements outlined in the Ohio Revised Code for a provisional certificate to prescribe. Ms. Jones asked the Board to consider approving her application.

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 Ms. Jones is a physician assistant who has practiced in Ohio since approximately 1997. Ms. Jones holds a degree of Doctor of Naturopathy for Healthcare Professionals, which she received from the Clayton College of Natural Health. Ms. Snyder stated that, unfortunately, Clayton College is no longer in business and the Board has no evidence that it was properly accredited when it was in business.

Ms. Snyder stated that there was much discussion in the hearing about the clinical relevance of Ms. Jones' coursework. Ms. Snyder opined that the Board cannot get to that issue today because Ms. Jones has not overcome the hurdle of showing that her program was accredited. Ms. Snyder stated that the accreditation outlined by Ms. Jones today is too far removed. Ms. Snyder stated that Ms. Jones needed to show that her

program was accredited by a regional or specialized and professional accrediting agency recognized by the Council for Higher Education Accreditation (CHEA). In order to do that, Ms. Jones needed to present at the hearing a certificate from her school or some other document to show that it is CHEA accredited. Unfortunately, Ms. Jones was not able to do that.

Ms. Snyder had no doubt that Ms. Jones is an excellent physician assistant who takes her duties very seriously. Ms. Snyder further stated that Ms. Jones took the hearing very seriously. However, Ms. Snyder stated that Ms. Jones' program does not meet the accreditation requirements.

Dr. Madia moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Tumanya Nikol Jones, P.A. Mr. Hairston seconded the motion.

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

Dr. Suppan stated that Ms. Jones does not have a master's degree from an Accreditation Review Commission for the Physician Assistant (ARC/PA) approved program. However, Ms. Jones does hold a doctorate in naturopathy. Dr. Suppan stated that Ms. Jones' objections were very helpful, well-researched, well-written, and well-organized. Dr. Suppan also noted that Ms. Jones has practiced as a physician assistant in Ohio for 13 to 15 years and appears to have an unblemished record.

Dr. Suppan opined that it is clinically relevant to study alternative medicine or integrated medicine. Dr. Suppan stated that over that last 10 years, medicine in the United States has made a significant paradigm change in that regard, as has been evidenced by many clinical centers of excellence. Dr. Suppan noted that the word "drug" is derived from the Old French word "drogue," which means dried and comes directly from the practice of herbs. Dr. Suppan stated that this is the very foundation of pharmacology across the world and in the United States. Therefore, Dr. Suppan opined that the study of herbs is clinically relevant.

Regarding the accreditation of the Clayton College of Natural Health, Dr. Suppan noted a footnote on page 1 of the Report and Recommendation which states in part, "...or a higher degree in a course of study with clinical relevance to the practice of physician assistants that was obtained from a program accredited by a regional or specialized and professional accrediting agency recognized by the Council for Higher Education Accreditation." Dr. Suppan stated that because Clayton College has closed, it is not known if it was accredited. However, Dr. Suppan proposed that the lack of evidence of accreditation is superseded by the evidence of an individual who, in Dr. Suppan's opinion, is worthy of the provisional certificate to prescribe.

Dr. Suppan moved to amend Finding of Fact #2 to read, in its entirety, "Although Ms. Jones holds a physician assistant certificate in Ohio, she does not have a master's degree or higher from a program accredited by an appropriate entity, as required by R.C. 4730.46(B)."

Dr. Suppan further moved to amend the Conclusion of Law to read, in its entirety, "Tumanya Nikol Jones, P.A., does not qualify for a Provisional Certificate to Prescribe as a physician assistant in the State of Ohio because she does not have a master's or higher degree from a program accredited by an appropriate entity, as required by R.C. 4730.46(B)."

Dr. Suppan further moved to amend the Proposed Order to grant Ms. Jones' application for a provisional certificate to prescribe as a physician assistant. Mr. Hairston seconded the motion.

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

Dr. Talmage stated that he disagrees with the proposed amendment. Dr. Talmage stated that a program cannot be considered approved if the approval cannot be found. Dr. Talmage also stated that complementary medicine is medicine which is to be used along with traditional medicine to enhance a patient's cure or relief. Dr. Talmage stated that if one does not have knowledge of pharmacology and only has knowledge of alternative medicine, that does not satisfy the Board's requirements. Dr. Talmage continued that the purpose of the master's degree is to show proficiency in the knowledge of pharmacology and the effects of medication on the body so that a physician assistant can legitimately prescribe medications approved in the PDR. Dr. Talmage acknowledged that the PDR has a separate book of herbal medicine, but that is not to be used instead of traditional medicine.

Dr. Ramprasad agreed with Dr. Talmage. Dr. Ramprasad noted that more scheduled drugs are being added to the physician assistant formulary and that Ms. Jones' coursework does not fit with this. Dr. Ramprasad stated that it is commendable that Ms. Jones has obtained this education, but it is complementary to what one would need to do on a scientific basis. Dr. Ramprasad supported denying Ms. Jones' request.

Ms. Debolt offered a clarification that the only allegation is that the Clayton College of Natural Health was not accredited, and there is no allegation regarding the clinical relevance of Ms. Jones' coursework.

Ms. Elsass stated that as a patient representative on the Board, she would personally not feel comfortable having someone with a degree from a program unaccredited by an appropriate entity prescribing drugs for herself or her family.

Dr. Steinbergh stated that she also disagrees with allowing Ms. Jones to prescribe at this time. Dr. Steinbergh stated that should Ms. Jones obtain a master's degree and meet the requirements, she may reapply for a provisional certificate to prescribe. Dr. Steinbergh stated that the Board must be secure in the knowledge that an individual holding a provisional certificate to prescribe has a relevant master's level education, which is not evident in this case. Dr. Steinbergh complimented Ms. Jones on her coursework, but stated that it does not qualify her to hold a provisional certificate to prescribe.

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

ROLL CALL:	Dr. Strafford	- nay
	Dr. Bechtel	- nay
	Mr. Hairston	- nay
	Dr. Suppan	- aye
	Dr. Steinbergh	- nay
	Dr. Mahajan	- nay
	Dr. Madia	- nay

Dr. Talmage	- nay
Ms. Elsass	- nay
Mr. Kenney	- nay
Dr. Ramprasad	- nay

The motion to amend did not carry.

Dr. Suppan stated that she wishes to propose another amendment identical to the previous amendment, but leaving the Proposed Order unchanged.

Dr. Suppan moved to amend Finding of Fact #2 to read, in its entirety, “Although Ms. Jones holds a physician assistant certificate in Ohio, she does not have a master’s degree or higher from a program accredited by an appropriate entity, as required by R.C. 4730.46(B).”

Dr. Suppan further moved to amend the Conclusion of Law to read, in its entirety, “Tumanya Nikol Jones, P.A., does not qualify for a Provisional Certificate to Prescribe as a physician assistant in the State of Ohio because she does not have a master’s or higher degree from a program accredited by an appropriate entity, as required by R.C. 4730.46(B).”

Dr. Steinbergh seconded the motion.

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

Dr. Talmage agreed with this proposed amendment because the Board does not disrespect naturopathy or holistic medicine, and therefore Ms. Jones’ coursework is appropriate to what she wants to practice, though it is not appropriate to prescribing pharmaceuticals. Dr. Talmage stated that the proposed amendment makes it clear that Ms. Jones’ application is being denied because her program was not approved. Dr. Strafford agreed with Dr. Talmage’s comments.

A vote was taken on Dr. Suppan’ motion to amend:

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Tumanya Nikol Jones, P.A. Mr. Hairston seconded the motion. A vote was taken:

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

The motion to approve carried.

The Board took a brief recess at 3:15 p.m. and returned at 3:35 p.m.

ALI KHAN, M.D., Case No. 10-CRF-040

Dr. Mahajan directed the Board's attention to the matter of Ali Khan, M.D. He advised that objections were filed and have been previously distributed to Board members. Mr. Porter was the Hearing Examiner.

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

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

Mr. Plinke stated that the hearing record in this case is factually complicated, involving many witnesses and many legal issues. Mr. Plinke also noted that some of the allegations were dismissed. Mr. Plinke stated that the Hearing Examiner's rationale refers to a stayed permanent revocation from a prior Board Order. Mr. Plinke stated that that prior case involved Dr. Khan's misdemeanor for using a nurse's credit card to purchase \$50.00 worth of gasoline. Mr. Plinke submitted that, based on this record, permanent revocation is not the appropriate disciplinary outcome in this case and asked the Board to consider an alternative order.

Dr. Khan stated that he humbly appears before the Board as a physician and a family man under a great deal of stress. Dr. Khan apologized for his violations and requested leniency and mercy. Dr. Khan stated that all the violations that occurred were due to ignorance and a lack of education, not because of malice or deceit. Regarding the case of the laser, Dr. Khan stated that nurses in a majority of states can perform light-based treatment and he was not aware that that was not the case in Ohio. Dr. Khan stated that as soon

as he became aware of this in 2008, he stopped that practice. Dr. Khan stated that since he thought he could supervise a nurse to do light-based treatment, he wrote in the patient chart that he supervised her. Dr. Khan stated that he did not alter the patient chart, as is alleged.

Dr. Khan continued that the person who sold him Botox had told Dr. Khan that he was a representative from the U.S. company Allergan. Dr. Khan stated that as soon as he had a suspicion in 2009 about the representative, he stopped ordering Botox from him.

Dr. Khan stated that in the last three-and-a-half years, all laser treatments have been performed by him and the documentation has been proper. Nonetheless, Dr. Khan acknowledged that ignorance of the law is no excuse and he is very remorseful. Dr. Khan stated that his practice now complies with all Board rules and he asked for leniency. Dr. Khan stated that permanently revoking his medical license would be devastating, as he is the sole breadwinner for his family in the United States and overseas. Dr. Khan stated that he continues to work with the Board's Compliance Section from his previous probation. Dr. Khan stated that he has complete respect for the Medical Board and asked for forgiveness. Dr. Khan stated that he will accept any alternative punishment to permanent revocation.

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

Ms. Dorn stated that Dr. Khan says he has complete respect for the Board, yet this is the second time he is asking the Board not to permanently revoke his license. The first time was when Dr. Khan stole a nurse's credit card in 2007 and used it to fill up his Mercedes with gasoline. Ms. Dorn noted that Dr. Khan remains under the Order that the Board issued in that case, which included a stayed permanent revocation.

Ms. Dorn stated that Dr. Khan is before the Board again because he forged medical records to avoid getting into trouble, reused single-use liposuction liners to make more money, bought Botox which was not approved by the Food and Drug Administration (FDA) and used it on his patients, and allowed his nurse to engage in the practice of medicine. Ms. Dorn opined that the Board should not give Dr. Khan a third chance.

Ms. Dorn elaborated that Dr. Khan claimed he did not know that the Botox he purchased was not FDA-approved, despite a great deal of evidence. Specifically, Ms. Dorn noted that the credit card receipts stated that it may be billed under Global Meds or Canada Health, the packaging was different from FDA-approved Botox and stated that it was manufactured in Ireland, and it did not have the FDA approval mark. Dr. Khan testified that he did not read or notice the differences, but Ms. Dorn stated that this is not excusable. Ms. Dorn stated that Dr. Khan only stopped using the non FDA-approved Botox after he was visited by a Board investigator and an FDA agent. Ms. Dorn agreed with the Hearing Examiner that willful blindness is not an excuse.

Ms. Dorn stated that Dr. Khan also violated the Board's rules by falsifying his medical records. Ms. Dorn stated that although Dr. Khan documented that he supervised his nurse while she performed light-based treatments, he in fact was not in the office for the first procedure on Patient 4 and not in the room for the second procedure. Dr. Dorn stated that Dr. Khan documented his supervision four months after the

procedures because Patient 4 was not happy with the service and was seeking a refund. Dr. Khan falsified records a second time after Patient 4's husband came to get the records to take them to an attorney.

Ms. Dorn stated that the Hearing Examiner left it to the Board to use its knowledge and expertise to determine whether the delegation of the photofacial laser that Dr. Khan allowed his nurse to use on Patient 7 constituted the practice of medicine and therefore violated the Board's rules. Ms. Dorn opined that use of the photofacial laser did constitute the practice of medicine.

Ms. Dorn stated that Dr. Khan ordered and possessed multiple vials of non FDA-approved Botox and administered it to patients. Ms. Dorn stated that Dr. Khan cannot avoid this violation by claiming that combining the non FDA-approved Botox with saline solution somehow creates an approved drug. Ms. Dorn stated that the statute cited by Dr. Khan's counsel contemplates combining two legal FDA-approved drugs to create another legal FDA-approved drug, not combining a non FDA-approved drug with saline solution to somehow create an approved drug. Therefore, Ms. Dorn felt that the Board should find that there was a violation of Section 4731.22(B)(10), Ohio Revised Code, for unapproved drugs.

Ms. Dorn stated that Dr. Khan has clearly shown that his character, treatment of patients and practice of medicine are untrustworthy. Ms. Dorn stated that Dr. Khan forged records, cut corners, and used unapproved drugs in his practice to avoid problems and make more money. Ms. Dorn further stated that Dr. Khan blatantly disregarded the Medical Board and cannot be trusted to follow its orders in the future. Ms. Dorn supported the Proposed Order of permanent revocation.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Ali Khan, M.D. Mr. Hairston seconded the motion.

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

Dr. Steinbergh briefly reviewed Dr. Khan's career. Dr. Steinbergh stated that since 2006, Dr. Khan has been the CEO and medical director of Pure MD Lasers and Cosmetics. Dr. Steinbergh stated that in 2007, the Board permanently revoked Dr. Khan's medical license, stayed that revocation, and suspended his license for 30 days with subsequent probationary terms for at least two years. Dr. Steinbergh stated that when the Board uses the language of permanent revocation, it indicates that the matter is very serious. Dr. Steinbergh recalled that the Board was shocked that Dr. Khan had stolen a credit card from a nurse and used it to put gasoline in his Mercedes. Dr. Steinbergh stated that that incident reflected on Dr. Khan's character and he was fortunate to have been able to continue practicing medicine. Dr. Steinbergh stated that the current case also reflects on Dr. Khan's character.

Dr. Steinbergh stated that Dr. Khan purchased Botox, some of which was FDA-approved and some of which was not. Dr. Steinbergh believed, based on her reading of the hearing record, the Dr. Khan knew the difference between the two because of the differences in packaging. Nevertheless, Dr. Khan continued to use the non FDA-approved Botox.

Dr. Steinbergh stated that there was some evidence in the record they Dr. Khan had reused liners in a liposuction machine and other parts of the machine, and had also reused some syringes. Dr. Steinbergh

stated that, based on the record, she believed these allegations.

Dr. Steinbergh stated that Dr. Khan had allowed his nurse to perform Botox procedures which she was not licensed to do because it is the practice of medicine. Dr. Steinbergh also noted that the procedure had scarred the patient's face, leading Dr. Khan's insurer to pay \$85,000.00 to Patient 4. Ms. Debolt noted that it was the laser procedure, not the Botox procedure, which was improperly performed by a nurse because it is the practice of medicine and which resulted in the scarring of a patient's face and an \$85,000.00 payout. Dr. Steinbergh stated that that is correct and apologized for her misstatement.

Dr. Steinbergh stated that the Hearing Examiner did a remarkable job with the Report and Recommendation, but she disagreed with Conclusion of Law #7, which read in part:

The evidence does not support a conclusion that Dr. Khan's acts, conduct, and/or omissions, as described in Finding of Fact 2, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in R.C. 4731.22(B)(10), to wit: R.C. 2925.09, Unapproved Drugs.

.....

R.C. 2925.09(A)(3) specifies that R.C. 2925.09(A) does not apply when "[a] licensed health professional authorized to prescribe drugs, other than a veterinarian, prescribes or combines two or more drugs as a single product for medical purposes." Dr. Khan argued that he falls under that exception because Botox is shipped dry and must be reconstituted by adding saline solution to the Botox vial. Dr. Khan further argued that, pursuant to the definition of "drug" as used in R.C. 2925.09, saline constitutes a drug. Accordingly, he argued, because Botox must be mixed with saline solution before it is injected, he had combined "two or more drugs as a single product for medical purposes" and that the exception applies.

Dr. Steinbergh acknowledged that saline, under certain circumstances, does meet the definition of "drug." For instance, saline used to rehydrate a patient is used as a drug. Dr. Steinbergh stated that the same is true of water, yet water is used in recipes every day and is not used as a drug. Dr. Steinbergh stated that Botox and vaccines have to be reconstituted from dry powder in order to be injected. Dr. Steinbergh opined that saline used in this fashion is not used as a drug. Dr. Steinbergh stated that the law is not intended to say that one can legalize non-FDA approved Botox by reconstituting it with a small amount of saline. Dr. Steinbergh stated that the law is clearly intended to apply when one legitimate drug is added to another legitimate drug to make a third legitimate drug for a specific patient.

Dr. Steinbergh stated that her reasons for supporting the permanent revocation of Dr. Khan's license are simple. Dr. Khan's 2007 Board Order included a stayed permanent revocation, indicating the Board's serious concerns about Dr. Khan's character. Subsequently, while under the Board Order, he practiced in the manner described above and authorized a nurse to perform laser treatments which she was not licensed to perform. Dr. Steinbergh had no doubts that Dr. Khan altered his medical records to say that he

supervised the nurse and was present when he actually was not. Dr. Steinbergh noted that whether Dr. Khan supervised the nurse or not, it was still illegal for the nurse to perform that procedure. In addition, Dr. Khan administered non FDA-approved Botox to patients in large quantities over time, which is also illegal.

Dr. Steinbergh offered an amendment to Conclusion of Law #7 on the basis that saline does not meet the definition of “drug” in Section 2925.01, Ohio Revised Code, when it is used as a diluent to reconstitute a drug, and that an illegal drug is not made legal by the addition of saline.

Dr. Steinbergh moved to amend Conclusion of Law #7 to read as follows:

7. The evidence supports a conclusion that Dr. Khan’s acts, conduct, and/or omissions, as described in Finding of Fact 2, individually and/or collectively, constitute “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in R.C. 4731.22(B)(10), to wit: R.C. 2925.09, Unapproved Drugs.

R.C. 2925.09(A) states, in relevant part, that “[n]o person shall administer, dispense, * * * possess, * * * or use any drug * * * that is not approved by the United States food and drug administration,” unless certain enumerated exceptions apply. Dr. Khan argued that his use of non FDA approved Botox did not violate R.C. 2925.09 because it fell under one of the enumerated exceptions. Specifically, he argues that the exception enumerated in R.C. 2925.09(A)(3) is applicable.

R.C. 2925.09(A)(3) specifies that R.C. 2925.09(A) does not apply when “[a] licensed health professional authorized to prescribe drugs, other than a veterinarian, prescribes or combines two or more drugs as a single product for medical purposes.” Dr. Khan argued that he falls under that exception because Botox is shipped dry and must be reconstituted by adding saline solution to the Botox vial. Dr. Khan further argued that, pursuant to the definition of “drug” as used in R.C. 2925.09, saline constitutes a drug. Accordingly, he argued, because Botox must be mixed with saline solution before it is injected, he had combined “two or more drugs as a single product for medical purposes” and that the exception applies.

R.C. 2925.01 defines the term “drug” as used in R.C. 2925.09, and simply refers to one of the statutes governing the Ohio State Board of Pharmacy; specifically, R.C. 4729.01. Subsection (E) of R.C. 4729.01, sets forth the following definition of “drug”:

- (1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
- (2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

- (3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;
- (4) Any article intended for use as a component of any article specified in division (E)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.

Dr. Khan argued that saline solution can be used to rehydrate a person, which affects the person's blood by increasing its fluid volume. However, as used by Dr. Khan, the saline solution does not constitute a drug under Section 4729.01(E)(3). The saline was used as a diluent to reconstitute a powder form of Botox so that it could be injected, not for the purpose of rehydrating the patient.

The R.C. 2925(A)(3) exception for a physician who "combines two or more drugs as a single product for medical purposes" is also not applicable. As discussed above, saline that is used as a diluent to reconstitute a powder form of a drug does not itself constitute a drug. Moreover, by ordering and receiving the non-FDA approved powder form of Botox Dr. Khan violated Section 2925.09(A). Adding the legal saline to the illegal Botox powder does not somehow magically make the reconstituted Botox legal. Section 2925.09(A) cannot be read as providing a mechanism for making an illegal drug legal simply by adding saline.

It is concluded that the exception in Section 2925.09(A)(3) does not apply to this case. Therefore, Dr. Khan's conduct as set forth in Finding of Fact 2 violated R.C. 4731.22(B)(10) based upon acts constituting violation of R.C. 2925.09.

Dr. Madia seconded the motion.

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

Dr. Madia stated that the primary factor in this case is Dr. Khan's character. Dr. Madia noted Dr. Kahn's prior case in which he stole a nurse's credit card and recalled that, at that time, Dr. Khan pleaded that if his license was permanently revoked he would not have enough money to pay for college and care of his family. Dr. Madia opined that Dr. Khan is willing to do anything for financial reasons. Dr. Madia opined that the Board cannot trust Dr. Khan to take care of the citizens of Ohio. Dr. Madia agreed that Dr. Khan's license should be permanently revoked.

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

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

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Ali Khan, M.D. Mr. Hairston seconded the motion.

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

Ms. Debolt noted, for purposes of the record, that Patient 4 had one laser treatment prior to Dr. Khan's 2007 Board Order and another treatment at about the same time that order was issued. Ms. Debolt stated it is uncertain if Dr. Khan had received the 2007 Order prior to Patient 4's second treatment. Dr. Steinbergh agreed with Ms. Debolt and stated that that does not change the nature of the treatment.

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

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

The motion to approve carried.

CHARMAINE NICOLE REESE, Case Nos. 11-CRF-110 and 12-CRF-026

Dr. Mahajan directed the Board's attention to the consolidated matters of Charmaine Nicole Reese. He advised that objections were filed and have been previously distributed to Board members. Mr. Porter was the Hearing Examiner.

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

Ms. Reese was represented by her attorney, James McGovern.

Mr. McGovern noted that Ms. Reese is an applicant for a license to practice massage therapy in Ohio.

Ms. Reese expressed remorse for her conduct that led to the revocation of her Ohio nursing license. Ms. Reese stated that throughout the application process and hearing process, she has done her best to cooperate with the Medical Board, including reporting and sharing details about the problems with her nursing license. Ms. Reese stated that the hearing processes at the Nursing Board and the Medical Board have clarified her understanding of her personal and professional mistakes.

Ms. Reese stated that she is capable of following the laws and the rules of the Medical Board related to massage therapy. Ms. Reese stated that she still has a great deal to offer the healthcare profession by providing massage therapy and services to others, particularly to those with life-changing injuries. Ms. Reese stated that she enjoys helping people and she still views it as her calling to work in the medical field as a massage therapist.

Ms. Reese recognized that her conduct warrants concern and some type of sanction. Ms. Reese asked the Board not to permanently deny her application for licensure, but to instead grant her license subject to some form of sanction. Ms. Reese promised that if the Board does so, she will do a much better job of complying with the laws and rules of the Medical Board than she did with those of the Nursing Board.

Mr. McGovern stated that in his experience before the Medical Board, he has noticed that massage therapy applicants have been given a little more leeway than has been afforded applicants for medical licensure. Mr. McGovern stated that the Board has even licensed individuals with criminal convictions. Mr. McGovern stated that Ms. Reese's conduct was serious, but she has not engaged in any criminal conduct. Mr. McGovern stated that Ms. Reese has learned her lesson and suffered a great loss in the permanent revocation of her Ohio nursing license. Mr. McGovern stated that Ms. Reese is still fairly young and opined that to deprive her of the opportunity to utilize her massage therapy education would be a mistake.

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

Ms. Dorn stated that the Report and Recommendation accurately describes Ms. Reese's situation and the significant issues she has had with the Nursing Board since 2002. Ms. Dorn stated that in 2002, Ms. Reese was disciplined for failing to provide her employer with a copy of her Consent Agreement as required. In 2008, Ms. Reese was disciplined for removing medication intended for a patient and giving it to a coworker for his girlfriend. In 2011, Ms. Reese's nursing license was permanently revoked for failing to maintain professional boundaries by moving a patient into her home and failing to move the patient out after being asked to do so by her employer. Ms. Dorn also noted that Ms. Reese was convicted for operating a vehicle under the influence of alcohol or drugs (OVI) in 2011 and she accepted employment as a nurse at a home health care agency without first notifying the Nursing Board, as required by her 2008 Consent Agreement.

Ms. Dorn opined that Ms. Reese's actions do not seem malicious and she seems like a very nice person.

However, Ms. Dorn stated that Ms. Reese's actions clearly indicate lapses in judgment and that she consistently failed to follow the rules. At hearing, Ms. Reese admitted that when these events occurred, she believed she was doing the right thing. Ms. Dorn agreed with the Hearing Examiner that Ms. Reese's extensive disciplinary history with the Nursing Board and her past actions do not bode well for her compliance with the rules of the Medical Board. Ms. Dorn agreed with the Proposed Order of permanent denial.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the consolidated matters of Charmaine Nicole Reese. Dr. Madia seconded the motion.

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

Mr. Hairston stated that there are too many instances in Ms. Reese's past, especially when it comes to providing patient care, to grant a license to practice massage therapy. Mr. Hairston agreed with Ms. Dorn that Ms. Reese's application should be permanently denied.

Dr. Steinbergh agreed with Mr. Hairston. Dr. Steinbergh stated that after a previous disciplinary history, the Nursing Board took action to permanently revoke Ms. Reese's nursing license when she moved a patient into her home in order to "do the right thing" because she didn't think the patient was getting appropriate care. Although Ms. Reese was notified that this was inappropriate, she did not correct her actions. Dr. Steinbergh stated that Ms. Reese clearly does not understand respect for a regulatory body and believed that Ms. Reese will not respect the Medical Board. Dr. Steinberg opined that the Medical Board cannot legitimately regulate Ms. Reese and agreed with permanent denial.

Dr. Talmage exited the meeting at this time.

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

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

The motion to approve carried.

Dr. Mahajan directed the Board's attention to the matter of Ernesto Compendio Tan, M.D. He advised that objections were filed and have been previously distributed to Board members. Ms. Blue was the Hearing Examiner.

Dr. Mahajan stated that Dr. Tan, through his counsel, has filed a motion for the Medical Board to review the Respondent's objections to the rulings on evidence, motions, and on procedural matters adopted by the Hearing Examiner during the hearing.

Dr. Steinbergh moved to deny Dr. Tan's motion. Dr. Madia seconded the motion. A vote was taken:

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

The motion to deny the motion carried.

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

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

Mr. Izzo reviewed the objections that have been filed to the Report and Recommendation. First, regarding the Hearing Examiner's reference to the March 2011 Order, Mr. Izzo stated that there were actually two orders issued by the Board against Dr. Tan in March 2011, one on March 22nd and one on March 28th. Each order stated that they were effective on the date of mailing. Mr. Izzo stated that this caused confusion with Dr. Tan. The first order contained language about Dr. Gaines. Dr. Izzo stated that that Order is not valid because it does not explain why the Board modified the Hearing Examiner's Report and Recommendation. Mr. Izzo stated that the second order was entitled "*Nunc Pro Tunc*," but there was no letter sent with that order explaining what exactly it was and why it was sent to Dr. Tan. Mr. Izzo stated that this Order is not valid because there is no authority for an agency to issue a *Nunc Pro Tunc* order and there is no evidence that the full Board actually approved the issuance of the second order.

Mr. Izzo continued that Dr. Tan did not know about the suspension order until he opened his mail on March 25th, and there is no evidence to the contrary in the record. Mr. Izzo stated that if the Board wanted Dr. Tan to stop practicing immediately, as indicated in the letter, an Order should have been hand-delivered to him as the Board has done in the past.

Mr. Izzo stated that none of the statements or the recording by investigator Mike Staples should be considered because the law says that anyone who is interrogated should be notified of the right of counsel. Mr. Izzo stated that Mr. Staples admitted on the record that he knew this, yet he never advised Dr. Tan of this right.

Mr. Izzo continued that there is insufficient evidence on the record indicating that there was a record-keeping violation. Mr. Izzo stated that, as reflected in the transcript, Dr. Tan was presented an exhibit as if it was his own medical record, yet it contained information from a variety of sources. Mr. Izzo stated that there is no way to prove that there are any issues with Dr. Tan's medical records unless Dr. Tan's records, as he provided them to the Board, were actually considered at the hearing.

Mr. Izzo stated that the Hearing Examiner determined that Dr. Tan had practiced medicine while suspended. Mr. Izzo stated that the practice of medicine is examining, diagnosing and treating patients. Mr. Izzo stated that Dr. Tan being present in the examination room when a patient is examined, or Dr. Tan writing in the patient chart, or Dr. Tan filling out the body of a prescription are not the practice of medicine. Mr. Izzo stated that these activities are performed routinely by medical assistants.

Mr. Izzo also disputed the Hearing Examiner's determination that Dr. Tan was not credible. Mr. Izzo stated that Dr. Tan was interrogated by investigators from the Medical Board and the Pharmacy Board, so he was naturally nervous. Mr. Izzo stated that Dr. Tan had the same nervousness during the hearing.

Mr. Izzo stated that only one patient came forward to state that she saw Dr. Tan during his suspension. However, Mr. Izzo noted that Dr. Tan admitted that he saw three patients prior to Mr. Staples interrogating him on April 21, 2011. Mr. Izzo stated that there are other examples of Dr. Tan providing the Board with information it did not already have.

Dr. Tan stated that he made several mistakes last year by practicing medicine while under suspension. Dr. Tan stated that he was very nervous when the investigator came to his office in April 2011. Dr. Tan stated that when he listened to the tape recording, he could not believe how he sounded. Dr. Tan stated that he had failed to mention to Mr. Staples the three patients he had seen while his license was suspended. Dr. Tan stated that the visit from the Board investigator scared him and he stopped interacting with his patients, allowing Dr. Mediodia to take over.

Dr. Tan related how he became aware of the Board Order. Dr. Tan stated that his staff opened the letter for him on March 25, 2011, informing him that his license was suspended. Dr. Tan stated that he was confused by the language of the Order because it referred to Dr. Gaines. Dr. Tan stated that he made several mistakes during the transition of his patients. Dr. Tan stated that he sat in on several appointments, wrote some progress notes, wrote the body of prescriptions, and even read an x-ray report. Dr. Tan stated that he thought he was helping his patients, but admitted that it was wrong of him to practice medicine while under suspension.

Dr. Tan stated that under the terms of the Board Order, he has attended probationary conferences about three times and has signed a paper of compliance. Dr. Tan stated that he did not know he had been practicing medicine and there was no intent to deceive when he signed the paper. Dr. Tan stated that he

has learned his lesson and has taken classes on record-keeping. Dr. Tan stated that he wishes to implement steps and internal checks to avoid errors and omissions in the future.

Dr. Tan stated that his calling is very important to him. Dr. Tan asked the Board for compassion and forgiveness. Dr. Tan stated that his license was suspended in March 2011 and it will have been suspended for 18 months regardless of the Board's decision. Dr. Tan asked the Board to allow him to continue his career. Dr. Tan promised to live up to the expectations of everyone in his beloved profession.

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

Mr. Wilcox stated that he read Dr. Tan's objections and believes them to be without merit. Mr. Wilcox opined that the objections are an attempt to distract the Board from the real issue, which is Dr. Tan's admission of knowingly practicing medicine while under suspension.

Mr. Wilcox stated that it is clear from the record that Dr. Tan's license was suspended by a March 9, 2011 Board Order. Mr. Wilcox stated that the Board Order was mailed on March 22 via certified mail and received by Dr. Tan on March 23. Pursuant to Section 119, Ohio Revised Code, the date of mailing is the date the Order goes into effect. Mr. Wilcox stated that despite knowing on March 23, 2011 that his license was suspended, he continued activities that constitute the practice of medicine in Ohio and did so under a protracted period of time, even up to August 2011.

Mr. Wilcox opined that the most telling example of Dr. Tan's practice under suspension involved Patient 3. On April 15, 2011, Dr. Tan examined Patient 3, performed a neck exam, and recorded a full patient note documenting the examination and a diagnosis. Mr. Wilcox stated that this is clearly the practice of medicine. Mr. Wilcox stated that the recording of Dr. Tan's conversation with Mr. Staples and a Pharmacy Board investigator shows that Dr. Tan was clearly instructed that he cannot continue activities that constitute the practice of medicine while under suspension. Despite this, Dr. Tan continued to engage in the practice of medicine.

Mr. Wilcox stated that Patient 2's chart clearly shows that on June 3, Dr. Tan reviewed the chart and wrote an instruction for Dr. Mediodia to prescribe Keflex 500 mg four times a day. Mr. Wilcox stated that this is not analogous to a medical assistant writing something in a patient chart. Dr. Mediodia testified that Dr. Tan was instructing him to prescribe that drug. Mr. Wilcox stated that Dr. Mediodia, an 86-year-old man, was clearly put into this position by Dr. Tan so that Dr. Tan could continue to practice through Dr. Mediodia.

Mr. Wilcox stated that Patient 1's record indicates three patient visits from 2009 to 2010, yet the pharmacy record show that during that time there were multiple prescriptions given by Dr. Tan for Vicodin and other medications. There is no notation in Patient 1's chart regarding these prescriptions, a violation of the Board's rules on prescribing. Mr. Wilcox noted that one of those prescriptions was authorized on April 4, 2011, during the time in which Dr. Tan's license was under suspension.

Mr. Wilcox opined that Dr. Tan has shown repeatedly that he is not willing to follow the mandates of the

Medical Board. Because of this, Mr. Wilcox felt that Dr. Tan is not amenable to future Board Orders. Mr. Wilcox agreed with the Hearing Examiner that permanent revocation is appropriate.

Dr. Madia moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Ernesto Compendio Tan, M.D. Mr. Hairston seconded the motion.

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

Dr. Steinbergh stated that on July 15, 2010, Dr. Tan pled guilty and was found guilty in the Court of Common Pleas of Franklin County of two misdemeanor counts of theft by deception. The facts underlying this conviction involve Dr. Tan having deprived by deception the Ohio Department of Jobs and Family Services and Amerigroup of amounts exceeding \$5,000.00. Dr. Tan was sentenced to an aggregate of six months of incarceration, all of which were suspended, he was ordered to pay restitution of \$20,678.58, and he was placed on probation for 48 months. Dr. Tan also lost the ability to be a Medicaid provider.

Dr. Steinbergh continued that Dr. Tan subsequently came under a Board Order, as previously discussed. Dr. Steinbergh stated that it is clear that Dr. Tan was suspended and that he received the notice of his suspension in March 2011. Dr. Steinbergh stated that she does not find the exact date to be relevant. Dr. Steinbergh stated that Dr. Tan did not read the March 22 order until March 25, which Dr. Steinbergh found convenient since March 25 was a Friday. Nevertheless, Dr. Tan continued to practice medicine while suspended.

Dr. Steinbergh stated that Dr. Tan continued to see patients with Dr. Mediodia, an 86-year-old licensed physician who has practiced medicine in Ohio for more than 50 years. Dr. Steinbergh stated that Dr. Mediodia had wanted to help out. According to Dr. Mediodia's testimony, Dr. Tan never personally informed him that he was suspended. Dr. Mediodia testified that Dr. Tan was in the office frequently, interacted with him on a regular basis concerning patient care, and described how to operate the practice during this time. Dr. Mediodia also provided the following testimony:

The practice consisted of briefing me on each and every patient that came, to tell me about the problems, medications they were taking, so that they could...so that he [Dr. Tan] had more or less facilitated the process of taking care...of my taking care of the patient.

Dr. Mediodia further testified that from March 25 to April 21, Dr. Tan accompanied Dr. Mediodia in the exam room with patients and that Dr. Tan had examined two to three patients by himself. Dr. Steinbergh stated that these examples, in addition to examples provided by the Assistant Attorney General, show that Dr. Tan practiced medicine while he was suspended.

Dr. Steinbergh addressed the objections filed against the Report and Recommendation. Objection #5 contends that the Hearing Examiner incorrectly identified that practice of medicine to include being present in the exam room, filling out the body of prescriptions, writing progress notes in the patient chart, and reviewing radiology reports. Dr. Steinbergh responded to this objection by stating that all of these things are, in fact, the practice of medicine when one is a physician. Dr. Steinbergh stated that when a medical assistant performs these tasks at the direction of the physician, they are not practicing medicine

because they are not physicians. Dr. Steinbergh stated that when Dr. Tan, as a physician, enters an exam room and is recognized as a physician, he is practicing medicine and he should not have been there. Likewise, filling out the body of a prescription, writing progress notes, and reviewing radiology reports are the practice of medicine if one is a physician. Conversely, a nurse performing these functions is engaged in the practice of nursing. A medical assistant performing these functions is acting under the delegation of a physician and is not practicing medicine. Dr. Steinbergh reiterated that Dr. Tan also performed actions which the objections acknowledge are the practice of medicine, such as examining a patient and authorizing prescriptions.

Dr. Steinbergh agreed with Mr. Wilcox that the Board does not have the ability to monitor Dr. Tan effectively. Dr. Steinbergh stated that patients deserve to have a licensed physician and Dr. Tan did not have the right to participate in patient care while under suspension. Dr. Steinbergh agreed with the Findings of Fact, Conclusions of Law, and the Proposed Order of permanent revocation.

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

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

The motion to approve carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

ALADDIN ZAFAR SYED, M.D., Case No. 12-CRF-048

Dr. Mahajan directed the Board's attention to the matter of Aladdin Zafar Syed, M.D. He advised that the Board issued a Notice of Opportunity for Hearing to Dr. Syed, 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 May 9, 2012 Notice of Opportunity for Hearing in the matter of Dr. Syed have been proven to be true by a preponderance of the evidence and to adopt the Proposed Findings and Proposed Order. Dr. Madia seconded the motion.

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

Mr. Kenney stated that Dr. Syed entered into a Consent Agreement on August 13, 2008, which granted him a license to practice medicine and surgery in Ohio under certain terms, conditions, and limitations. At that time, Dr. Syed agreed to continue psychiatric treatment at least once every three months and to forward a report from the psychiatrist to the Board every six months. However, Dr. Syed informed the Board that he was no longer receiving treatments and had not seen the psychiatrist for eight to nine months. In fact, the Board did not receive Dr. Syed's psychiatric report from January 26, 2011, through June 29, 2012.

Mr. Kenney continued that Dr. Syed had also agreed to have a monitoring physician approved by the Board. Dr. Syed's monitoring physician withdrew his service on August 3, 2009 and Dr. Syed continued to practice without obtaining another monitoring physician. Also, although Dr. Syed agreed in his Consent Agreement to obey all federal, state, and local laws, in February 2012 he self-prescribed Ambien.

Mr. Kenney stated that it is clear that Dr. Syed failed to comply with his 2008 Consent Agreement. The Proposed Order is to revoke Dr. Syed's Ohio medical license. Mr. Kenney stated that, after much consideration, he believes that Dr. Syed deliberately and continually violated the terms of his Consent Agreement and he knew he was doing wrong. Mr. Kenney stated that Dr. Syed continued to endanger the health and safety of his patients. Based on Dr. Syed's past actions, Mr. Kenney saw no reason to believe that Dr. Syed will now live up to any agreement.

Mr. Kenney moved to amend the Proposed Order to permanently revoke Dr. Syed's license to practice medicine and surgery in Ohio. Dr. Ramprasad seconded the motion.

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

Dr. Madia stated that he agrees with Mr. Kenney and opined that Dr. Syed is not fit to practice medicine. Dr. Madia stated that a non-permanent revocation would allow Dr. Syed to apply for another license and begin the process again. Dr. Madia agreed that Dr. Syed's license should be permanently revoked.

Dr. Steinbergh stated, for the benefit of the medical students in attendance, that when a physician becomes impaired the goal of the Board, generally speaking, is to rehabilitate that physician. However, sometimes the Board reaches a point with a physician where it feels it has done all that it can do and that permanent revocation is appropriate. Dr. Steinbergh stated that in the case of Dr. Syed, the evidence shows that he continued to put patients at risk. Dr. Steinbergh expressed respect for the opinion of Mr. Kenney as a consumer member of the Board and supported his proposed amendment.

A vote was taken on Mr. Kenney's motion to amend:

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

Dr. Mahajan	- aye
Dr. Madia	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye

The motion to amend carried.

Dr. Steinbergh moved to find that the allegations as set forth in the May 9, 2012 Notice of Opportunity for Hearing in the matter of Dr. Syed have been proven to be true by a preponderance of the evidence and to adopt, as amended, the Proposed Findings and Proposed Order. Dr. Madia seconded the motion. A vote was taken:

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

The motion to approve carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Mahajan advised that in the following matters, the Board issued a Notice of Opportunity for Hearing, and documentation of service was received for each. There were no requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. The matters are therefore before the Board for final disposition. Dr. Mahajan stated that the matter of Dr. Lokuketagoda is not disciplinary in nature, and therefore all Board members may vote in that matter.

PAUL VINCENT BROOKS, M.D., Case No. 12-CRF-033

Dr. Suppan stated that this action is based on action taken by the Kentucky Board of Medical Licensure. On September 2, 2011, the Kentucky Board issued an emergency order of suspension in the matter of Dr. Brooks based on the fact that he inappropriately prescribed and provided medications, including controlled substances, to a patient who was a known drug addict, and he fabricated medical records related to the prescribing. Further, this patient was found dead in her home on December 9, 2010, and the results of an autopsy revealed that she had died of the acute effects of combined morphine and hydrocodone. The Kentucky Board also found that Dr. Brooks and the patient were living together and engaged in a sexual relationship.

On April 11, 2012, the Ohio Board issued a Notice of Opportunity for Hearing to Dr. Brooks, but was unable to be delivered. The Notice was posted in a local newspaper on three occasions, and no request for hearing has been received.

Dr. Suppan moved to find that the allegations as set forth in the April 11, 2012 Notice in the matter of Paul Vincent Brooks, M.D., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective upon mailing, permanently revoking Dr. Brooks' license to practice medicine and surgery in the state of Ohio. Mr. Hairston seconded the motion. A vote was taken:

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

The motion carried.

JALIYA ROHANA LOKUKETAGODA, M.D., Case No. 12-CRF-051

Dr. Madia moved to find that the allegations as set forth in the June 8, 2012 Notice in the matter of Jaliya Rohana Lokuketagoda, M.D., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective upon mailing, denying Dr. Lokuketagoda's application for a license to practice medicine and surgery in the state of Ohio. Ms. Elsass seconded the motion.

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

Ms. Elsass stated that on June 7, 2011, Dr. Lokuketagoda submitted an application for a license to practice medicine and surgery in Ohio. That application is currently pending. Dr. Lokuketagoda has not taken or passed the Federation Licensing Examination (FLEX) or the United States Medical Licensing Examination (USMLE). On June 8, 2012, the Board mailed a Notice of Opportunity for Hearing to Dr. Lokuketagoda. Dr. Lokuketagoda has not submitted a written hearing request.

A vote was taken on Madia's motion:

ROLL CALL:	Dr. Strafford	- aye
	Dr. Bechtel	- aye

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

The motion carried.

ROBERTO ROSETE PAGARIGAN, M.D., Case No. 12-CRF-062

Dr. Madia stated that this action is based on an action taken by the Minnesota Board of Medical Practice to restrict Dr. Pagarigan's Minnesota medical license for at least two years. The Minnesota Board's actions are based on the finding that Dr. Pagarigan was engaged in unethical and unprofessional conduct, failed to maintain adequate medical records, and inappropriately prescribed medications. On July 12, 2012, the Board mailed a Notice of Opportunity for Hearing to Dr. Pagarigan. Dr. Pagarigan responded with a letter that read, in part, "I have no plans to pursue a hearing on the matter of my request for reinstatement of my Ohio medical license."

Dr. Madia moved to find that the allegations as set forth in the July 11, 2012 Notice in the matter of Roberto Rosete Pagarigan, M.D., have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective upon mailing, permanently denying his application for restoration of his license to practice medicine and surgery in Ohio. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

RICHELLE MARIE REYNOLDS, Case No. 12-CRF-055

Mr. Hairston stated that on January 18, 2012, the Board issued an Order to Ms. Reynolds via certified mail to submit to an outpatient examination at Glenbeigh beginning on April 12, 2012. Ms. Reynolds has failed

to provide documentation that her failure to appear for the examination was due to circumstances beyond her control.

Mr. Hairston moved to find that the allegations as set forth in the June 13, 2012 Notice in the matter of Richelle Marie Reynolds have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective upon mailing, denying her application for a license to practice massage therapy in Ohio. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

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

PHILIP L. CARDWELL, P.A. – 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 Mr. Cardwell. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion to send carried.

ALAN ARNOLD GODOFSKY, M.D. - CITATION LETTER

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

Dr. Steinbergh moved to send the Citation Letter to Dr. Godofsky. Mr. Hairston seconded the motion. A vote was taken:

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

The motion to send carried.

CECIL CURTIS GRAHAM, M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation 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. Graham. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion to send carried.

PETER GRAFF HICKOX, M.D. – CITATION LETTER

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

Mr. Hairston moved to send the Citation Letter to Dr. Hickox. Dr. Madia seconded the motion. A vote was taken:

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

The motion to send carried.

MICHAEL M. KAMRAVA, M.D. – CITATION LETTER

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

Mr. Hairston moved to send the Citation Letter to Dr. Kamrava. Dr. Madia seconded the motion. A vote was taken:

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

The motion to send carried.

HECTOR LUIS LOPEZ, JR., M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation 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. Lopez. Mr. Hairston seconded the motion. A vote was taken:

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

The motion to send carried.

MARGY TEMPONERAS, M.D. – CITATION LETTER

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

Dr. Steinbergh moved to send the Citation Letter to Dr. Temponeras. Mr. Hairston seconded the motion. A vote was taken:

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

The motion to send carried.

ROBERT C. TURNER, M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation 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. Turner. Mr. Hairston seconded the motion. A vote was taken:

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

The motion to send carried.

KATHERINE L. RICHMOND, D.O. – CITATION LETTER

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

Dr. Steinbergh moved to send the Citation Letter to Dr. Richmond. Dr. Madia seconded the motion. A vote was taken:

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

The motion to send carried.

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

RATIFICATION OF SETTLEMENT AGREEMENTS

MICHAEL C. FROST, M.T. – PERMANENT SURRENDER

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

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

The motion to ratify carried.

MICHAEL D. CRAGEL, D.P.M. – STEP I CONSENT AGREEMENT

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

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

The motion to ratify carried.

RICHARD NORMAN HANSEN, M.D. – PERMANENT SURRENDER

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

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

Dr. Steinbergh	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye

The motion to ratify carried.

REBECCA E. JOHNSON, M.D. – STEP II CONSENT AGREEMENT

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

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

The motion to ratify carried.

CHRISTOPHER J. KARAKASIS, M.D. – STEP II CONSENT AGREEMENT

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

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

The motion to ratify carried.

CAROL ELAINE LEWIS, M.D. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

MAHENDRA KUMAR MAHAJAN, M.D. – STEP II CONSENT AGREEMENT

Dr. Madia moved to ratify the Proposed Step II Consent Agreement with Dr. Mahendra Mahajan. Dr. Steinbergh seconded the motion.

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

Dr. Ramprasad noted that the Medical Licensing Board of Indiana has suspended this physician indefinitely, while the proposed Consent Agreement before the Ohio Board will reinstate the physician's license. Ms. Marshall explained that Indiana's action is based on Ohio's previous action and that no new violations have occurred.

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

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

The motion to ratify carried.

RANDI JOHANNA MCVETY, L.M.T. – CONSENT AGREEMENT

Dr. Madia moved to ratify the Proposed Consent Agreement with Ms. McVety. Mr. Hairston seconded the motion.

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

Dr. Steinbergh stated that she opposes this proposed Consent Agreement. Dr. Steinbergh noted that this massage therapist's license expired on August 31, 2009, and she continued to practice until February 2012. Dr. Steinbergh observed that the proposed Consent Agreement grants her a license, suspends it for 60 days, and provides for probationary terms for two years.

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

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

The motion to ratify carried.

CHARLES WESLEY REYES, M.D. – STEP I CONSENT AGREEMENT

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

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

The motion to ratify carried.

GERALD K. PERELMAN, D.P.M. – CONSENT AGREEMENT

Dr. Madia moved to ratify the Proposed Consent Agreement with Dr. Perelman. Mr. Hairston seconded the motion.

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

Dr. Steinbergh asked if this case involves egregious prescribing habits. Ms. Marshall stated that there is no allegation of the intentional illegal distribution of drugs or of operating a pill mill. Dr. Steinbergh asked if it is believed that remediation will help this physician. Ms. Marshall replied that that is what the Secretary and Supervising Member have deemed to be appropriate.

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

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

The motion to ratify carried.

ARTURO J. BONNIN, M.D. – CONSENT AGREEMENT

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

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

Dr. Ramprasad - aye

The motion to ratify carried.

MARGO NAN HIRSHMAN ROCA, M.D. – CONSENT AGREEMENT

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

ROLL CALL:

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

The motion to ratify carried.

SHEILA S. REDDY, M.D. – STEP I CONSENT AGREEMENT

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

ROLL CALL:

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

The motion to ratify carried.

TERRY LINN THOMAS, D.O. – STEP I CONSENT AGREEMENT

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

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

The motion to ratify carried.

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

REINSTATEMENT REQUEST

AMY R. WEIDMAN, M.D.

Dr. Steinbergh moved that the request for the reinstatement of the license of Dr. Weidman be approved, subject to the probationary terms and conditions as outlined in the March 14, 2012 Board Order for a minimum of two years. Dr. Madia seconded the motion. A vote was taken:

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

The motion carried.

Dr. Ramprasad stated that Dr. Weidman has written a short report on what she learned from her experience, particularly in regards to exchanging gifts with patients. Dr. Ramprasad urged the medical students in attendance to refrain from giving or accepting gifts from patients, as this may cause misunderstandings and expectations on the part of the patient.

PROBATIONARY APPEARANCES

GREGORY G. DUMA, M.D.

Dr. Duma was making his final appearance before the Board pursuant to his request for release from the terms of his September 12, 2007 Consent Agreement. Ms. Bickers reviewed Dr. Duma's history with the Board.

Dr. Madia asked how Dr. Duma is. Dr. Duma replied that he is fine. Dr. Madia asked if Dr. Duma has learned and understands what it means to have a medical license. Dr. Duma replied that he understands.

Dr. Madia moved to release Dr. Duma from the terms of his September 12 2007 Consent Agreement. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

WILLIAM L. SCHLOTTERER, D.O.

Dr. Schlotterer was making his final appearance before the Board pursuant to his request for release from the terms of his August 8, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Schlotterer's history with the Board.

Dr. Steinbergh asked if Dr. Schlotterer is still practicing family medicine in Sandusky. Dr. Schlotterer replied that that is the case. Dr. Steinbergh asked Dr. Schlotterer to describe his practice. Dr. Schlotterer responded that he is a solo practitioner and has no partners. Dr. Schlotterer commented that things are going well and he is very happy.

Dr. Steinbergh asked about Dr. Schlotterer's recovery. Dr. Schlotterer replied that he has three home groups. Dr. Schlotterer stated that he traveled to Columbus with his sponsor and they attended a recovery rally at the statehouse prior to this meeting.

Dr. Steinbergh wished Dr. Schlotterer well, but cautioned him that recovery is a constant engagement that he must work at all the time. Dr. Steinbergh asked if Dr. Schlotterer has support from family and friends. Dr. Schlotterer answered that he has supportive family and friends.

Dr. Steinbergh moved to continue Dr. Schlotterer under the terms of his August 8, 2012 Consent Agreement. Ms. Elsass seconded the motion. All members voted aye. The motion carried.

WILLIAM M. COX, M.D.

Dr. Cox was making his initial appearance before the Board pursuant to the terms of his August 8, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Cox's history with the Board.

Dr. Madia asked if Dr. Cox understands why he is before the Board today. Dr. Cox replied that he understands and has been going to counseling for several years since the first episode. Dr. Cox stated that the counseling is helping shed light on many issues that he is struggling with.

Dr. Steinbergh asked if Dr. Cox has an understanding of why he does what he does. Dr. Cox replied that he does have an understanding. Dr. Steinbergh asked Dr. Cox to describe any behavior modification or strategies that Dr. Cox is developing in counseling. Dr. Cox stated since the most recent episode, his medications have been adjusted somewhat and his therapy has been tailored more towards understanding the underlying motivating factors of his actions. Dr. Cox stated that he has begun keeping a journal to try to identify any sort of predicting factors. Dr. Cox is learning through counseling and therapy to stop acting impulsively and to hesitate before acting.

Dr. Steinbergh asked if Dr. Cox can identify anything in his past that has motivated him in this way, or if it is strictly kleptomania. Dr. Cox replied that his kleptomania is a maladaptive response to stress, so it tends to come out when stress levels are high.

Dr. Madia noted that Dr. Cox is taking Concerta and naloxone and asked why Dr. Cox is taking naloxone. Dr. Cox replied that his psychiatrist did research and discovered that naloxone may inhibit some of the automatic reflexive acting that leads to impulsive behavior. Dr. Cox stated that he was started on naloxone just a couple of months ago.

Dr. Madia moved to continue Dr. Cox under the terms of his August 8, 2012 Consent Agreement. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

Dr. Talmage returned to the meeting at this time.

PAUL H. GOODMAN, D.O.

Dr. Goodman was making his initial appearance before the Board pursuant to the terms of his May 9, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Goodman's history with the Board.

Dr. Steinbergh asked about Dr. Goodman's recovery and what is different from his previous recovery. Dr. Goodman replied that he has much more intensity and purpose in his recovery this time and he is more focused. Dr. Goodman stated that he attends meetings, participates on a more active level, and communicates with his sponsor regularly. Dr. Goodman opined that he is doing what he needs to do to retain his recovery.

Dr. Steinbergh asked Dr. Goodman to describe his family support. Dr. Goodman answered that he does not have much family left. Dr. Goodman's mother died last week, his sister lives in South Carolina, and his son lives in California. However, Dr. Goodman stated that he has a lot of friends and acquaintances that he has made over the years and he has filtered out those who are helpful and those who are not.

Dr. Steinbergh moved to continue Dr. Goodman under the terms of his May 9, 2012 Consent Agreement. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

WESLEY F. HARD, M.D.

Dr. Hard was making his initial appearance before the Board pursuant to the terms of the Board's Order of

November 10, 2010. Ms. Bickers reviewed Dr. Hard's history with the Board.

Dr. Madia asked how Dr. Hard's recovery is going. Dr. Hard replied that his recovery is going very well and he attends five to six meeting a week on average. Dr. Hard stated that he has worked all the steps and has maintained close contact with his sponsor.

Dr. Madia asked how Dr. Hard is currently spending his time. Dr. Hard replied that three days a week he does patient assessments for MDXM, which contracts with Medicare HMO's. Dr. Hard stated that he does not prescribe or perform patient care because he has been waiting for his Drug Enforcement Agency (DEA) certification, which just came last week. Dr. Hard stated that on Tuesdays and Thursdays he cares for his grandson. Dr. Hard stated that he is looking to go into practice with a practice group on the south side of Columbus.

Dr. Madia asked if Pristiq is the only medication Dr. Hard takes. Dr. Hard stated that he also takes Nexium and Flomax.

Dr. Madia moved to continue Dr. Hard under the terms of the Board's Order of November 10, 2010. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

BRIAN D. HESLER, M.D.

Dr. Hesler was making his initial appearance before the Board pursuant to the terms of his May 9, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Hesler's history with the Board.

Dr. Steinbergh noted that Dr. Hesler will not be able to return to his residency program at the Cleveland Clinic. Dr. Hesler stated that that is correct. Dr. Steinbergh asked if Dr. Hesler is still working at the Cleveland Clinic. Dr. Hesler answered that he has an appointment as a clinical research fellow through the Outcomes Research Consortium.

Dr. Steinbergh asked what Dr. Hesler's future goal is. Dr. Hesler replied that he is applying for residencies in the areas of anesthesiology and emergency medicine. Dr. Steinbergh asked if Dr. Hesler understands the risks of continuing in anesthesiology. Dr. Hesler replied that he does understand the risks and that his overall goal is to practice critical care medicine, which requires a residency in either anesthesiology or emergency medicine and then a fellowship in critical care medicine.

Dr. Madia asked what Dr. Hesler had done with the medication Sevoflurane. Dr. Hesler replied that he had inhaled it. Responding to further questions from Dr. Madia, Dr. Hesler explained that he had inhaled Sevoflurane from a gauze while on call in the call room of the hospital. Dr. Madia expressed surprise that Dr. Hesler wishes to return to an anesthesiology program. Dr. Hesler stated that he discussed the issue with his chairperson, who believes that Dr. Hesler can still be a good anesthesia resident and clinical anesthesiologist, but that a smaller program would be best for him considering his situation. Dr. Steinbergh asked what Dr. Hesler perceived his situation to be. Dr. Hesler replied that with his history and the risk involved, a smaller program would be able to provide closer observation of his habits and performance.

Dr. Madia stated that as an anesthesiologist, Dr. Hesler would be using Sevoflurane several times a day and asked if Dr. Hesler felt he could do that. Dr. Hesler replied that he believes he can do that and that he has a strong program. Dr. Madia advised extreme caution, noting that Dr. Hesler will have access to his drug of choice right in his hand every time he puts a facemask on a patient.

Dr. Ramprasad stated that the Board is very concerned because anesthesiology is one of the riskiest fields for recidivism and it has a high mortality rate for recovering addicts. Dr. Ramprasad stated that the rate of relapse in anesthesiology is on the order of 30% to 40%, which is enormously high. Dr. Ramprasad stated that the Board does not wish Dr. Hesler to get into trouble again and possibly jeopardize his entire career. Dr. Hesler stated that he appreciates the Board's concern.

Dr. Madia moved to continue Dr. Hesler under the terms of his May 9, 2012 Consent Agreement. Dr. Steinbergh seconded the motion. All members voted aye. The motion carried.

Dr. Steinbergh reiterated the Board's concerns and opined that Dr. Hesler's demeanor is further cause for concern. Dr. Madia agreed. Dr. Steinbergh opined that Dr. Hesler does not understand what is happening and urged him to learn more about himself and the risk he is putting himself at. Dr. Steinbergh stated that if Dr. Hesler does not comprehend his situation he will go through this process more than once and could eventually lose his medical license. Dr. Steinbergh wished Dr. Hesler well.

W. ANDREW HIGHBERGER, M.D.

Dr. Highberger was making his initial appearance before the Board pursuant to the terms of his June 13, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Highberger's history with the Board.

Dr. Steinbergh expressed great concern that Dr. Highberger has had multiple relapses and is now practicing addiction medicine. Dr. Highberger stated that his relapse was at the end of his anesthesia career. Since having his license reinstated, Dr. Highberger is seeking a career in addiction medicine. Dr. Highberger stated that he will not be practicing anesthesiology again.

Dr. Steinbergh asked Dr. Highberger how this recovery is different from his previous recovery attempts and what Dr. Highberger has learned about the risk that he put himself at as an anesthesiologist. Dr. Highberger responded that he practiced sober for seven years, relapsed, and then practiced anesthesiology sober for nine years. Dr. Highberger stated that he was testing the disease every day, he worked a strong recovery program, and had many good recovery habits. However, Dr. Highberger stated that anesthesiology is a dangerous field for people who suffer from the disease of addiction, likening the situation to an alcoholic working as a bartender.

Dr. Highberger stated that after a number of years of sobriety, he had felt safe that he would never relapse. Because he felt safe, Dr. Highberger's program began to fail. Because of his practice as an anesthesiologist, Dr. Highberger was putting himself in a dangerous situation on a regular basis. Dr. Highberger stated that he had surgery which exposed him to his drug of choice and he relapsed some months later. Dr. Highberger stated that he nearly died a number of times and he is grateful to be here today. Dr. Highberger stated that he is grateful that the Board has permanently restricted him from

practicing anesthesiology, but that he would not do so even if the Board allowed it because it is far too dangerous.

Dr. Highberger continued that he will never again consider himself safe from the disease of addiction and that he has to aggressively treat on a daily basis. Dr. Highberger stated that addiction is a chronic, progressive, fatal illness that affects as much as 15% of the adult population in this country. Dr. Highberger hoped to use his experience in a field where he can help people with similar conditions. Dr. Highberger stated that he is currently looking for an addiction medicine fellowship and he is very excited by the opportunity.

Dr. Madia asked Dr. Highberger about his diagnosis of seasonal affective disorder. Dr. Highberger stated that, like 60% of the people in Ohio, he gets somewhat depressed in the winter, so he takes a low dose of Effexor during that time. Although Dr. Highberger had planned to go off Effexor this year, his addictionologist felt it would be better to continue with it until next spring. Dr. Steinbergh asked if Dr. Highberger uses a UV light. Dr. Highberger replied that he has one in his office and in his workshop.

Dr. Madia asked if Dr. Highberger takes Trazodone regularly. Dr. Highberger answered that he takes Trazodone as needed.

Dr. Madia moved to continue Dr. Highberger under the terms of his June 13, 2012 Consent Agreement. Dr. Steinbergh seconded the motion. All members voted aye. The motion carried.

Dr. Suppan exited the meeting at this time.

ADAM G. MACE, M.D.

Dr. Mace was making his initial appearance before the Board pursuant to the terms of his June 13, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Mace's history with the Board.

Dr. Steinbergh asked how long Dr. Mace has been chemically dependent. Dr. Mace replied that he thinks he has been dependent his whole life because he believes it is a thinking disease. Dr. Mace stated that he was actively using alcohol from the age of 11 and used alcohol every night. When Dr. Mace reached an age where drinking was more socially acceptable, it became even more of a problem. Dr. Mace stated that he realized he had a problem at the end of college, but he told himself that he would be more grown up in medical school and everything would be different. However, the only thing that changed was that he drank more because he was alone in a new place.

Dr. Mace continued that he sought help in medical school and managed about two-and-a-half years of sobriety until the end of medical school. When Dr. Mace started clinical rotations, he put his career over his sobriety, which Dr. Mace said was a very bad decision. Dr. Mace stated that he was prescribed Ambien, which he would never have taken if he had been working a strong program. Dr. Mace started overusing the Ambien and his disease came back. Fortunately, Dr. Mace had enough awareness to talk to his addiction physician and get back into treatment. Dr. Mace stated that he has maintained sobriety in the two years since that time.

Dr. Steinbergh asked Dr. Mace to tell the medical students in attendance how they can help themselves and their peers to recognize a drinking or abuse problem. Dr. Mace opined that he probably had displayed many signs of a problem when he was in high school. Dr. Mace also stated that he left parties early because he was embarrassed about the way he drank; he would go home and drink the way he wanted to. Dr. Mace advised anyone with a problem to reach out for help, opining that he would have been better off if he had done so sooner. Dr. Mace stated that addiction threatened not only his career, but also his life.

Dr. Steinbergh asked if Dr. Mace has been successful in his residency so far. Dr. Mace replied that he has done very well.

Dr. Steinbergh moved to continue Dr. Mace under the terms of his June 13, 2012 Consent Agreement. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

Dr. Ramprasad asked how much help there is in medical school for students with addiction problems. Dr. Mace replied that when he called counseling services at Case Western Reserve University School of Medicine, he was able to meet with someone within hours and he was assessed at a treatment center later that day. Dr. Mace felt that the counseling services saved his life.

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. Dr. Murthy was also requesting approval of Dan C. Breece, D.O., to serve as the monitoring physician, and determination of the frequency and number of charts to be reviewed. Ms. Bickers reviewed Dr. Murthy's history with the Board.

Dr. Madia asked how Dr. Murthy is doing. Dr. Murthy replied that he is doing very well and he is learning a lot about himself and his disease. Dr. Murthy stated that he attends as many meetings as possible and he finds the aftercare program in Canton to be especially informative.

Dr. Madia asked if Dr. Murthy has resumed practicing medicine. Dr. Murthy replied that he has not yet resumed practice.

Dr. Talmage noted that Dr. Murthy spent over three months at the Talbott Recovery Center. Dr. Murthy stated that for his situation, staying longer worked out for the best. Dr. Murthy stated that one of his biggest problems was that he had no idea who he was or what his issues were. Dr. Murthy stated that it took time to delve into those issues and the people at Talbot helped him get to the bottom of it.

Dr. Talmage commented that more and more physicians are requiring more than the standard 28 days of treatment. Dr. Murthy stated that when Dr. Talbott originally began his program, participants would stay for six months and the time period was cut down from there, partially due to insurance issues. Dr. Murthy stated that the time he spent at Talbott was the best time he had ever spent.

Dr. Murthy stated that being in recovery has also changed his son's life. Dr. Murthy explained that his son

recently determined that he has a serious drinking problem. After seeing his father in a different light, Dr. Murthy's son wanted to go to Talbott and is there currently. Dr. Murthy stated that he is grateful for what Talbott did for him and for what it will hopefully do for his son.

Dr. Madia moved to continue Dr. Murthy under the terms of his March 14, 2012 Consent Agreement. Dr. Madia further moved to approve Dan C. Breece, D.O., to serve as the monitoring physician with 10 charts per month to be reviewed. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

JERRY G. PURVIS, JR., M.D.

Dr. Purvis was making his initial appearance before the Board pursuant to the terms of his August 8, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Purvis' history with the Board.

Dr. Steinbergh asked Dr. Purvis to comment on his psychiatric diagnosis of grief reaction. Dr. Purvis explained that for him, grief reaction was the loss of a job. Dr. Purvis stated that addiction is addiction no matter what someone is addicted to. Dr. Purvis stated that his drug of choice was work.

Ms. Elsass exited the meeting at this time.

Dr. Purvis stated that his life had not been balance and he advised the medical students in attendance to have a balanced life. Dr. Purvis stated that he had not had any life skills beyond being a surgeon and being a father. Dr. Purvis stated that no matter what the drug of choice, it engulfs one's life. Dr. Purvis stated that he now goes to 7-10 meetings per week, including caduceus. Dr. Purvis stated that he has also given lectures to families at Parkside and to his counselors group.

Dr. Steinbergh asked Dr. Purvis to describe his practice. Dr. Purvis responded that he is not currently working and he anticipates relocating to Georgia to be with his children and searching for work there. Ms. Bickers stated that she has had conversations with Dr. Purvis about approving monitoring in Georgia if and when he relocates.

Dr. Steinbergh asked if Dr. Purvis has already had discussions with a physician monitoring program in Georgia. Dr. Purvis replied that he has not yet even approached the Georgia Composite Medical Board on this matter. Dr. Purvis stated that he holds a Georgia medical license but he has to go through their consent process before he can apply for a job in Georgia. Dr. Steinbergh asked if Dr. Purvis' Georgia license is active. Dr. Purvis replied that his Georgia license is currently suspended.

Dr. Steinbergh moved to continue Dr. Purvis under the terms of his August 8, 2012 Consent Agreement. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

MATTHEW C. RIESEN, M.D.

Dr. Riesen was making his initial appearance before the Board pursuant to the terms of his August 8, 2012 Consent Agreement. Dr. Riesen was also requesting approval of Linda J. Ruane, M.S., to serve as the

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

Dr. Steinbergh stated that she supports the request to approve Ms. Ruane to serve as Dr. Riesen's mental health professional. Dr. Steinbergh asked how Dr. Riesen, as a physician, approaches mental health counseling. Dr. Riesen stated that he will meet Ms. Ruane for the first time later this month and that he has never had a mental health professional except for a psychiatrist. Dr. Steinbergh asked if Dr. Riesen has done well with his psychiatrist. Dr. Riesen replied that he has done well.

Dr. Steinbergh asked Dr. Riesen to describe his current recovery and what he is doing on a day-to-day basis. Dr. Riesen answered that he is very active in the small AA community in his town and he is treasurer for a home group. Dr. Riesen stated that he has also started a 12-step meeting in jail twice a week. Dr. Riesen stated that he communicates with his sponsor regularly and has some sponsees. Dr. Riesen stated that he has never been as happy with who he is as he has been since being in recovery.

Dr. Steinbergh asked if Dr. Riesen's addiction, which began during his training, was the result of stress or some other factor. Dr. Riesen responded that he did not know what led him to addiction, but noted that addiction and alcoholism is in his family. Dr. Riesen stated that he didn't drink until he was 18 and he became addicted to alcohol and drugs after he graduated. Dr. Riesen advised the medical students in attendance that if they have an issue with addiction or drinking, they should seek help as soon as possible before it gets worse.

Dr. Talmage commented that most people who have bipolar disease are a little angry, but Dr. Riesen seems quite the opposite. Dr. Talmage asked if Dr. Riesen had anger problems before he was diagnosed with bipolar disorder. Dr. Riesen replied that he did not have anger problems, but he did have a great deal of energy that often prevented him from sleeping. Dr. Riesen said that he was angry for the first couple of days of treatment, but was mostly angry at himself. When one of Dr. Riesen's counselors told him to forgive himself, he did and started working on himself.

Dr. Steinbergh moved to continue Dr. Riesen under the terms of his August 8, 2012 Consent Agreement. Dr. Steinbergh further moved to approve Linda J. Ruane, M.S., to serve as the mental health professional. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

JEFF B. ROMIG, M.D.

Dr. Romig was making his initial appearance before the Board pursuant to the terms of his June 13, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Romig's history with the Board.

Dr. Madia noted that Dr. Romig had been self-prescribing and asked if he had been using the controlled substances himself. Dr. Romig replied that he had only prescribed for his wife and not for himself. Dr. Madia asked if Dr. Romig understands the risk of prescribing to a family member. Dr. Romig stated that he does understand and he also understood at the time he prescribed, but that it was an unusual circumstance. Dr. Talmage asked if the unusual circumstance was the loss of objectivity. Dr. Romig answered that one could say that.

Dr. Madia asked if Dr. Romig's wife was addicted or had some sort of pain. Dr. Romig explained that in 2009, he and his wife were walking and she fell face-first on the concrete. Dr. Romig had to resuscitate her and she ended up with six hemorrhages and a couple of fractures. Dr. Romig's wife was life-flighted to a hospital. Ultimately, Dr. Romig's wife had complete facial reconstruction and she has seven titanium plates in her face.

Dr. Romig continued that his wife was initially hospitalized in Dayton near the site of the accident and was later transported to an Akron facility near their home. In transferring care between physicians, pain medications became an issue. Between physicians, Dr. Romig prescribed his wife Vicodin. Dr. Romig stated that it was initially difficult to get the new plastic surgeon to communicate with him and that there had been discussions of referring his wife to a psychiatrist for pain management. Fortunately, a dentist determined that the force of the fall tore the nerves in the teeth and seven root canals were needed. Afterwards, the plastic surgeon had no issues with prescribing. Subsequently, Dr. Romig's wife did well and she has not needed pain medication since. Dr. Romig admitted that he lost objectivity while watching his wife cry on the couch.

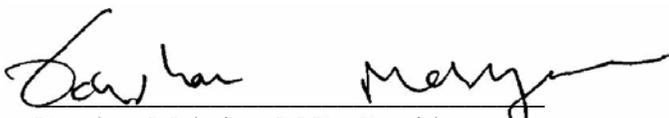
Dr. Steinbergh noted that Dr. Romig also wrote prescriptions for non-controlled substances for members of his family, including an oral contraceptive pill. Dr. Romig stated that that was true. Dr. Steinbergh stated that the lesson for the medical students in attendance is that even prescribing non-controlled substances to family members is a violation. Dr. Steinbergh stated that physicians cannot prescribe without having a legitimate physician/patient relationship and keeping medical records, which Dr. Romig did not do. Dr. Steinbergh stated that a physician cannot be objective when treating someone close to them. Dr. Romig stated that he understands that.

Dr. Steinbergh moved to continue Dr. Romig under the terms of his June 13, 2012 Consent Agreement. Dr. Madia seconded the motion. All members voted aye. The motion carried.

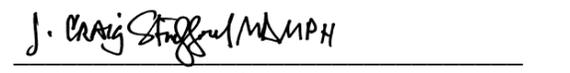
Dr. Ramprasad informed the medical students of an American Medical Association website called Virtual Mentor, which has a great article on the pitfalls of prescribing to family members and others. Dr. Talmage advised the students to also refrain from prescribing to colleagues.

Thereupon, at 6:25 p.m., the September 12, 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 September 12, 2012, as approved on October 10, 2012.



Darshan Mahajan, M.D., President



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

(SEAL)



MINUTES**THE STATE MEDICAL BOARD OF OHIO****September 13, 2012**

Darshan Mahajan, M.D., President, called the meeting to order at 8:05 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: Anita M. Steinbergh, D.O., Vice-President; J. Craig Strafford, M.D., Secretary; Mark A. Bechtel, M.D., Supervising Member; Dalsukh Madia, M.D.; W. Frank Hairston; Marchelle L. Suppan, D.P.M.; Kris Ramprasad; Laurie O. Elsass; and Donald R. Kenney, Sr. The following member arrived at a later time: Lance A. Talmage, M.D.

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

PRESENTATION ON VALUE OF TELEMEDICINE

Mr. Miller stated that representatives from the Ohio State University Wexner Medical Center will provide a presentation on their telemedicine program as part of the Board's continuing discussions on that topic. Michel Torbey, M.D., introduced himself and stated that he is Medical Director for the Neurovascular Center at the Ohio State University. Dr. Torbey thanked the Board for the opportunity to share information about telemedicine.

Dr. Torbey defined telemedicine, as described by the American Telemedicine Association, as the exchange of medical information from one site to another using electronic communication to improve patient health status. Dr. Torbey provided a thorough overview and PowerPoint presentation on the advantages of telemedicine, particularly for patients in rural areas, issues with third-party reimbursement, and reduction of costs. Dr. Torbey also went into great detail on the Wexner Center's Telestroke program, whereby patients in outlying hospitals who are potentially suffering from a stroke are assessed and treated remotely from the Wexner Medical Center by a vascular neurologist, a specialty in very short supply in rural areas.

Dr. Steinbergh asked if the treatment provided by the Telestroke program is reimbursed by Medicare. Dr. Torbey replied that Medicare reimbursement is only available from patients in a few rural hospitals. Dr. Torbey explained that many hospitals that are generally considered to be rural are not in a federally-defined rural area, which is a requirement for Medicare reimbursement for telemedicine.

Dr. Steinbergh asked what the ultimate goal is in terms of life-saving telemedicine encounters. Dr. Tobey

stated that the Telestroke program hopes to be present in 25 facilities across several counties in central Ohio by next summer. Dr. Torbey stated that the current focus is on acute care, but the program is moving into a second phase of providing a clinic experience for follow-up care.

Dr. Strafford asked Dr. Torbey to elaborate on the equipment that is necessary at the patient's location for the Telestroke program. Dr. Torbey responded that when the program establishes itself at a hospital, the physicians, nurses, and emergency medical service providers are educated about stroke and are aided in developing a stroke alert process. The facility is also provided with a stroke crash cart for use in evaluation, as well as medication which the healthcare professionals with the patient can be directed to administer.

Dr. Strafford asked about the audio and visual communication technology utilized by the Telestroke program. Dr. Torbey answered that the system uses a high-definition camera on the cart that allows 360° access to the room and the ability to zoom in on the patient. Dr. Torbey stated that the video equipment provides very good images and can allow the remote specialist to examine the patient's pupils for constriction. This video access is accompanied by real time audio communication.

Dr. Suppan asked what business arrangement the Telestroke program has with outlying hospitals. Dr. Torbey replied that the program has a memorandum of understanding with the hospitals that the program will provide the services and the hospital and patient retain the right to obtain care elsewhere after the consultation. The members of the Telestroke program get privileges in the hospital and thereby technically become part of their roster of physicians. Dr. Torbey stated that liability is covered by the Ohio State University and the outlying hospital's malpractice coverage is not affected.

Dr. Ramprasad asked about the minimum requirements for broadband for this system to operate. Dr. Ramprasad also noted that the Veteran's Administration system stationed in Cincinnati has a telecommunication system which is staffed by nurses and allows viewing of all intensive care units (ICU) in Ohio. Dr. Torbey stated that most tele-ICU systems are manned by nurses with a physician at each location; when an alert is triggered, the nurses report to the physician. Dr. Torbey contrasted this with the Telestroke program in which a nurse would be present with the patient to serve as the expert at that location. Regarding broadband requirements, Dr. Torbey stated that most hospitals already have the technical capabilities in place and the required broadband is within a range that is mostly standard today. Dr. Torbey stated that it can be run on a wireless network and consultation can be run on a 4G system on a laptop computer.

Dr. Mahajan thanked Dr. Torbey and his colleagues for addressing the Board on this important topic.

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 member wished to discuss a probationary report or request separately.

Dr. Steinbergh moved to accept the Compliance staff's Reports of Conferences on August 6 & 7, 2012, with: Mark L. Allen, M.D.; Franklin H. Baker, P.A.; Joseph H. Banks, Jr., M.D.; Michael R. Baum, M.D.; Andrew J. Beistel, D.O.; Thomas M. Bender, A.A.; Craig L. Bierer, D.O.; Paul Lewis Blanchard, M.D.; Jean S. Choy-Zannoni, M.D.; Paul P. Chu, M.D.; Erin Kaye (Ball) Clark, M.T.; Ericka L. Davis, P.A.; Franklin D. Demint, D.O.; Jennifer S. Dyer, M.D.; Mary Jo Foote, P.A.; Philip M. Goldman, M.D.; Christine M. Graham, L.M.T.; Michael S. Grinblatt, M.D.; Timothy Ross Halstead, P.A.; William Clark Harlan, D.O.; Timothy J. Heyd, M.D.; Nilesh B. Jobalia, M.D.; Matthew D. Kellems, M.D.; Krzysztof J. Kubicki, M.D.; Mark C. Leeson, M.D.; Carol E. Lewis, M.D.; Paul D. Lopreato, P.A.; Ravi Dutt Madan, M.D.; William G. Martin, M.D.; Imran Raza Naqvi, M.D.; Kurt J. Palazzo, M.D.; Lawrence Gene Ratcliff, M.D.; Paul D. Reikowski, Jr., L.M.T.; Denise J. Signs, M.D.; Rodney E. Stone, M.D.; Susan Gail Sweda, M.D.; Randall G. Whitlock, Jr., P.A.; and Adil Y. Yamour, M.D.

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

- To grant Dustin M. Clark, M.D.'s request for approval of the Tennessee Medical Foundation Physicians Health Program to conduct monitoring while the doctor resides in Tennessee;
- To grant Thomas A. Gibbs, D.O.'s request for reduction in required drug and alcohol rehabilitation meeting attendance from three per week to two per week, with a minimum of ten per month;
- To grant Kristie L. Gibson, L.M.T.'s request for approval of Laurel Ralston, D.O., to serve as the treating psychiatrist;
- To grant Jonathan L. Haimes, M.D.'s request for permission to travel from Ohio to Colorado without prior approval;
- To grant Kymberly Jacobs, M.T.'s request for approval of *Ethics for Bodyworkers*, an online course administered by Knox County Career Center School of Massage Therapy, to fulfill the personal ethics course requirement;
- To grant Sean M. Klepper, M.D.'s request for reduction in personal appearances to every six months, reduction in drug and alcohol rehabilitation meeting requirements to two per week with a minimum of 10 per month, and reduction in psychiatric sessions to once every three months;
- To grant Bruce J. Merkin, M.D.'s request for approval of Gregory B. Collins, M.D., to serve as the treating psychiatrist, approval of the proposed practice plan, approval of Nykolai V. Pidhorodeckyj, M.D., to serve as the monitoring physician with 10 charts reviewed per month, and approval of William D. Evans, II, M.S., to administer the maintenance polygraph testing;
- To grant William Popovich, M.D.'s request for approval of Gregory B. Collins, M.D., to serve as the treating psychiatrist;

- To grant Richard J. Ryan, M.D.'s request for reduction in drug and alcohol rehabilitation meetings to two per week with a minimum of 10 per month, and reduction in personal appearance to every six months; and to deny Dr. Ryan's request for discontinuance of the chart review requirement and to approve the Secretary and Supervising Member's recommendation to reduce the number of charts to be reviewed to five charts per month;
- To grant Alan D. Sabino, M.D.'s request for approval of John M. Yarbrough, M.D., to serve as the treating psychiatrist, approval of Phillip Ruhl, D.O., 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 Siraj A. Siddiqui, M.D.'s request for approval of *Prescribing Controlled Drugs: Critical Issues & Common Pitfalls*, administered by Vanderbilt University, to fulfill the prescribing course requirement; and approval of *Intensive Course in Medical Record Keeping*, administered by Case Western Reserve University, to fulfill the record keeping course requirement
- To grant Jon Berkley Silk, Jr., M.D.'s request for approval of Anupama S. Kulkarni, 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 Joseph P. Sitarik, D.O.'s request for reduction in the drug testing requirement to two per month; and
- To grant Stephen A. Straubing, M.D.'s request for approval of the Florida PRN to serve as the drug testing facility/program, reduction in personal appearances to every six months, and reduction in drug testing to twice per month.

Dr. Steinbergh further moved to grant the request of Maryrose P. Bauschka, M.D., to approve Anne M. O'Melia, M.D., to serve as the examining psychiatrist to fulfill one of the two psychiatric assessments required by the reinstatement terms of Dr. Bauschka's Non-Permanent Surrender of her training certificate.

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

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

The motion carried.

PRE-CITATION SETTLEMENT AGREEMENT POLICY

Ms. Marshall stated that the proposed new pre-citation settlement agreement policy is substantially the same as the current policy, with changes that reflect practices that improve efficiency. Ms. Marshall stated that this is being brought before the Board because new software has provided increased capabilities for reviewing and editing draft settlement agreements.

Ms. Marshall stated that there are two primary changes. First, the current standing authority from the Secretary and Supervising Member to negotiate permanent surrender agreements if there is an admission from the respondent will be replaced by standing authority to do so from the Board itself. Ms. Marshall stated that this will prevent previous gaps in authority that arose when there was a new Secretary or Supervising Member or when another Board member served as Acting Secretary or Acting Supervising Member. Second, the policy allows the Chief Enforcement Attorney to make edits or suggestions to draft settlement agreements to reflect general comments made by the Board during previous Board meetings. Ms. Marshall stated that this does not affect the authority of the Secretary and Supervising Member for the core parameters of the settlement agreement.

Dr. Steinbergh moved to approve the proposed pre-citation settlement agreement policy. Ms. Elsass seconded the motion. All members voted aye. The motion carried.

ADMINISTRATIVE REPORT

Mr. Whitehouse stated that Hearing Examiner Gretchen Petrucci has resigned, and so the Board will search for someone to fill that position. In the interim, the Board will secure the services of a contract Hearing Examiner to keep up with the Hearing Unit's workload. Mr. Whitehouse stated that this will necessitate approval from the Controlling Board.

Mr. Whitehouse stated that documents have been provided to the Board members relative to the Federation Foundation of the Federation of State Medical Boards (FSMB). One document, provided for the Board member's information, is a summary of advocacy efforts by the FSMB to address opioid abuse and misuse.

The other document is a form letter endorsing the application of the FSMB Foundation to develop education programs on treatment using extended release and long-acting opioids. This is based upon a Food and Drug Administration (FDA) mandate requiring drug manufacturers to provide such education to prescribers. Mr. Whitehouse suggested that the Board to approve the letter, which is an endorsement of the Federation Foundation's efforts in this matter.

Dr. Steinbergh moved to approve the letter as presented. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

Mr. Whitehouse commented that the FSMB has produced a book on the history of medical licensing and discipline in the United States, written by Dr. Choudhry and Mr. Johnson of the FSMB. The State Medical

Board of Ohio has been given a complimentary copy of the book, which Mr. Whitehouse found to be very informative. At Dr. Steinbergh's suggestion, staff will explore the possibility of obtaining more copies for distribution among the Board members.

Mr. Whitehouse stated that the Administrators in Medicine (AIM) will meet in Boston on September 17-18. Mr. Whitehouse asked for a motion to approve *per diem* expenses for Ms. Wehrle to attend that meeting. Mr. Whitehouse stated that Ms. Wehrle's other travel expenses will be paid by AIM.

Dr. Madia moved to approve *per diem* expenses for Ms. Wehrle to attend the September 17-18 meeting of AIM. Mr. Hairston seconded that motion. All members voted aye. The motion carried.

Mr. Whitehouse asked for a motion appointing himself as a delegate to the Federation of State Massage Therapy Boards (FSMTB) at their annual meeting in New Orleans on September 27-29. Mr. Whitehouse stated that the FSMTB will pay all travel expenses.

Dr. Madia moved to approve Mr. Whitehouse to serve as the Board's delegate to the FSMTB Annual meeting on September 27-29. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

Mr. Whitehouse stated that Ms. Anderson has been asked to take part in a panel discussion at the Board Attorney Workshop sponsored by the FSMB in New Orleans on November 1-2. Mr. Whitehouse stated that the FSMB will pay Ms. Anderson's travel expenses.

Dr. Madia moved to approve Ms. Anderson to take part in the Board Attorney Workshop panel discussion on November 1-2. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

Mr. Whitehouse stated that, as directed by the Board, he has met with representatives from the larger medical associations in Ohio regarding the Board's budget and proposed licensure fee increases. Mr. Whitehouse thanked the Board members who accompanied him to the meetings. Mr. Whitehouse stated that on August 27, he and Dr. Mahajan made a presentation to the Academy of Medicine of Cleveland and Northern Ohio (AMCNO). Mr. Whitehouse stated that he, Dr. Madia, and Mr. Kenney met with representatives from the Governor's office on September 4. Mr. Whitehouse stated that on September 6, he and Dr. Suppan participated in a telephone conference with the Ohio Podiatric Medical Association (OPMA). Mr. Whitehouse stated that on September 7, he and Dr. Steinbergh made a presentation to the Ohio Osteopathic Association (OOA). Finally, Mr. Whitehouse stated that he and Dr. Talmage met with the Ohio State Medical Association (OSMA) on September 12.

Mr. Whitehouse stated that, generally, the meetings with the associations were positive and there was a general understanding of the need for the increase, with one group calling the proposed increase "modest." He commented that a lot of work still needs to be done in educating the membership of the associations in terms of what the Board does and to demonstrate the need to continue operations at the current level. Mr. Whitehouse stated that many were impressed that even with the proposed increase, Ohio's fees will still be below the national average.

It was also suggested that the Board identify other potential revenue streams not unlike discussions the Board has had in the past regarding cost recovery of investigations. This was not believed to be sufficient to address operations concerns. Mr. Whitehouse stated he stressed to every organization the fact that the fee increase is to sustain current operations and is not intended to pay for new programs or initiatives.

Mr. Whitehouse stated that the meeting with the Governor's office was also positive, from that meeting, it was suggested that Mr. Whitehouse meet with Director Keen of the Office of Budget and Management.

Dr. Suppan stated that she has received concerns that the increase in fees will create a pot of funds that could then be claimed by a current or future administration. Mr. Whitehouse acknowledged those concerns, noting that the current proposal is designed to forestall another increase in fees for at least 10 years, but does create excess funds in the short-term. Mr. Whitehouse stated that a suggestion from one of the associations was to request a series of small stepped increases over a number of years rather than one larger increase. Though this suggestion has not been thoroughly vetted, it has the potential to provide adequate funds without creating a large sum of money at any one point.

Dr. Talmage entered the meeting at this time.

The Board thoroughly discussed this suggestion, the possibility of having it enacted into law, and whether it would adequately fund the Board over the next 10 years. Mr. Whitehouse stated that he and the staff will examine this possibility carefully and report back to the Board.

REPORTS BY ASSIGNED COMMITTEES

RULE 4731-1-12, OHIO ADMINISTRATIVE CODE

Ms. Debolt stated that Rule 4731-1-12 regards the Board's massage therapy examination rule. Ms. Debolt stated that a five-year review of the rule is required because it was initially set with a one-year review.

Ms. Debolt stated that she has proposed removing the provision that an applicant who filed for the December 2011 massage therapy examination, did not sit for that exam, and subsequently passed the Massage and Bodywork Licensing Examination (MBLEx) need not pay the fee for licensure. Ms. Debolt stated that this provision is no longer needed, and it conflicts with the Ohio Revised Code. The only other proposed change is a correction of a typographical error.

Dr. Steinbergh moved to approve the proposed amendment, to be filed into the formal rule-making process as proposed. Ms. Elsass seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Dr. Bechtel	- aye
	Mr. Hairston	- aye
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye

Dr. Mahajan	- aye
Dr. Madia	- aye
Dr. Talmage	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye

The motion carried.

FISCAL REPORT

Ms. Loe stated that the July fiscal report has been provided to the Board members. Ms. Loe stated that she can answer any questions the Board has about the report.

Ms. Loe stated that some information on the Board's budget has also been provided, based on payroll projections that she received on Friday and some additional numbers she received on Tuesday. Ms. Loe stated that the budget was driven primarily by payroll costs. The budget for current Fiscal Year 2013 is \$9,100,000.00. The module provided to the Board indicates that this amount is what is required to keep all the positions the Board is planning on filling this year, with no expansion. There are projected increases of 2.5% for Fiscal Year 2014 and 1.7% for Fiscal Year 2015. The remainder of the budget explains what this money funds and various aspects of the Board's functions and staffing levels. Ms. Loe continued that the Board must demonstrate how it will fund these projections, and it will do so with an increase in licensure fees.

Mr. Kenney asked about efforts to get approval for the licensure fee increase. Mr. Whitehouse briefly outlined various aspects of the proposal which may help it pass, including the fact that licensure fees have not increased since 1999, the requested increase is relatively modest, demonstration of improvements made to the Board's functions over the years, and the notion that the Board represents the self-regulation of the medical profession in Ohio.

Dr. Steinbergh commented on the graph provided by Ms. Loe comparing Ohio's current and proposed licensure fees to those of other states, which showed a wide range of licensure fees across the country. Dr. Steinbergh asked if the Federation Credential Verification Service (FCVS) fee, which is required in some states and not in others, is included in the figures. Ms. Loe answered that the figures on the graph were obtained from the American Medical Association and were self-reported by the states. Ms. Loe stated that, because Ohio requires FCVS, that cost was included in Ohio's figures. Dr. Ramprasad pointed out that the FCVS fee would only affect a physician's initial licensure cost and not the cost of renewal.

Ms. Loe stated that if the Board is satisfied with the proposed budget, it will be submitted on Monday. Dr. Strafford asked if periodic updates on the budget process can be provided to the Board members. Mr. Whitehouse stated that periodic updates will be provided.

Dr. Madia moved to approve the budget proposal as presented. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

LICENSURE UPDATE

Ms. Vollmer stated that her licensure update has been provided to the Board members. Ms. Vollmer stated that the Board has had prior discussions regarding the possibility of having licensure applicants approved by the Secretary and Supervising Member, to be affirmed later by the full Board. The purpose of this suggestion was to improve the speed and efficiency of the licensure process. The Board had directed Ms. Vollmer to gather data on that subject.

Ms. Vollmer stated that currently, the longest an applicant may have to wait for licensure following the receipt and review of all documents is about a month; this would occur in cases in which the applicant just misses the deadline to get on the Board agenda and must wait until the following meeting for licensure. Ms. Vollmer stated that currently the Board can electronically track the time of licensure from the receipt of the applicant's fee, but not from the receipt of the final document.

Ms. Vollmer stated that thus far, study of this subject indicates that changing the method of approval of licensure may save about one or two weeks. The Group 1 Committee felt that it may not be worth the time and effort of pursuing legislative changes and other changes in order to save that small amount of time. Ms. Vollmer stated that this issue has been tabled as the staff searches for more statistics.

Regarding licensure fees, Ms. Vollmer stated that the Board has been notified that the Federation Credentials Verification Service (FCVS) will increase their fees beginning October 1. Beginning on that date, physician will pay an extra \$30.00 for an initial request and a smaller increase for subsequent requests and additional information. Also, the Education Commission for Foreign Medical Graduates (ECFMG) will increase their verification request fee by \$25.00. Dr. Talmage commented that the fee for the United States Medical Licensing Examination (USMLE) will also increase.

Ms. Vollmer stated that it had been decided that all applications for the Clinical Research Faculty Certificate (CRFC) will initially be brought to the Group 1 Committee and the Board for review so that the Board members can see what kinds of applications were being received. Unfortunately, because of some miscommunication, the first application actually went to the Secretary and has already been approved. Ms. Vollmer provided a handout of what was in that application for the Board's review. Ms. Vollmer stated that future applications will be brought to the Committee and the Board.

Ms. Vollmer asked, in the case of CRFC applications that do not meet statutory requirements, if the Board still wants to see the application, or if the Licensure Section can reject those and provide the Board with a summary of what was deficient. Dr. Mahajan opined that those applications can be rejected without Board review. Dr. Madia stated that the Group 1 Committee had also recommended rejecting such applications.

Dr. Bechtel asked if the applicant who was approved will be doing strictly research. Ms. Vollmer replied that there will be incidental patient contact involving a few patients per week in the operating room, inpatient rounding, case discussions, and other forms of clinical care within the scope of teaching activities.

LICENSURE APPLICATION REVIEWSELIAS ANAISSIE, M.D.

Ms. Rieve stated that Dr. Anaissie is applying for a license to practice medicine and surgery in Ohio. Dr. Anaissie trained in the 1980's at the University of Texas and did three years of a fellowship. However, Dr. Anaissie's fellowship was not accredited until July 1987. Dr. Anaissie is requesting that the Board deem his 24 years of experience and his three years of training, four months of which was accredited, to be equivalent to 24 months of post-graduate education.

Dr. Madia stated that in addition to his fellowship and many years of practicing, Dr. Anaissie is also board-certified in his specialty. The Group 1 Committee recommended approving Dr. Anaissie's request.

Dr. Madia moved to approve Dr. Anaissie's request for licensure. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

JEFFREY BAILES, P.A.

Ms. Rieve stated that Mr. Bailes is applying for a certificate to practice as a physician assistant in Ohio. Mr. Bailes does not hold a current valid license or any other form of authority to practice as a physician assistant at this time and does not hold a master's or higher degree. Ms. Rieve noted that the Governor's office had contacted the Board regarding this case. The Group 1 Committee tabled this request.

Dr. Madia explained that the Group 1 Committee felt that Mr. Bailes does not currently meet the statutory requirements to be licensed as a physician assistant. However, Mr. Bailes' experience in the U.S. Army and the interest of the Governor's office led the Committee to table the application until a desirable solution is found, perhaps through legislation and help from the Governor's office.

Dr. Steinbergh opined that politics should not be involved in this matter. Dr. Steinbergh opined that Mr. Bailes' employment in the military is no different from any other employment as a physician assistant. Dr.

Steinbergh also noted that Mr. Bailes wishes to teach, which does not require a license, though his prospective employer may have such a requirement. Dr. Steinbergh stated that she would favor denying Mr. Bailes' request.

Dr. Talmage disagreed with Dr. Steinbergh, noting the Mr. Bailes is a veteran and has earned the right to work as a physician assistant. Dr. Talmage opined that to deny Mr. Bailes' request would be un-American.

Dr. Ramprasad stated that the Group 1 Committee felt the same as Dr. Talmage does, but the law as currently written simply does not allow for Mr. Bailes to be granted licensure. Dr. Ramprasad stated that the Board respects veterans, but that does not qualify a person to be a physician assistant in terms of patient care and patient safety.

Mr. Miller stated that, while Mr. Bailes' military service was a factor in the Committee's discussion, the fact that Mr. Bailes has recently passed his certification examination was the true basis for why the Committee wished to license him were it not for the statutory limitations on doing so. Mr. Miller stated that he will continue conversations with the administration to explore possible solutions.

Dr. Steinbergh stated that, while she absolutely respects military service, the Board has to be very careful about documenting equivalency and to follow the current laws. Dr. Steinbergh stated that the Board must be cautious of what this case will mean to future applicants who also wish to have their experience deemed equivalent to the statutory requirements. Ms. Elsass agreed and stated that that was the reason this matter was tabled by the Committee.

Dr. Strafford stated that Mr. Bailes appears to be clinically competent and that there is interest outside the Board that Mr. Bailes be licensed. Dr. Strafford stated that the Board should endeavor to find a way to allow Mr. Bailes to be licensed. Dr. Strafford respected Dr. Steinbergh's comments and stated that Mr. Bailes seems qualified to be a physician assistant, though he does not meet the current statutory requirements.

MATTHEW WENTWORTH CHASE, M.D.

Ms. Rieve stated that Dr. Chase has applied for restoration of his license to practice medicine and surgery in Ohio. Dr. Chase has not practiced clinical medicine since July 2002. The Group 1 Committee recommended approving Dr. Chase's request, pending successful completion of the SPEX examination.

Dr. Madia moved to approve Dr. Chase's request of his license to practice medicine and surgery in Ohio, pending successful completion of the Special Purpose Examination (SPEX). Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Dr. Bechtel	- aye
	Mr. Hairston	- aye
	Dr. Suppan	- aye
	Dr. Steinbergh	- aye

Dr. Mahajan	- aye
Dr. Madia	- aye
Dr. Talmage	- aye
Ms. Elsass	- aye
Mr. Kenney	- aye
Dr. Ramprasad	- aye

The motion carried.

KRISTINA HEMMELGARN, L.M.T.

Ms. Rieve stated that Ms. Hemmelgarn is applying for restoration of her license to practice massage therapy. Ms. Hemmelgarn has not practiced massage therapy since 2009. The Group 1 Committee recommended approval of Ms. Hemmelgarn's request, pending successful completion of the MBLEx examination.

Dr. Madia moved to approve Ms. Hemmelgarn's request for restoration of her license to practice massage therapy, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEx). Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

TASHA JENKINS, M.D.

Ms. Rieve stated that Dr. Jenkins' request was withdrawn and was not considered by Group 1 Committee.

MARYANN MLODZIK, L.M.T.

Ms. Rieve stated that Ms. Mlodzik is applying for restoration of her license to practice massage therapy. Ms. Mlodzik has not practiced massage therapy since 2005. The Group 1 Committee recommended approval of Ms. Mlodzik's request, pending successful completion of the MBLEx examination.

Dr. Madia moved to approve Ms. Mlodzik's request for restoration of her license to practice massage therapy, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEx). Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

CERTIFICATE OF CONCEDED EMINENCE APPLICATION REVIEW

TOSHIHARU SHINOKA, M.D., PH.D.

Ms. Vollmer stated that the Board has received its first application for the Certificate of Conceded Eminence. Dr. Shinoka indicates that he meets all the criteria for having unique talents and extraordinary abilities. However, Ms. Vollmer stated that the staff has had problems verifying some of the requirements. The staff was able to verify that Dr. Shinoka has written multiple articles and has received prizes for excellence. The staff was unable to verify that Dr. Shinoka has received a number of grants because the grants were in his partner's name, though Dr. Shinoka was part of the group that did the work. Also, though the dean of the institution is required to certify that Dr. Shinoka meets the requirements, it was actually certified by the vice-dean and sufficient documentation was not provided.

Ms. Vollmer stated that the Group 1 Committee tabled discussion of this application because it is incomplete. This will give Dr. Shinoka and the dean an opportunity to verify the application's requirements with additional documentation.

The Board engaged in a thorough discussion of the nature of grants, specifically how to determine what individual or institution actually received the grant and whether someone listed as a participant in the work group can be considered a recipient.

Mr. Kenney noted that the contract Dr. Shinoka provided to the Board is subject to his receiving an Ohio medical license. Mr. Kenney pointed out that a Certificate of Conceded Eminence is not an Ohio medical license. Ms. Vollmer agreed and stated that that issue will need to be clarified.

Ms. Vollmer stated that since the matter of Dr. Shinoka was tabled by the Group 1 Committee, no Board

vote is needed at this time.

Ms. Vollmer stated that the experience with Dr. Shinoka's application has revealed a need for some changes to the Certificate of Conceded Eminence application. Ms. Vollmer asked the Board to approve the following changes:

- Request a *Curriculum Vitae* from the applicant (Ms. Vollmer noted that Dr. Shinoka did provide his *Curriculum Vitae* and it was very helpful)
- Clarification that three letters of reference are needed
- On the *Résumé of Activities*, ask the applicant to list all of their activities from the completion of medical school to the present.

Dr. Madia moved to approve the proposed changes to the application for Certificate of Conceded Eminence. Ms. Elsass seconded the motion. A vote was taken:

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

The motion carried.

Mr. Madia stated that the Group 1 Committee discussed the issue of what kind of badge a holder of the Certificate of Conceded Eminence should wear in the hospital setting. Mr. Kenney stated that he discussed that issue with Representative Anne Gonzales and what can be done to provide the patient with knowledge that the practitioner does not hold an Ohio medical license. Representative Gonzales agreed that a badge worn by the practitioner would be appropriate and that the Board should determine what the badge should say. Mr. Kenney expressed concern that a badge which said "Conceded Eminence" would not be understood by patients.

The Board thoroughly discussed this issue and the implications of what a badge says in regards to hospital bylaws, organization, and patient safety. Several suggestions were made. Dr. Mahajan asked that Mr. Kenney gather the ideas for what a Conceded Eminence badge might say and select the best option for the Board's consideration. Mr. Kenney agreed.

TREATMENT PROVIDER APPLICATIONS

Ms. Bickers stated that one location of the Woods at Parkside and five locations of Cornerstone of Recovery have applied to renew their Certificates of Good Standing to treat the Board's licensees. Ms. Bickers stated that all the facilities continue to meet the Board's requirements. Ms. Bickers noted that although the application from Cornerstone of Recovery states that they will provide 18 months of aftercare, they have agreed to provide 24 months of aftercare for the Board's licensees.

Dr. Steinbergh moved to approve all applications for renewal of the Certificate of Good Standing presented to the Board. Dr. Madia seconded the motion. All members voted aye. The motion carried.

LEGISLATIVE UPDATES

Draft Budget Language: Mr. Miller stated that the draft budget language provided to the Board members is based on previous Board discussions, but does not reflect discussions earlier this morning regarding potential fee structure. The draft language proposes an increase in the initial licensure fee for physicians from \$300.00 to \$435.00 and includes elimination of the preliminary education certificate. Also under the proposal, the renewal fee for physicians will increase from \$305.00 to \$400.00, the fee for reinstating a license will increase from \$50.00 to \$100.00, and the fee for restoring a license will increase from \$100.00 to \$200.00.

Mr. Miller stated that training certificates will change from a one-year certificate to a two-year certificate, with the initial fee increasing from \$75.00 to \$150.00 and the renewal fee from \$35.00 to \$70.00. Dr. Steinbergh expressed concern about a two-year training certificate, noting that having a certificate that needs to be renewed yearly gives the Board the opportunity to see if there have been any changes for that practitioner in the first year. Dr. Steinbergh noted that though training certificate holders are required to obtain a new certificate if they change residency programs, they may not do so if they don't have to renew after the first year. The Board engaged in a general discussion of this topic, noting the drawbacks and advantages of a two-year training certificate and a one-year training certificate.

Mr. Miller continued that the last portion of the draft language regards the Board's ability to contract with hearing examiners. The Controlling Board has stated that requests for less than \$50,000.00 do not require approval from them. Therefore, the requirement that funds for a contracted hearing examiner must be approved by the Controlling Board has been removed from the language.

Mr. Miller stated that if no Board member has objections to the draft language, the proposal can be submitted. No Board member had objections.

Human Trafficking: Mr. Miller stated that the report from the Ohio Human Trafficking Task Force has been provided to the Board. Mr. Miller noted that legislation became effective in June which strongly recommends that professional licensing boards require continuing education of its licensees concerning human trafficking. Mr. Miller expected that the Governor's office will provide additional guidance on this issue. Mr. Miller opined that the proponents of the legislation are looking for a very low number of hours, perhaps one hour built into the normal continuing education requirements. As part of this initiative, other pieces of legislation will be advanced that will require employees and investigatory staff of agencies to have education in recognizing human trafficking.

Dr. Steinbergh stated that though she supports people having knowledge of human trafficking, she opposes requiring the Board's licensees to have focused continuing medical education (CME). Dr. Steinbergh noted that the Board has historically opposed focused CME, though that may change somewhat with the possible introduction of Maintenance of Licensure. Dr. Talmage noted that the Board already has some focused CME requirements. For instance, practitioners giving conscious sedation in their office must have anesthesia CME. Also, a practitioner who operates a pain clinic must now have focused CME in pain management. Dr. Steinbergh stated that she does not oppose directing some CME requirements, but is opposed to requiring physicians to attest to having taken the courses.

Mr. Miller stated that the legislation is very broad and the language may be refined. Dr. Stafford speculated that a future requirement may be to provide a small leaflet in restrooms offering aid to people who are being trafficked. Mr. Miller stated that such requirements may be in the process of being developed.

Position Statement on Rule 4731-11-09, Prescribing to Persons not Seen by the Physician: Mr. Miller stated that the proposed statement acknowledges that a physical examination of a patient can take place when the provider and patient are in locations remote to each other. The statement also includes a guideline for internet prescribing, based on American Medical Association guidelines, and a requirement that diagnostic equipment capable of conveying the patient's vital signs and images be in place.

Mr. Miller stated that Dr. Stafford has suggested that language be included that would require the interaction from remote locations to be in real time. Dr. Stafford stated that a real time requirement would prevent a practitioner from simply having a patient fill out a form which can then be used as a basis for diagnosis and treatment. Dr. Stafford opined that the physician and the patient should interact in real time without a delay.

Dr. Mahajan agreed and also noted that the facility where the patient is should allow an adequate examination. Mr. Miller stated that, as a neurologist, Dr. Mahajan sometimes needs to see the patient walk and make other movements in order to have a proper assessment. Mr. Miller stated that with telemedicine there are going to be limitations and the practitioner must be able to recognize when he or she cannot make an adequate assessment or diagnosis by such means. Dr. Steinbergh agreed and stated that if a proper examination cannot take place via telemedicine, an office visit would be necessary.

Dr. Mahajan suggested that the language be more specific that the equipment at the patient's location must be adequate for the physician to evaluate the patient's signs and symptoms. Mr. Miller opined that Dr. Mahajan's concerns are addressed in the proposed statement by the phrase, "You should obtain a reliable medical history and perform a physical exam of the patient adequate to establish the diagnosis for which the drug is being prescribed and to identify underlying conditions and/or contraindications to the treatment recommended or provided, and conform to the minimal standards of care." Dr. Mahajan agreed.

Dr. Talmage noted that the proposed statement reiterates the stipulation that a healthcare professional should be present with the patient during a telepsychiatry visit. Dr. Talmage stated that the Board should consider extending that requirement to all telemedicine visits. The Board engaged in a thorough discussion

of this topic. Mr. Miller expressed concern that additional requirements may be seen as additional barriers to access. Mr. Miller acknowledged the concern that physicians more interested in payment may make diagnoses and write prescriptions without sufficient information, but that this is also a current problem in office visits. All Board members agreed that physicians are obligated to meet the minimal standards of care regardless of the setting.

Mr. Miller noted that, if the proposed statement is approved, the Board will need to begin the rule-making process for revisions to Rule 4731-11-09 to reflect the statement.

Dr. Madia moved to approve the proposed statement, with additional language regarding real time telecommunication and some stylistic changes in wording. Ms. Elsass seconded the motion. All members voted aye. The motion carried.

Mr. Miller stated that he has provided the Board members with a copy of the Health Information Partnership e-Prescribing Task Force report, for their information.

COSMETIC THERAPY ADVISORY COMMITTEE

Ms. Vollmer stated that she has been contacted by a couple of cosmetic therapists, as well as their lobbyist, about resurrecting the Board's Cosmetic Therapy Advisory Committee (CTAC). Ms. Vollmer stated that CTAC was established in 1999 to advise the Board on education and scope of practice for cosmetic therapists and to review ethics and rules related to the practice of cosmetic therapy. CTAC has not met in more than three years and, as far as is known, there have been no issues that that licensee group. Ms. Vollmer stated that the cosmetic therapists making this request would like to have a forum to discuss issues, such as others infringing on their scope of practice and toughening of continuing education.

Ms. Vollmer noted that the cosmetic therapists are a small group of licensees and having CTAC meet monthly, or even quarterly, seemed to be too often for those issues. However, the Board does want to be receptive to whatever issues that group may have. Ms. Vollmer suggested that, rather than resurrecting CTAC, an informal process can be developed by which cosmetic therapists can bring any issues they have to Ms. Vollmer, which can then be discussed by the Group 2 Committee and the full Board. Cosmetic therapists may also be invited to make a presentation to the Committee or Board.

Dr. Steinbergh stated that the Group 2 Committee agreed with Ms. Vollmer that an informal process for the Board to address the concerns of cosmetic therapists would be preferable.

Dr. Steinbergh moved to approve an informal process by which members of the cosmetic therapist profession can bring concerns to the attention of the Board. Dr. Madia seconded the motion. All members voted aye. The motion carried.

PODIATRIC SCOPE OF PRACTICE

Ms. Debolt stated that the Board has a rule which defines the ankle and specifies that podiatrists may practice on the ankle and anything below the ankle. Ms. Debolt stated that the Board has received an

inquiry as to whether tibial osteotomy, fibular osteotomy, and total ankle replacements are within the podiatrist's scope of practice. Ms. Debolt stated that she has drafted a response which states that, in accordance with the law and with Board rules, those procedures are within the scope of practice of podiatry, provided the podiatrist is privileged to do so by the facility and can demonstrate adequate education, training, and experience to conform to the minimal standards of care. The response also specifies that bone callous distractions, by which a bone can be lengthened, can also be performed by a podiatrist so long as it is at or below the ankle.

Dr. Steinbergh stated that the Group 2 Committee recommended approval of the draft response.

Dr. Steinbergh moved to approve the draft response regarding the podiatric scope of practice. Mr. Hairston seconded the motion. All members voted aye. The motion carried.

APPOINTMENT TO PHYSICIAN ASSISTANT POLICY COMMITTEE

Dr. Steinbergh stated that Dr. James Natalie has resigned from the Physician Assistant Policy Committee (PAPC) to move out of state. The Group 2 Committee reviewed the résumés of two physicians, Robert Flora, M.D., and Robert Small, M.D., to fill this vacancy. Both physicians have been nominated by the Ohio State Medical Association.

Dr. Steinbergh stated that the Group 2 Committee discussed this issue and recommended appointing Dr. Flora to the position.

Mr. Hairston moved to appoint Robert Flora, M.D., to the Physician Assistant Policy Committee. Dr. Strafford seconded the motion. All members voted aye. The motion carried.

Dr. Steinbergh stated Dr. Bechtel currently serves as the Medical Board representative on the PAPC. However, Dr. Bechtel's duties as Supervising Member interfere with his ability to attend PAPC meetings. Dr. Steinbergh stated that she is willing to serve on the PAPC provisionally and will try to arrange her schedule so that she can commit to attending as many meetings as possible.

Dr. Mahajan appointed Dr. Steinbergh to the Physician Assistant Policy Committee to take the seat held by Dr. Bechtel.

REVIEW OF SPECIAL SERVICES APPLICATIONS

MEDCENTRAL ORTHOPAEDIC INSTITUTE

Dr. Steinbergh stated that the Special Services request of the MedCentral Orthopaedic Institute was tabled by the Physician Assistant Policy Committee (PAPC).

GALION COMMUNITY HOSPITAL

Dr. Steinbergh stated that Galion Community Hospital is obligated to credential individuals within the

hospital setting. Dr. Steinbergh stated that Galion Community Hospital now understands their responsibilities and that Board approval of their requests is not required.

DERMATOLOGY ASSOCIATES

Dr. Steinbergh stated that the Special Services request of Dermatology Associates was tabled by the PAPC.

OHIO PAIN AND REHAB SPECIALISTS

Dr. Steinbergh stated that the Special Services request of Ohio Pain and Rehab Specialists was tabled by the PAPC.

UNIVERSAL VEIN CLINIC

Dr. Steinbergh wished to discuss Gabriel Krenitsky, M.D., the initiator of this request, and his communications with Board staff.

Ms. Hacker explained that the processing of special services applications has fallen somewhat behind due to her disability leave. Ms. Hacker stated that Dr. Krenitsky is very upset with the delay and has been very rude and loud with members of the staff. The Group 2 Committee discussed this matter and felt that the Secretary, Supervising Member, or other Board member should have a conversation with Dr. Krenitsky to explain that his behavior is not acceptable.

The Board discussed this matter thoroughly and agreed that the staff should not have to tolerate rude and unprofessional behavior. Dr. Suppan commented that a process should be developed for the staff to report such incidents to appropriate channels. Ms. Debolt stated that this matter is a management issue and can be addressed at that level.

Dr. Steinbergh stated that the Special Services request of Universal Vein Clinic was tabled by the PAPC.

DERMATOLOGY & SKIN CARE ASSOCIATES

Dr. Steinbergh stated that the Special Services request of Dermatology & Skin Care Associates was tabled by the PAPC.

FAMILY MEDICINE OF STARK COUNTY

Dr. Steinbergh stated that the PAPC recommended that a letter be sent to Family Medicine of Stark County informing them that the special service for which they are requesting approval is included within the physician assistant's scope of practice, and therefore Board approval is not required. Dr. Steinbergh stated that the Committee will make certain that Reclast is in the physician assistant formulary in regards to physician-initiated therapy.

ORTHOPAEDIC FOOT AND ANKLE CENTER

Dr. Steinbergh stated that the Special Services request of the Orthopaedic Foot and Ankle Center was tabled by the PAPC.

MIAMI VALLEY PLASTIC SURGERY

Dr. Steinbergh stated that the Special Services request from Miami Valley Plastic Surgery was approved by the PAPC, and the Group 2 Committee recommends approval.

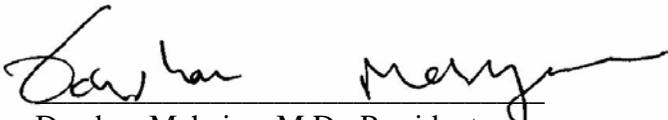
Dr. Steinbergh moved to approve the Special Services application of Miami Valley Plastic Surgery. Dr. Talmage seconded the motion. All members voted aye. The motion carried.

MR. HAIRSTON

Dr. Mahajan stated that this is Mr. Hairston's final meeting. Dr. Mahajan thanked Mr. Hairston for the great job he has done over the past five years. Dr. Steinbergh stated that Mr. Hairston has been a tremendous member of the Board and that the Board values the commitment of its public members.

Thereupon at 11:00 a.m., the September 13, 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 September 12-13, 2012, as approved on October 10, 2012.


Darshan Mahajan, M.D., President


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

(SEAL)

