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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**April 12, 2006**

Andrew F. Robbins, Jr., M.D., President, called the meeting to order at 1:00 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Deepak Kumar, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; R. Gregory Browning, Ph.D.; and Patricia J. Davidson, M.D. The following joined the meeting at a later time: Anquetette Sloan. The following did not attend the meeting: Anita M. Steinbergh, D.O.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Lori S. Gilbert, Assistant Executive Director; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, David P. Katko, Karen H. Mortland, Kathleen S. Peterson, William J. Schmidt, Angela Scott, Charles A. Woodbeck and Lynn Zondorak, Enforcement Attorneys; Sheryl L. Maxfield, Lawrence D. Pratt, Kyle C. Wilcox, Tara Berrien, Damion M. Clifford, and Barbara J. Pfeiffer, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant.

**EXECUTIVE SESSION**

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

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye

The motion carried.

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

The following joined the meeting after the executive session: Sharon W. Murphy and Patricia A. Davidson,

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Hearing Examiners.

MINUTES REVIEW

**MR. ALBERT MOVED TO APPROVE THE MINUTES OF MARCH 8-9, 2006. MR. BROWNING SECONDED THE MOTION.** A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He noted that the case of Gary Ray Lutz, D.O., which was scheduled for this meeting, would be considered at a later time due to the inability to achieve timely service of the Report and Recommendation on Dr. Lutz.

Dr. Robbins asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Amy J. Chaho, M.D.; Jeffrey James Fierra, M.D.; and David A. Rath, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

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

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ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

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

Dr. Robbins stated that, if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

AMY J. CHAHO, M.D.

Dr. Robbins directed the Board's attention to the matter of Amy J. Chaho, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF AMY J. CHAHO, M.D. DR. KUMAR SECONDED THE MOTION.**

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

Dr. Kumar noted that Dr Chaho holds a current license in Ohio. This matter pertains to licensure applications she filed in Virginia and Pennsylvania. Both states were in the process of denying her applications pending her meeting certain requirements. West Virginia wanted her to take the SPEX, and Pennsylvania wanted an independent evaluation of her competence. She did not report that to the Ohio Board. Dr. Kumar indicated that questions were raised in both states due to some cases she handled while working in Ohio, which they felt to be below minimal standards. Dr. Kumar noted that Dr. Chaho's standard of care is not the issue before the Board at this time. He stated that she was not forthcoming on licensure applications. She tried to hide the West Virginia and Pennsylvania actions.

Dr. Kumar stated that he doesn't have any real qualm with the Proposed Order, suspending Dr. Chaho's license for 30 days; but he would like to require that she pass courses in professional and personal ethics.

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Dr. Egner stated that she feels a little differently about this case. She noted that Dr. Chaho didn't come to the Board's attention through misrepresenting on a renewal application. She got a call from this Board and explained that she had withdrawn her West Virginia application, which was partly true but not entirely true. Later, West Virginia denied her a license. Dr. Egner stated that she can certainly see where Dr. Chaho didn't tell West Virginia about her Pennsylvania application, because it appears that she was filing them simultaneously. Dr. Egner commented that the Hearing Examiner found that Dr. Chaho's offenses were minimal. Dr. Egner stated that she would be in favor of dismissing this case. Had Dr. Chaho lied on her renewal application to the Board, it would have been a whole different story.

Dr. Kumar stated that, in a sense, he feels the same way, and he could go along with what Dr. Egner is proposing. Dr. Kumar stated that he does believe that there are ethics issues involved, and the Board needs to take those into consideration. Dr. Kumar suggested issuing a reprimand and requiring Dr. Chaho to complete ethics courses.

Dr. Buchan stated that he came to the meeting today anticipating offering an amendment to reprimand had Dr. Chaho appeared before the Board. He believes that she didn't tell the Board the truth, and that she tried to avoid doing so. Dr. Buchan stated that a reprimand is appropriate. However, since Dr. Chaho did not appear, he would support the Proposed Order, as written.

Mr. Browning recommended issuing a reprimand in this case. He stated that he thinks that Dr. Chaho deserves a reprimand. He stated that the Board should handle this case in the way it deserves to be handled, whether Dr. Chaho is here or not. Mr. Browning stated that he would agree to require Dr. Chaho to complete ethics courses, if that is what the Board wishes.

**DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. CHAHO WITH AN ORDER REPRIMANDING DR. CHAHO AND REQUIRING HER TO COMPLETE A PERSONAL ETHICS COURSE. DR. VARYANI SECONDED THE MOTION.**

Dr. Egner asked whether a reprimand is reportable to the National Practitioners Data Bank.

Ms. Thompson stated that it is.

Dr. Buchan stated that he would prefer to just reprimand Dr. Chaho and leave it at that. He believes that Dr. Chaho does get the message.

Mr. Browning agreed.

Dr. Davidson also agreed, stating that the addition of the course requirement makes this case look more serious than it was.

Dr. Kumar agreed to remove the course requirement from his motion. Dr. Varyani, as second, also agreed.

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

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Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye

The motion carried.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF AMY J. CHAHO, M.D. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye

The motion carried.

JEFFREY JAMES FIERRA, M.D.

Dr. Robbins directed the Board's attention to the matter of Jeffrey James Fierra, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

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

Dr. Fierra was accompanied by his attorney, Joyce A. Salisbury.

Ms. Salisbury stated that at Dr. Fierra's hearing in January, the Hearing Examiner found that Dr. Fierra did, indeed, misunderstand the beginning date of his suspension; but the Hearing Examiner also found that Dr. Fierra was sincere in his belief and that his actions were very consistent with it. Dr. Fierra did not intend to practice without a license.

Ms. Salisbury stated that, as to Dr. Fierra's interpretation of the Board's Order about his suspension, on the first page of the Order it stated that his license is to be suspended for a minimum of six months. It didn't

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give a beginning date as to when that suspension began. At the end of the Order, it says that the Order is effective immediately. However, within that Order is a provision for the doctor to have 30 days to notify his employer. Dr. Fierra understood that to mean that he had 30 days to wrap things up so that none of patients would be harmed. That's exactly what he did. He closed his practice within the 30 days. Being a solo practitioner, he just shut everything down and gave up the practice at that point. Dr. Fierra has not practiced since March 2, which was within that 30-day period.

Ms. Salisbury stated that, at this point, it's been 13 months that Dr. Fierra has not practiced. The Board's initial Order was for a six-month suspension minimum.

Dr. Fierra at this time said that he's very sorry for any misunderstanding he had about the Order of the State Medical Board. He does not disagree with the Findings and recommendation of the Hearing Examiner.

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

Mr. Wilcox commented that this is another case in a long line of cases that he's seen where physicians simply don't take the effort to clarify with the Board what the Board has ordered them to do. In this case, Dr. Fierra received his Board Order via certified mail. In that Order it clearly stated that it was effective immediately upon mailing of notification of approval by the Board. Dr. Fierra stated at hearing that he knew the order was effective when he received it; he just didn't understand when the suspension period began.

Mr. Wilcox stated that this Board has heard similar excuses from many different physicians, and it always rings hollow to him. The simple solution to this problem is to pick up the telephone and call the Board. Dr. Fierra could have avoided this entire second cite by making a five-minute telephone call. It simply is not a credible excuse to come to this Board and plead ignorance on a compliance issue.

Mr. Wilcox stated that since Dr. Fierra declined to ask the Board for clarification, he has suffered quite a penalty. Since his pending cite kept him from being reinstated by the Board, he has already served more time out than the original six-month suspension. He has not practiced medicine for over 13 months and his license has been suspended by the Board for approximately eight months. Mr. Wilcox stated that, although he's never seen an Order crafted as this Proposed Order has been crafted, he doesn't object to it. He pointed out, however, that, even if 30 days are added to the prior six-month penalty, the practical effect is no further suspension time. If this Order is adopted, he believes Dr. Fierra would be able to apply for reinstatement immediately upon adoption of the Order.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JEFFREY JAMES FIERRA, M.D. DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Buchan stated that his read of this case is that there is now a clear understanding of the Board's

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intention. Dr. Fierra has agreed to the Proposed Order, as written, and he sees no reason to deviate from the Order, as written. If Dr. Fierra decides to reapply for licensure, that's fine. From a practicality standpoint, this Order speaks to the issue, and the Board should adopt it.

Mr. Browning concurred, stating that the case is pretty straightforward and he believes that all parties are in agreement at this point.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye

The motion carried.

DAVID A. RATH, M.D.

Dr. Robbins directed the Board's attention to the matter of David A. Rath, M.D. He advised that objections were filed to Hearing Examiner Murphy's Report and Recommendation and were previously distributed to Board members.

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

Dr. Rath was accompanied by his attorney, Michael R. Wintering.

Mr. Wintering stated that he won't go through the specific points in the objections he filed, but those objections centered on what Dr. Rath will have to do to regain his license to practice research medicine. He commented that Dr. Rath was basically "kind of a researcher" for pharmaceutical companies, reviewing medical reports and so forth. Mr. Wintering advised that Dr. Rath doesn't have an active medical practice, and the general public is not at risk in that particular respect from his misdeeds.

Mr. Wintering noted that the Hearing Examiner said that Dr. Rath would have to comply with the Board-approved treatment center protocol, which includes a 28-day minimum inpatient treatment. He advised that Dr. Rath presented himself for inpatient treatment at Shepherd Hill. He completed the initial phase, 14 days, and they sent him on a therapeutic leave to find some more money. He ran out of money. Dr. Rath was also under the jurisdiction of the Delaware Common Pleas Court with respect to drug treatment programs. Today he is under the auspices of that Court. Mr. Wintering stated that Dr. Rath couldn't find any more money, and the treatment center didn't work with him to work out a realistic payment plan, as

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required of treatment providers under the Board's rules.

Mr. Wintering stated that this puts the patient in a conundrum. Here is a doctor who has turned himself in to a treatment center and placed himself in the hands of the treatment center and is then told to leave the treatment center because he doesn't have any money. The treatment center has the affirmative duty to follow the Board's rules and work out a reasonable payment plan, and no such efforts were made. At such time as the Board is prepared to reinstate his license, Dr. Rath must know what he has to do to comply. It doesn't make sense after these many months of being tested by the probation department of Delaware County for Soma and other drugs, for Dr. Rath to go through another 28-day inpatient treatment program. It just doesn't make sense and seems like a waste of resources.

Mr. Wintering stated that, in the event that the Board says that it has its rules and wants to stick with the rules, and that Dr. Rath needs to do at least another 14 days of inpatient treatment to add up to 28 days, it should instruct the treatment center to make reasonable efforts to work with Dr. Rath to provide for a reasonable payment schedule.

Mr. Wintering stated that the second objection is whether or not Dr. Rath minimized his use of Soma. Mr. Wintering stated that he doesn't believe that that's a colorable argument. Dr. Rath was asked whether he used any drugs, and he thought that they were talking about drugs in the classification of hydrocodone, which is what really caused his problems. Dr. Rath became addicted to hydrocodone because of back problems. Dr. Rath freely admitted in public and in Court that he used Soma inappropriately. His major problem was hydrocodone. He knows that now he can't be "monkeying" with Soma, but he did not minimize it. Mr. Wintering stated that if you look at the record, you don't see too much evidence of minimalization.

Mr. Wintering asked that the Board amend the proposed Findings and Recommendations of the Hearing Examiner to either provide credit for the 28-day inpatient portion of the rehabilitation program, which he's going through now for Delaware County, and which he'll have to go through again with this Board, should he wish to be eligible to get his license back. Mr. Wintering suggested that the Board should give him credit for what he's done already because of the failure of the treatment center to provide him with a reasonable financial workout plan, or that an additional maximum 14 days inpatient treatment be done at the treatment center and that the treatment center provide Dr. Rath with an opportunity to work it out financially. Mr. Wintering stated that this goes to the heart of the Board's philosophy of rehabilitating a physician who has strayed. Without the financial workout, very often physicians who become dependent on drugs, often late in their careers, have no cash reserves built up to meet the needs of paying for 28-day inpatient treatment. Therefore, the Board rule seems to be one of compassion with an eye toward rehabilitation of a licensed physician who has succumbed to the addiction of drugs.

Dr. Rath stated that he's deeply apologetic for the poor choices he made. He had gone over 40 years of his life without ever using any type of chemical, drug or anything of that nature. He wound up self-medicating with hydrocodone. Dr. Rath stated that he did enter the program in August and completed 14 or 15 days inpatient treatment. Upon discharge, he has successfully completed outpatient drug treatment for four and a half months. He's complied with everything his counselor has outlined in his treatment program, and he has been completely abstinent from all chemicals and substances of any nature in excess of eight months.

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In his 12-step program, he's now working on the 11<sup>th</sup> step. Dr. Rath stated that, with his resources, he's making the very best effort that he can to comply with treatment. He added that he will certainly work with the Board in anything that they require.

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

Mr. Wilcox stated that he thoroughly supports the Report and Recommendation in this matter. He added that he thinks the Hearing Examiner did an excellent job of laying out the facts. The bottom line in this case is that Dr. Rath has not complied with the Board rules required for an impaired physician. Mr. Wilcox added that he doesn't believe that Dr. Rath's excuses for not completing the 28-day inpatient treatment are valid. While inpatient treatment may be expensive, it is required. The evidence in the record does indicate that Dr. Rath was granted therapeutic leave from Shepherd Hill after 14 days of treatment. This therapeutic leave was, supposedly, for him to secure funding to complete treatment. Apparently, Shepherd Hill was attempting to work with Dr. Rath on the pricing issue. There's no evidence in the record that Dr. Rath attempted to check out any other treatment facilities in the State of Ohio. Mr. Wilcox stated that there are Board-approved treatment facilities that have sliding scales as far as how much they cost. There's nothing in the record that he attempted to do so. Dr. Rath simply walked away from treatment.

Mr. Wilcox stated that Ohio law mandates that all impaired physicians complete a 28-day inpatient treatment program and then participate in aftercare and monitoring before they can even be considered for any possible license reinstatement. There is no dispute that Dr. Rath is impaired in this case. By law, when he requested "treatment in lieu of conviction" on this matter in Delaware County Common Pleas Court, he was deemed an impaired physician. Whether Dr. Rath practices in a clinical setting or in a non-clinical setting doesn't matter. If Dr. Rath wants to practice as a licensed physician in the State of Ohio, he needs to follow all of the laws and regulations of this Board. Dr. Rath will be treated by this Board in the same manner as every impaired physician who has preceded. If he wants to practice again in this state, he will have to follow every condition laid in the Hearing Examiner's proposal and this Board Order.

**DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF DAVID A. RATH, M.D. MR. BROWNING SECONDED THE MOTION.**

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

Mr. Browning referred to paragraph B(7) of the Proposed Order, which states, "Dr. Rath shall submit to appropriate drug/alcohol treatment, as determined by an informed assessment of his current needs." Mr. Browning asked whether that means that it may be 28 days or it may be something else. He stated that he's reading this to mean that a judgment will be made relative to what's happened in this case. The 14 or 15 days would be taken into consideration and that may or may not change anything relative to the 28 days. The point is that an assessment and judgment will be made.

Dr. Buchan agreed.

Dr. Kumar stated that he read this Order this same way as Mr. Browning reads it. There will be a new

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assessment, and based on that assessment, the decision will be made as to what Dr. Rath needs to do.

Mr. Browning stated that his question really is whether the Board has discretion in this process to do this and make a judgment because, as it was just stated, it sounds like it was 28 days, and that's it.

Dr. Egner stated that more than 28 days might be needed.

Mr. Browning agreed, but asked for assurance that there will be a new assessment.

Ms. Thompson stated that, under this order, there will be an assessment by a treatment provider approved under Section 4731.25, Ohio Revised Code.

Dr. Davidson asked whether the treatment provider will make recommendations to the Board, or make the decision for the addition 14 days or a new 28 days.

Dr. Kumar stated that the Proposed Order calls for the treatment provider to provide a detailed plan of recommended treatment based upon the informed assessment. It also provides that Dr. Rath will commence the recommended program within 48 hours of the determination. Essentially, the new assessment from the approved treatment provider is what will be enforced.

Dr. Davidson stated that the program could recommend that no more treatment is necessary. She asked whether the program would be in violation of the Board's rules if they don't require 28 days of inpatient treatment.

Mr. Browning asked whether it would be in violation if it counted the 14 days already completed. He stated that it appears that the Board is deferring to others to make this judgment, and he's just trying to understand the parameters in which they make that judgment.

Dr. Buchan stated that, if the program, in its expert opinion, decides to give credit for time served, he would accept that expert judgment.

Dr. Buchan continued that he does feel that it has been this Board's experience, and that medical literature does support the conclusion that outpatient treatment is inadequate for the licensed healthcare professional's rehabilitation. He added he does support the Report and Recommendation, and that he is very interested in seeing Dr. Rath rehabilitate himself and get better. His review of this case suggests that Dr. Rath would be capable of doing that. Dr. Buchan stated that the best way for Dr. Rath to succeed is to follow the Board's Order and move forward.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye

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Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Dr. Davidson	- aye

The motion carried.

FINDINGS, ORDERS AND JOURNAL ENTRIES

NIDAL ABU-KHALIL, M.D.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Dr. Khalil on February 7, 2006. Acknowledgment of receipt was received on February 11, 2006. Dr. Khalil did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

**DR. EGNER MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE FEBRUARY 7, 2006 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. KHALIL'S APPLICATION FOR ENDORSEMENT LICENSURE. DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Buchan stated that the Proposed Findings are appropriate, as is the Order denying Dr. Khalil's license.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye

The motion carried.

Ms. Sloan joined the meeting at this time.

CHRISTIAN ASONG ATEM, P.A.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Mr. Atem on January

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31, 2006. Acknowledgment of receipt was received on February 3, 2006. Mr. Atem did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

**DR. KUMAR MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 31, 2006 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING MR. ATEM'S APPLICATION FOR A PHYSICIAN ASSISTANT REGISTRATION NUMBER. DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Buchan stated that Mr. Atem has not been certified by the National Commission on Certification of Physician Assistants, as required by statute. Dr. Buchan remarked that the Order of denial is appropriate.

A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- abstain
	Dr. Davidson	- aye

The motion carried.

LARRY ALLEN HARVEY, M.D.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Dr. Harvey on January 31, 2006. Acknowledgment of receipt was received on February 4, 2006. Dr. Harvey did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

**DR. KUMAR MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 31, 2006 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. HARVEY'S REQUEST FOR ENDORSEMENT LICENSURE. DR. DAVIDSON SECONDED THE MOTION.**

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

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Dr. Kumar stated that Dr. Harvey did not pass the U.S.M.L.E. in the required time frame. Also, he failed Step 3 five times. Dr. Kumar stated that Dr. Harvey doesn't meet the parameters for any exemption. He also noted that Dr. Harvey didn't request a hearing on this matter.

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

VILDAN MULLIN, M.D.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Dr. Mullin on January 11, 2006. Acknowledgment of receipt was received on February 25, 2006. Dr. Mullin did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

**MR. BROWNING MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE OCTOBER 25, 2006 NOTICE. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

**DR. KUMAR MOVED TO ENTER AN ORDER REVOKING DR. MULLIN'S OHIO LICENSE TO PRACTICE MEDICINE AND SURGERY, EFFECTIVE IMMEDIATELY.**

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Dr. Kumar stated that this physician was involved in a wrong-side surgical procedure in Florida. Dr. Mullin recognized his error, immediately informed the patient's family, and he corrected his mistake. The State of Florida issued a letter of concern. Dr. Kumar noted that Dr. Mullin did not request a hearing in Ohio, but he does not believe that this is a case for permanent revocation. With a simple revocation, Dr. Mullin can get his license back.

**MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

EMELITA BORJA TALAG, M.D.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Dr. Talag on February 15, 2006. Acknowledgment of receipt was received on February 18, 2006. Dr. Talag did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

**MR. BROWNING MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE FEBRUARY 15, 2006 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. TALAG'S REQUEST FOR ENDORSEMENT LICENSURE. DR. EGNER SECONDED THE MOTION.**

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

Dr. Kumar noted that Dr. Talag did not pass the U.S.M.L.E. within the seven-year period required, nor does she meet the requirements for an exemption. He added that she passed Step 3 on her twelfth attempt.

Mr. Browning agreed with Dr. Kumar.

A vote was taken on Mr. Browning's motion:

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

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Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye

The motion carried.

ALLEN B. YOUNG, M.D.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Dr. Young on January 11, 2006. Acknowledgment of receipt was received on January 17, 2006. Dr. Young did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

**MR. BROWNING MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JANUARY 11, 2006 NOTICE. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

**DR. KUMAR MOVED TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, PERMANENTLY REVOKING DR. YOUNG'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. DR. BUCHAN SECONDED THE MOTION.**

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

Dr. Kumar stated that in the Board's guidelines for a judicial finding of guilty or a judicial finding of eligibility for intervention in lieu of conviction, the minimum penalty is permanent revocation. Dr. Young did not request a hearing. A permanent revocation is appropriate.

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

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Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

CITATIONS, PROPOSED DENIALS AND ORDERS OF SUMMARY SUSPENSION

JOSEPH WILLIAM FISCHKELTA, 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. KUMAR MOVED TO SEND THE CITATION LETTER TO MR. FISCHKELTA. DR. EGNER SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

SHAJI JAFFREY KAZI, 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. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. KAZI. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
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Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye

The motion carried.

**KOLLI MOHAN PRASAD, 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. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. PRASAD. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

**JOHN MICHAEL RUSSELL, 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. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. RUSSELL. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye

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Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye

The motion carried.

ANDREW SCHNEIDER, 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. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. SCHNEIDER. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

GRETEL CASE STEPHENS, M.D., AKA MONA GRETEL CASE HARLAN STEPHENS, 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. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. STEPHENS. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye

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Dr. Davidson - aye

The motion carried.

MARY MEI-LING YUN, 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. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. YUN. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

Dr. Kumar and Dr. Egner left the meeting at this time.

RATIFICATION OF SETTLEMENT AGREEMENTS

Board members were provided with copies of settlement agreements negotiated by Board staff and/or the staff of the Office of the Attorney General, as authorized by the Board's Secretary and Supervising Member, and as appropriate, the Board President, as well as copies of summaries of the agreements. The names and license numbers of the licensee or applicant subjects of such settlement agreements were removed from the documents.

DEVENDRA K. VARMA, M.D. – PERMANENT SURRENDER

**DR. BUCHAN MOVED TO RATIFY DR. VARMA'S PERMANENT SURRENDER OF HIS LICENSE TO PRACTICE MEDICINE AND SURGERY. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye

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Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye

The motion carried.

MARK ALLEN RENZ, M.D. – CONSENT AGREEMENT

**DR. BUCHAN MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. RENZ. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

TRACIE LYNNE BOLDEN, M.D. – CONSENT AGREEMENT

**DR. DAVIDSON MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. BOLDEN. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

Dr. Kumar returned to the meeting at this time.

BYRON CHRISTOPHER LEAK, M.D. – CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH**

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**DR. LEAK. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

JANICE ELECTA GREEN DOUGLAS, M.D. – CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. DOUGLAS. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

DANN WILLIAM GANZHORN, M.D. – CONSENT AGREEMENT

**DR. KUMAR MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. GANZHORN. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

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Dr. Robbins requested a motion to table the topic, Ratification of Settlement Agreements, until later in the meeting.

**MR. BROWNING MOVED TO TABLE “RATIFICATION OF CONSENT AGREEMENTS” UNTIL LATER IN THE MEETING. DR. BUCHAN SECONDED THE MOTION.** All members voted aye. The motion carried.

#### PERSONAL APPEARANCES

##### PAUL W. BURKE, JR., M.D.

Dr. Burke appeared before the Board pursuant to his request or release from the terms of the Board’s Order of March 12, 2003.

Mr. Albert commented that Dr. Burke is currently in law school.

In response to Board members’ questions, Dr. Burke stated that he is doing well, and he feels great. Dr. Burke commented that the process has gone on so long that when he was told that he could request release, he was surprised. He’s gotten used to it. During the past year, to maintain his sobriety, he’s done the same as he’s always done. He likes to go to A.A. meetings, and goes every day if he can. Dr. Burke stated that he knows that A.A. doesn’t work for everyone, but it has worked for him.

When asked whether he has any advice for the Board, Dr. Burke stated that his problems were all in West Virginia, and he thinks that the Ohio Board has a little better system of forcing doctors in to approved providers for treatment. His history was that he had a couple of short treatments, and he doesn’t know whether he can say that they were followed by relapse. Dr. Burke questioned whether someone who has never been in recovery actually relapses. He stated that he had quite a struggle, but he thinks that, had he gotten a little more guidance from the West Virginia Board, he would have had an easier time of it. He doesn’t know. Dr. Burke added that he certainly has no complaint with how he’s been treated by the Ohio Board. He added that he appreciates the Board’s concern.

Dr. Burke stated that he will not change anything once he’s released from probation. He added that he enjoys attending A.A. meetings; they work for him. He stated that his life was a mess eight years ago and he doesn’t want to go back there.

Dr. Burke advised that he is practicing now, while he also attends law school.

Board members congratulated Dr. Burke on his remaining sober during some difficult periods of his life, including his wife’s illness and death. They indicated that he would be a model for other physicians.

**DR. KUMAR MOVED TO RELEASE DR. BURKE, EFFECTIVE IMMEDIATELY, FROM THE TERMS OF THE BOARD’S ORDER OF MARCH 12, 2003. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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Vote:	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

WILLIAM C. STEVENSON, M.D.

Dr. Stevenson made his initial appearance before the Board, pursuant to the terms of his December 14, 2005 Consent Agreement.

In response to Board members' questions, Dr. Stevenson stated that he admitted himself into Hazelden and has signed a contract to report to the Wisconsin State Medical Society. Dr. Stevenson stated that he agrees with Dr. Burke that attending meetings is the key. They remind him of how miserable the lifestyle was. He doesn't want to go back to that so he continues to attend meetings to maintain his sobriety. He also goes to counseling once a week and he sees an addictionologist every two or three months.

Mr. Browning asked whether the issue of the forged cardiac stress test was related to Dr. Stevenson's addiction problems.

Dr. Stevenson stated that it probably was, and added that he had a lot of resentment toward that. He advised that that conviction was subsequently reversed and dismissed by the Virginia Supreme Court in November 1999. He stated that he was holding a lot of resentments at the time. His contract with St. Luke's Hospital was terminated, and he wasn't given a reason for it. He was feeling sorry for himself, and he started getting depressed. He started using and before he knew it, he couldn't stop. Dr. Stevenson stated that he's working on those issues; although they still crop up occasionally, but that's the reason he goes to meetings, to talk to somebody about it.

Dr. Kumar stated that Dr. Stevenson's resentment doesn't explain the cardiac stress test issue.

Dr. Stevenson stated that the entire story of that was that he had already transplanted the patient, and it looked like he needed another transplant. They denied his pre-authorization two days after he did the transplant. They wanted to know if his heart would tolerate the operation, but he'd already done the operation. He had proved the question they were asking. He wanted to put the patient on the list again, and the financial people at University wouldn't let him put the patient on the list again unless he got pre-authorization. He didn't realize at the time that they should have just filed a claim. There was no sense in doing pre-authorization after you've done the procedure. To comply with requirements, the test needed to be done within six months. He had a test that was ten months old, and he changed the date. Dr. Stevenson

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stated that he thought it was a strange question to ask whether the heart would tolerate the operation, when he'd already performed the operation and proved that the heart did tolerate it. Dr. Stevenson stated that he changed the date, knowing that this was just more of a bureaucratic problem with getting the patient listed, and he put it on his desk. He then talked with the patient, who did not want another transplant, so he forgot about the stress test. The stress test with the new date was sent to the insurance company from his partner's fax machine. Dr. Stevenson stated that he personally never sent the form to the insurance company, although he does admit that he changed the date to get the patient on the list. He stated that he didn't want the patient to die. He didn't forge the test results; he only changed the date on the test.

Dr. Stevenson advised that currently he is working at General Medical Clinic, doing some locum tenens work, and he has a job in Athens, Ohio. He stated that that's the reason he wants to fulfill all of his obligations to the Medical Board. He's in a private practice, with a 10% appointment to the medical school.

Mr. Browning stated that, as he is on the Board of Directors of Ohio University, he will abstain from voting on this case.

**DR. KUMAR MOVED TO CONTINUE DR. STEVENSON UNDER THE TERMS OF HIS DECEMBER 14, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. KUMAR FURTHER MOVED TO APPROVE MICHAEL S. GOLDSTONE, M.D., AS DR. STEVENSON'S SUPERVISING PHYSICIAN. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken on Dr. Kumar's motion:

Vote:	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- abstain
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

JOHN CLARK POWELL, M.D.

Dr. Powell made his initial appearance before the Board, pursuant to the terms of his January 12, 2006 Consent Agreement.

In response to Board members' questions, Dr. Powell stated that he is doing very well now. His mental illness was discovered in a fairly dramatic way; he was in practice in Owensborough, Kentucky since he completed training in 1993. It was a very busy two-man practice. His partner abruptly stopped practicing, as she lost her privileges at their hospital in 2002. At that time he was running the two-man practice by himself. Basically, he went through about a ten-month period of severe depression. He was sleep deprived

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and there were a lot of other issues. Ultimately, on July 13, 2003 he took an overdose of Elavil in an attempt to end his life. At that time he came under the direction of Dr. Burns-Brady, who is the director of Kentucky's Physician Health Foundation, which is the liaison to the Kentucky Board of Medical Licensure. Dr. Burns-Brady runs the impaired physicians program. Dr. Powell advised that Dr. Burns-Brady visited him while he was in the hospital. At the time Dr. Powell stated that he thought that he was fine. He thought that he just needed to sleep for a day or two; he was in typical denial. Dr. Powell stated that Dr. Burns-Brady was a Godsend to him, and he referred Dr. Powell to Pine Grove Hospital in Hattiesburg, Mississippi for an eight-week program of outpatient, community-based group therapy.

Dr. Powell continued that when he came back to Kentucky in September 2003, he started an aftercare program where he had six months of group therapy under Dr. Burns-Brady's direction. He also began individual therapy about once a week with a psychologist. That continued through the next year and a half.

Dr. Powell stated that he returned to practice in December 2003. He advised that they had closed the heart program in his absence, and it was difficult to get the heart program up and running again. He started back, doing vascular and thoracic surgery in December 2003. The heart program reopened in May 2004. He continued to practice, and developed a coverage arrangement with some surgeons in Evansville, Indiana, about 30 miles away. Dr. Powell stated that they were supportive of him, but, basically, it wasn't a tenable situation for him to stay in practice there because he did not have appropriate coverage or the support he needed. Dr. Powell stated that Peter M. Pavlina, a surgeon with whom he'd trained 20 years ago, called him out of the blue and offered him a job. They went through the process of his applying for medical licensure in Ohio. He's been here since January. He is also seeing Amita R. Patel, M.D., a psychiatrist in the Dayton area.

Dr. Powell advised that he does understand the terms of his consent agreement. He added that Ms. Bickers has been very helpful in providing him with guidance in getting the appropriate information to the Board.

Dr. Egner and Mr. Albert returned during the previous discussion.

**DR. KUMAR MOVED TO CONTINUE DR. POWELL UNDER THE TERMS OF HIS JANUARY 12, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

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Dr. Robbins - aye

The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

**DR. DAVIDSON MOVED TO REMOVE THE TOPIC OF RATIFICATION OF SETTLEMENT AGREEMENTS FROM THE TABLE. DR. BUCHAN SECONDED THE MOTION.** All members voted aye. The motion carried.

DIXIE A. DOOLEY, D.P.M. – CONSENT AGREEMENT

**MR. BROWNING MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. DOOLEY. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye

The motion carried.

EXECUTIVE SESSION

**MR. BROWNING MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONSIDER THE DISCIPLINE OR DISMISSAL OF A PUBLIC EMPLOYEE. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

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The motion carried.

Pursuant to Sections 121.22(G)(1), Revised Code, the Board went into executive session.

**FOLLOWING EXECUTIVE SESSION, DR. BUCHAN MOVED TO ADJOURN. DR. DAVIDSON SECONDED THE MOTION.** All members voted aye. The motion carried.

Thereupon at 5:05 p.m. the April 12, 2006 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on April 12, 2006, as approved on May 10, 2006.



Andrew F. Robbins, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**April 13, 2006**

Andrew F. Robbins, Jr., M.D., President, called the meeting to order at 8:00 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Deepak Kumar, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; R. Gregory Browning, Ph.D.; Anquetette Sloan; and Patricia J. Davidson, M.D. The following joined the meeting at a later time: Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; The following did not attend the meeting: Anita M. Steinbergh, D.O.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Lynn Zondorak, Enforcement Attorney; Kyle C. Wilcox, Damion M. Clifford, and Barbara Pfeiffer, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Barbara Jacobs, Public Services Administrator; Kay L. Rieve, Administrative Officer; Cathy Hacker, P.A. Program Administrator.

**LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA**

Dr. Robbins advised that at this time he would like the Board to consider the probationary reports, the probationary requests, and the licensure applications on today's consent agenda. Dr. Robbins asked whether any Board member wished to consider either an application for licensure or a probationary report or request separately. He noted that all probationers are in compliance.

There were no requests to consider a matter separately.

**DR. BUCHAN MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON MARCH 6 & 7, 2006 WITH: PAULA CLARK ADKINS, M.D.; GREGORY X. BOEHM, M.D.; MICHAEL B. BURGHARDT, M.D.; BOYD D. CURTIS, M.D.; MARY JO FOOTE, P.A.; WALTER L. GEORGE, JR., M.D.; LYON L. GLEICH, M.D.; TAMMY M. HABERBERGER, D.O.; TIMOTHY J. HEYD, M.D.; W. ANDREW HIGHBERGER, M.D.; NORMAN I. HIRSCH, D.O.; HANY M. ISKANDER, M.D.; LAURENCE I. KLEINER, M.D.; STEVEN BARRY LEVITT, M.D.; GREGORY S. MASIMORE, M.D.; MARK S. MCALLISTER, M.D.; JUAN C. MEJIA, M.D.; WILLIAM O. MURTAGH, JR., M.D.; CARLA M. MYERS, D.O.; THOMAS A. NGUYEN, M.D.; THOMAS GEORGE OLSEN, M.D.; THOMAS A. RANIERI, M.D.; KENT ROBINSON, M.D.; STEPHEN J. ROLFE, M.D.; MARIE T. SHEDLOCK, P.A.; RICHARD S. SKOBLAR, M.D.; BRIAN D. SOUTHERN, M.D.; ALAN B. STORROW, M.D.; DAVID E. SUBLER, M.D.; ROBERT R. SUMMERS, D.O.; DEBORAH L. TAYLOR, M.D.; BARBARA JEAN WILLOWS, D.O.; BRUCE S. WORRELL, D.O.; PAUL PO-TSANG, YANG, M.D.; AND RICHARD ALLAN ZINNI, D.O.; DR. BUCHAN FURTHER MOVED TO ACCEPT THE**

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**COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:**

- **TO APPROVE JAY M. WALLIN, M.D., TO SERVE AS DAVID E. ALLEN, M.D.'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO APPROVE SANFORD Z. MELMED, M.D., TO SERVE AS MARK A. BANKS, M.D.'S PRIMARY CARE PHYSICIAN;**
- **TO GRANT ROBERT A. BERKMAN, M.D.'S REQUEST FOR APPROVAL OF THE ETHICS COURSE TAILORED BY DONNA HOMENKO, PHD., AND APPROVAL OF THE COURSE, *PRIM-E PROFESSIONAL RENEWAL IN MEDICINE (THROUGH) ETHICS*, OFFERED BY THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY;**
- **TO APPROVE DAVID D. GOLDBERG, D.O., TO SERVE AS STEVEN W. CRAWFORD, M.D.'S NEW MONITORING PHYSICIAN;**
- **TO APPROVE JOSE A. COLLARES, M.D., TO SERVE AS PAUL E. DUNCAN, M.D.'S TREATING PHYSICIAN;**
- **TO GRANT LYNNE E. EATON, M.D.'S REQUEST TO SUBSTITUTE ONE ALCOHOL AND DRUG REHABILITATION MEETING EACH WEEK WITH OVEREATERS ANONYMOUS;**
- **TO GRANT ANNE V. GOVIER, M.D.'S REQUESTS TO DISCONTINUE SALIVA TESTING AND THERAPY SESSIONS;**
- **TO GRANT MARK S. HOPKINS, M.D.'S REQUEST TO WAIVE PERSONAL APPEARANCES UNTIL THE DOCTOR BEGINS THE REINSTATEMENT PROCESS;**
- **TO APPROVE RITA DEATTREA BECKFORD, M.D., AND JASON M. WHITE, D.O., TO SERVE AS MELANIE LYNNE LEU, M.D.'S MONITORING PHYSICIANS, WITH TEN CHARTS REVIEWED PER MONTH; AND TO APPROVE RICHARD H. WEISBERG, PSY.D., TO SERVE AS DR. LEU'S TREATING PSYCHOLOGIST;**
- **TO APPROVE TROY A. TYNER, D.O., TO SERVE AS CARLA M. MYERS, D.O.'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO GRANT PAUL W. WILSON, D.O.'S REQUEST FOR APPROVAL OF HIS PRACTICE PLAN, WHICH WOULD ALLOW HIM TO JOIN A FAMILY PRACTICE RESIDENCY; AND**
- **TO APPROVE GREGORY B. COLLINS, M.D., TO SERVE AS JAMES F. ZIMMERMAN, D.P.M.'S SUPERVISING PHYSICIAN;**

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**DR. BUCHAN FURTHER MOVED:**

- **TO GRANT ALBERTO LEON, M.D.'S REQUEST FOR APPROVAL OF CASE WESTERN RESERVE UNIVERSITY'S *INTENSIVE COURSE IN CONTROLLED SUBSTANCE MANAGEMENT AND INTENSIVE COURSE IN MEDICAL RECORD KEEPING*, IN FULFILLMENT OF THE REQUIREMENTS OF PARAGRAPHS (B)(2) AND (B)(3) OF THE BOARD'S ORDER OF NOVEMBER 10, 2004; AND**
- **TO GRANT BARBARA JEAN WILLOWS, D.O.'S REQUEST FOR APPROVAL OF THE COURSE IN PRESCRIBING CONTROLLED SUBSTANCES OFFERED BY THE TEXAS ACADEMY OF FAMILY PHYSICIANS, IN FULFILLMENT OF THE REQUIREMENT OF PARAGRAPH 10(b) OF DR. WILLOWS' OCTOBER 12, 2005 CONSENT AGREEMENT.**

**DR. BUCHAN FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT "A"; THE P.A. APPLICANTS LISTED IN EXHIBIT "B"; THE P.A. UTILIZATION PLANS SUBMITTED BY THE FOLLOWING: DOUG MCLAUGHLIN, D.O. AND YESHWANT REDDY, M.D.; THE ACUPUNCTURIST APPLICANTS LISTED IN EXHIBIT "C"; AND THE ANESTHESIOLOGIST APPLICANTS LISTED IN EXHIBIT "D." DR. VARYANI SECONDED THE MOTION. A vote was taken:**

Vote:	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

Mr. Albert joined the meeting at this time.

**REINSTATEMENT REQUESTS**

**PHILIP F. MYERS, JR., M.D.**

Dr. Myers' request for reinstatement of his license to practice medicine and surgery, which was suspended by Board order of September 14, 2005, was considered by the Board at this time.

**MR. BROWNING MOVED THAT THE APPLICATION FOR THE REINSTATEMENT OF THE LICENSE OF PHILIP F. MYERS, JR., M.D., TO PRACTICE MEDICINE AND SURGERY IN**

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**THE STATE OF OHIO BE APPROVED, EFFECTIVE MAY 9, 2006, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED IN THE BOARD ORDER OF SEPTEMBER 14, 2005. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

#### LICENSURE

##### MARK ALLAN RENZ, M.D.

Dr. Renz' request for endorsement licensure was presented to the Board for consideration at this time. It was noted that the Board ratified a consent agreement with Dr. Renz the previous day.

**MR. BROWNING MOVED TO APPROVE DR. RENZ' REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO THE TERMS OF HIS APRIL 12, 2006 CONSENT AGREEMENT. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

#### REPORTS BY ASSIGNED COMMITTEES

##### EDUCATION, PUBLIC RELATIONS AND RISK MANAGEMENT COMMITTEE

Dr. Davidson stated that she and Ms. Wehrle are working on the next issue of the Board's newsletter and

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plan to have it ready for the press by June. This issue will catch up on disciplinary reporting and will update licensees on the Board's rules. It will also highlight the P.A. Legislation and its impact on physicians. Articles are also expected from Dr. Robbins and Dr. Talmage.

#### LEGISLATIVE LIAISON AND RULES REVIEW COMMITTEE

Mr. Browning advised that the Controlling Board approved five of the nine requested additional staff positions. He stated that this gives the Board the foundation to go forward with its strategic plan. There is the possibility that the additional four positions will be approved after the start of the fiscal year.

Mr. Browning advised that a corrected budget bill was passed this Spring, and includes a couple of items of interest to the Board, including an abortion reporting requirement. Mr. Browning referred members to the written Legislative report, a copy of which shall be maintained in the exhibits section of this journal.

Mr. Browning stated that another piece of legislation that is of interest to the Board is H.B. 117, which allows alternative practitioners to practice in the state without licensure and without oversight.

Mr. Whitehouse stated that this is a rehash of what has gone before. It will open the door to absolutely everyone. Under this legislation, individuals would only have to register with the Department of Commerce.

#### LICENSURE COMMITTEE

Dr. Robbins stated that the Committee reviewed two applications.

#### Tariq Bin Masud Niazi, M.D.

Dr. Robbins advised that Dr. Niazi is a graduate of a school not approved by the LCME or AOA. He has completed 15 months of approved graduate medical education in the United States, and is requesting that the Board consider his previous training and experience be found equivalent to 24 months of training through the second year level. Dr. Robbins stated that the Committee felt that with Dr. Niazi's breadth of experience, and his fellowship in the Royal College of Surgeons, the Board can find equivalency.

Dr. Kumar stated that this request concerned him. He stated that usually a residency program is a year long, but everywhere Dr. Niazi has trained has been for 11 months, 13 months or 14 months. Dr. Kumar expressed concern about the odd training schedule.

Dr. Varyani noted that Dr. Niazi holds a license in seven other states. He added that one might question why Dr. Niazi moved around so much, but on paper he seems all right.

**DR. KUMAR MOVED TO GRANT DR. NIAZI'S REQUEST TO FIND EQUIVALENCY TO 24 MONTHS OF TRAINING THROUGH THE SECOND YEAR LEVEL, AND TO GRANT DR. NIAZI'S REQUEST FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH**

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**LICENSURE PROTOCOLS. DR. DAVIDSON SECONDED THE MOTION.**

Dr. Buchan stated that this is the type of application the Board would have denied a year or so ago. He stated that he doesn't doubt that Dr. Niazi is well qualified, but he doesn't have the required 24 months of training.

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

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- nay
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

Basma Ricaurte, M.D.

Dr. Robbins noted that Dr. Ricaurte is also requesting that the Board find her previous training and experience as being equivalent to 24 months of training through the second year level. She is also requesting that the Board reconsider her request for a waiver of the U.S.M.L.E. seven-year rule.

Dr. Robbins stated that in February the Board denied Dr. Ricaurte's request for a waiver of the seven-year rule. Part of the reason for that denial was that the request for waiver came from Dr. Ricaurte's husband, rather than from Dr. Ricaurte. Concerning her request to find equivalency, Dr. Robbins stated that Dr. Ricaurte is currently in a residency program and will have completed 24 months of training through the second year level in June.

Dr. Robbins stated that the Committee once again recommends denial of Dr. Ricaurte's request. He noted that had Dr. Ricaurte not needed three attempts to pass Step 3 of the U.S.M.L.E., she would have finished within the seven years.

**DR. KUMAR MOVED TO PROPOSE TO DENY DR. RICAURTE'S REQUESTS: TO FIND THAT HER PREVIOUS TRAINING AND EXPERIENCE ARE EQUIVALENT TO 24 MONTHS OF APPROVED TRAINING THROUGH THE SECOND YEAR LEVEL; AND TO WAIVE THE SEVEN-YEAR RULE REQUIREMENT. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Talmage	- aye

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Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Robbins	- aye

The motion carried.

Dr. Egner joined the meeting at this time.

Dr. Robbins advised that the Committee also reviewed a number of requests for special accommodations under the Americans with Disabilities Act of 1990 for the June 2006 massage therapy examination. After reviewing documentation submitted, the Committee is recommending granting all requests.

**MR. ALBERT MOVED TO GRANT THE FOLLOWING REQUESTS FOR SPECIAL ACCOMMODATIONS UNDER THE A.D.A.:**

- **MARY FRANCES MORAN'S REQUEST FOR A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA;**
- **MARGARET H. POMEROY'S REQUEST FOR A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA, AND AN ENLARGED EXAM PACKET;**
- **CAROL CASS SCHNIPKE'S REQUEST FOR A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA.**

**DR. KUMAR SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

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Dr. Kumar asked whether there is a limit on the number of times someone can take the U.S.M.L.E. Ms. Rieve advised that there is not.

#### LIMITED BRANCH AND ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed requests for certificates of good standing from several massage therapy schools. The Committee recommends granting all six requests.

**DR. VARYANI MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO: BLUE HERON ACADEMY OF HEALING ARTS & SCIENCES, GRAND RAPIDS, MICHIGAN; CENTERPOINT MASSAGE & SHIATSU SCHOOL & CLINIC, MINNEAPOLIS, MINNESOTA; HAMRICK SCHOOL, MEDINA, OH; NORTHCOAST MEDICAL TRAINING ACADEMY, KENT, OHIO; OWENS COMMUNITY COLLEGE TOLEDO, OHIO; TRISTATE BUSINESS INSTITUTION ERIE, PENNSYLVANIA; AND BLANCHARD VALLEY ACADEMY OF MASSAGE THERAPY, FINDLAY, OH. DR. KUMAR SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

Dr. Buchan stated that the Committee moved to approve the Basic Core Curriculum for Massage Therapy (a copy of which shall be maintained in the exhibits section of this journal), prepared by the Massage Therapy Advisory Committee, the Ohio Council of Massage Schools, and the Board's Limited Branch test examiners. The Committee also moved to distribute the document to massage therapy schools, and to post it on the Medical Board's website.

Dr. Buchan stated that the Committee also reviewed and approved Stark State College's proposal for an on-line Certificate of Competency course to be given to those who fail the Board's Massage Therapy examination three times. The Committee will monitor the progress of this course for three to six months.

#### MINIMAL STANDARDS OF CARE COMMITTEE

Dr. Kumar advised that the Committee reviewed drafts of proposed rules 4731-26, sexual boundaries issues, and 4731-27, termination of physician/patient relationship. Dr. Kumar stated that the former would

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apply to all Board licensees, while the latter rule will apply only to M.D.s, D.O.s, and D.P.M.s. Dr. Kumar asked that Board members review the rules carefully and contact staff with any suggested revisions.

P.A. COMMITTEE

Dr. Talmage stated that the Committee reviewed supplemental utilization plans from two groups.

Vascular & Endovascular Specialists of Ohio

Dr. Talmage stated that the above-captioned group has asked that its P.A.s be permitted to perform the application of light based medical devices for spider vein ablation less than 3 mm and treatment of vascular lesions in an office setting, using 100% onsite supervision. The P.A. would observe the physician in performing no less than 10 procedures and then the physician would observe the P.A. in performing no less than 10 procedures to determine competency. Dr. Talmage stated that the performance of this procedure is in contravention of Ohio law, and the Committee recommends denial.

**DR. TALMAGE MOVED TO PROPOSE TO DENY VASCULAR & ENDOVASCULAR SPECIALISTS OF OHIO'S REQUEST FOR ITS P.A.S TO PERFORM THE APPLICATION OF LIGHT BASED MEDICAL DEVICES FOR SPIDER VEIN ABLATION LESS THAN 3 mm AND TREATMENT OF VASCULAR LESIONS ON THE BASIS THAT THE PROCEDURES ARE OUTSIDE STATUTORY AUTHORITY FOR P.A.S. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

Columbus Cardiology Consultants, Inc.

Dr. Talmage advised that the above-captioned group has requested approved for its P.A.s to perform noninvasive cardiovascular studies, to include treadmill and pharmacological stress testing, utilizing 100% onsite supervision, in an office setting. Dr. Talmage noted that there are precedents for approving this procedure for P.A.s.

**MR. BROWNING MOVED TO APPROVE COLUMBUS CARDIOLOGY CONSULTANTS,**

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**INC.'S REQUEST FOR ITS P.A.S TO PERFORM NONINVASIVE CARDIOVASCULAR STUDIES, TO INCLUDE TREADMILL AND PHARMACOLOGICAL STRESS TESTING, IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION, THE PHYSICIAN ASSISTANT WILL OBSERVE THE PHYSICIAN IN PERFORMING 100 PROCEDURES THE PHYSICIAN WILL OBSERVE THE PHYSICIAN ASSISTANT IN PERFORMING NO LESS THAN 100 PROCEDURES TO DETERMINE COMPETENCY. DR. BUCHAN SECONDED THE MOTION.**

A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Robbins	- aye

The motion carried.

Dr. Talmage stated that the Committee also discussed the implementation of the new P.A. legislation, and will bring recommendations to the Board. The PAPC will first review any rules that the Committee intends to propose. Dr. Talmage added that the proposed sexual boundaries rules will be given to the PAPC for its review and comment.

#### ADMINISTRATIVE REPORT

Mr. Whitehouse referred the Board to his written report, a copy of which shall be maintained in the exhibits section of this journal.

Mr. Whitehouse advised the Board that the first draft of the Board's Annual Report to the Governor was distributed earlier in the meeting. He noted that it is a work in progress and asked Board members who wish to make comments to contact Ms. Wehrle.

Mr. Whitehouse announced that a Medical Board staff retreat has been scheduled for April 26. There will be two half-day sessions on that day, in order for all staff to be able to attend.

#### PRESIDENT'S REPORT

Dr. Robbins noted that the Federation of State Medical Boards' annual meeting will be held the week of April 16. Dr. Robbins advised that the Federation has a new Executive Organization meeting, open to Executive Directors and senior staff members. He stated that Mr. Whitehouse has recommended that Mr. Miller, the Board's Government Affairs Officer, be authorized to attend the meeting in June. The

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Executive Committee felt that that recommendation was appropriate.

Dr. Robbins stated that the Medical Board will have display tables at the OSMA annual meeting on Saturday, May 20, in Cleveland. Mr. Miller, Ms. Wehrle and Mr. Whitehouse will be there to staff the display. The Medical Board will also have a display at the OOA annual meeting on Thursday, June 27, 2006, in Sandusky. Mr. Miller, Ms. Wehrle and Mr. Whitehouse will also be there to staff that display.

#### FISCAL UPDATE

At this time Gary Holben, Fiscal, Human Resources & Information Technology Administrator, addressed the Board with his fiscal update, copies of which were previously distributed to Board members.

Mr. Holben stated that he's had the opportunity to take a look at things and self-reflect a lot during the last 30 days, and his report is the result of that self-reflection. Mr. Holben noted that there is a lot of detail in the report, and he will highlight it. His focus today is basically on trend lines: Where the Board is going, where it's been in the last year, and where it thinks it's going in the future with regard to Fiscal, HR and IT operations, and how it relates to the strategic plan.

Mr. Holben noted that the first page of the handout is an abbreviated report, showing the Board's current fiscal status. He stated that this is a monthly report he prepares for the Administrative Report. He noted that the Board's revenue stream is constant. The revenue is almost even with the Board's expenses. Mr. Holben referred to a Cash Balance Projections spreadsheet included in the report. Mr. Holben stated that he will begin to develop and prioritize an equipment list at the end of this year. He anticipates that the Board will have \$100,000 to work with. Mr. Holben reminded the Board that at the end of last fiscal year the staff made a wish list of things they would like to buy, and prioritized that. Some major purchases were made. They plan on doing that this year also because they project a surplus.

Mr. Holben stated that the biggest new expenditure this year was the addition of two nurses, who came in on a temporary basis. Mr. Holben noted that the two nurses had a great deal of impact on Board operations. The Board has also hired several clerical specialists to fill the holes for employees who have been out for different reasons. The temporary employee costs have been pretty high, as compared to previous years. Other expenditures are about the same as they were last year.

Mr. Holben stated that the bargaining unit and classified exempt employees will receive a 3.5% pay raise and additional steps beginning on July 1. That will have an impact on the Board's budget, to a limited extent. Right now, payroll is about 80% of the entire budget. The Board also needs to keep in mind that the bargaining unit employees will receive a 3.5% increase on July 1, 2007, and another 3% on July 1, 2008. The classified exempts are only guaranteed the first increase of 3.5% on July 1 of this year. It has been left to the new governor to decide what the pay raises will be for classified exempts. Unclassified exempt employees generally go the same way as classified exempts. All of this has an impact on payroll, which is why they anticipate that any growth in revenue will be eaten up by the increases in payroll expenses.

Mr. Holben stated that the anticipated cost of the move to the Rhodes Tower in February or March 2007 to be about \$150,000, based on the information he has at this time. Beginning in May of this year, he will

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begin to hold meetings to discuss the move and figure out what the exact costs will be. OBM and DAS have issued an opinion that any moving costs must be incurred with operating dollars, so the Board will have to absorb that cost. Movers will do the tear down of the current offices and cubicles and move and set up in the new location. He stated that the rent will increase by \$50,000, but the Board will have additional square feet. The Board meeting room there is in common space, paid for by everyone in the Rhodes Tower. Mr. Holben stated that the Board has been told that they will earmark specific days for the Board's meetings in that room. Also, OBA will absorb, at their costs, modifications to the new Board room. He commented that the new room will be very nice – a big difference from where the Board meets today.

Mr. Holben advised that OBM has also recommended that the Board revisit the addition of four new employees after July 1. He stated that he believes that it would be prudent to go back to the Controlling Board to ask for the cost of the move. He noted that the Board's budget is tight, and absorbing the cost of the move could be difficult.

Mr. Holben stated that he anticipates filling the five new positions by July 1. The Board has to go through the process of creating the positions along with posting and filling the positions. He and Ms. Hosken have a game plan to start that next week. The additional five new positions will have a huge impact on compliance, standards review and enforcement.

Mr. Holben stated that the Board currently has a cash balance of \$5.8 million, which is pretty good when you look it as a percentage of the annual budget, which, currently \$7.5 million. The Board is in pretty good shape, especially when being compared to GRF-funded organizations. Mr. Holben commented that, with the current cash balance, it is hard to justify fee increases in the near future. He believes that the Board would be very hard-pressed to go to the Statehouse and argue that it needs to increase fees. There has been some discussion about raising some fees, while lowering others. The addition of employees will most certainly draw down on the cash balance. Referring to his cash balance analysis, he noted that, even with the increase in cost of \$260,000 a year, and taking in the assumptions listed at the bottom of the page – 3% growth in FY 08, 09 and 10, due to additional licensees, and increasing appropriation authority 2%, and spending down all appropriation authority to near zero every fiscal year, it would still take close to 20 years to draw down the current cash balance. Mr. Holben stated that that is pretty significant and tells him that the Board is very healthy, fiscally, as compared to most other state agencies.

Mr. Holben at this time reviewed the accomplishments of his department during the past twelve months, including: obtaining new computers and monitors for all in-house staff; obtaining a new server; in the process of updating website; review and revision of fiscal policies and procedures twice; and creating an intranet site to collect all operational policies and procedures. Mr. Holben stated that his department has addressed every audit finding in the FY 02/03 audit report. Those areas included evaluations, policies and procedures, revenue deposits, internal controls, enforcement and the physician loan repayment program.

Mr. Holben stated that a State Auditor will be in the Board offices beginning on April 25.

Mr. Whitehouse stated that there were some questions about the last audit. He asked Mr. Holben to focus on those questions.

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Mr. Holben again referred to his written report, which includes an outline he prepared regarding the FY 02/03 audit. He stated that one of the biggest issues in the audit report was the Physician Loan Repayment Program. He stated that staff took care of that problem in May 2005. The Board paid the Health Department \$215,000, which was owed to them. Most of the audit findings he addressed in his first 90 days with the Board. A lot of that was done while Mr. Dilling was still here.

Mr. Whitehouse stated that \$20.00 out of every license renewal is supposed to go to this fund. Instead, it was going into the Board's account.

Ms. Sloan asked what has been done to make sure that this is done on a timely basis.

Mr. Holben stated that now, every time the Board makes a deposit, \$20 for the renewal application or the first-time license is set aside and transferred directly. Mr. Holben stated that the Board does specific deposits three to five times a week. He stated that the adjustment was done two years ago, but the Board hadn't taken the extra step to pay the arrearage. That was the problem in the last audit.

Ms. Sloan stated that she would like the Board to be updated on how the Board has responded to the last audit report. She noted that at the last audit, 21 out of 30 evaluations had not been completed. She asked where the Board stands now.

Mr. Holben stated that there has been huge progress made in that. There was 30% timely completion with previous administrations, and now it stands at 70%. It's not quite perfect. Mr. Holben stated that Ms. Hosken pushed the issue with previous administrations. Mr. Holben stated that Mr. Whitehouse made the policy decision to go back to July 1, 2005. In this particular case, the Board will show huge progress.

Mr. Browning asked whether the Board has a plan to go forward. He noted that Mr. Holben earlier indicated that all of the issues identified in the audit have been taken care of.

Mr. Holben stated that evaluations have been addressed, but there will be a repeat finding by the auditor to the extent that it will show that there is a new policy in place that, basically, from July 1, 2005, the Board is current.

Mr. Whitehouse stated that, hopefully, it will not be a repeat finding. He would assume that an auditor who would suggest that the Board needs to go back and perform evaluations for 2002 and 2003 would probably be an exercise in futility.

Mr. Browning asked about the 70% number.

Mr. Holben stated that the 70% only goes back to July 1.

Mr. Browning asked whether everyone is getting an annual evaluation now.

Mr. Holben stated that supervisors have been asked to complete evaluations, and they're at the 70% level at this point.

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Mr. Browning asked whether there is a policy of annual evaluations.

Mr. Holben stated that there is.

Mr. Browning asked for assurance that everyone is getting evaluated annually.

Mr. Holben stated that 60 days prior to the due date, Ms. Hosken sends out an e-mail with an electronic copy of the performance evaluation. She also sends a request to update job descriptions. They've offered classes and various meeting agendas. At this point, there have been no takers on the classes. It's discussed in the Senior Staff meetings. The status is posted on the intranet where any employee or supervisor can see the status of all evaluations.

Mr. Browning asked whether the Board is on track now at on or about 100%.

Mr. Holben stated that he thinks that the Board could do a little better, but that's just his personal opinion. He stated that he makes an active effort to make sure that his evaluations are done. He stated that everybody does have a full plate, but the supervisors have to make this a priority. Because employees are being given step pay increases now, the evaluation is tied to the step increase. DAS wants 30-days notice prior to the due date on the evaluation if the supervisor and the Executive Director stipulate that the employee's performance is so poor that he or she doesn't deserve a step increase. Mr. Holben stated that supervisors need to send a signal as to who's performing and who's not performing. He added that Ms. Hosken documents when a supervisor has been notified that evaluations are due.

Mr. Albert asked whether the Health Department issues a report about what they are doing with the \$20 per renewal fee. He also suggested that the Board include in its newsletter the fact that \$20 of a physician's license fee is going to the Health Department for the loan repayment.

Mr. Holben stated that he has some contacts at the Health Department and he will try to ascertain what is being done with the money.

Dr. Kumar asked whether the money is taken out of every licensee's renewal fee.

Mr. Holben stated that it's only taken out of the physicians' (M.D., D.O. and D.P.M.) fees.

Dr. Varyani stated that usually after an audit report is issued to an agency, the agency will prepare a written plan to show how those issues have been addressed.

Mr. Whitehouse stated that his understanding is that there is an outbrief by the auditor, the opportunity for comment and correction. After that point in time, the final report is issued to the agency. There's not, as far as he's aware, any follow-up or documentation exchanged back and forth.

Dr. Varyani stated that he's not saying that there should be a follow-up with the auditor. But if your company is being audited by someone, and recommendations or findings are made, the head of the agency

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audited sees that an action plan is written.

Mr. Browning stated that, failing a plan, what is the status on all of the issues raised in the audit.

Dr. Varyani stated that he wants to see a document outlining the plan.

Mr. Browning stated that it would be good if Mr. Holben could give the Board a written report on the status of all the items. He noted that Mr. Holben has indicated that the Board has responded to all recommendations in full, except for the evaluations.

Mr. Holben stated that the Board has put into place a way to correct the evaluations up to July 1, 2005.

Mr. Browning stated that he wants to know that everything else is as it should be, that the Board has taken corrective action.

Mr. Holben stated that he's prepared to discuss that, if the Board wants all of the details.

Ms. Sloan noted that one of the issues in the audit report was that the Board didn't have written procedures on how checks were handled, and that there needed to be cross-training so that the deposit could be made if the individual who normally makes the deposit is unable to do so.

Mr. Holben stated that the goal is to deposit all checks within two to three business days of receipt. The majority of the time, 95% of the time, that is accomplished. He asked the Board to keep in mind that only 10% of its revenue is received on the 17<sup>th</sup> floor in terms of a physical check. Most of the Board's revenue is received through electronic transfers of MasterCard and Visa. At present the Board deposits checks three to five times a week. The number of checks received has decreased dramatically because applicants are renewing their licenses on the Board's website, using their credit cards for payment. Eventually, the Board will be offering the ability to apply on line to more first-time applicants. He commented that the Federation is providing that software to Boards. The Board will see fewer checks coming into the office.

Dr. Varyani stated that Mr. Holben is taking the Board into details that he doesn't want to go. He stated that Ms. Sloan asked whether there is a written policy addressing the audit recommendations. He asked whether Mr. Holben has anything on paper that says that it has rectified the problems the audit found, or that the Board is in the process of rectifying the problems.

Mr. Holben stated that he hasn't prepared a formal written response.

Mr. Browning stated that Mr. Holben needs to do that for the Board and for the auditors office.

Mr. Holben asked whether he could send this to the Board members by e-mail.

Mr. Varyani stated that he doesn't want an e-mail response.

Dr. Egner asked whether Mr. Holben has a book downstairs that says, "Policies and Procedures."

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Mr. Holben stated that the Board has an intranet electronic depository for all Board-wide policies and procedures. It is categorized into fiscal, human resources and various other operational units, such as licensure and enforcement.

Dr. Egner asked whether the Board could bring that on line and there would be a policy and procedure regarding how checks, etc. are processed.

Mr. Holben stated that it contains various policies, including petty cash and deposits. The specifics of how to do the deposits are not necessarily there and would need to be added.

Mr. Browning stated that Mr. Holben needs to give the Board a status report in writing. It needs to include the auditor's findings and the Board's response to those findings, and the status. It needs to be mapped out.

Mr. Holben stated that he has that.

Mr. Browning stated that he doesn't have it in writing. He added that the Board can't operate like that, with the information just in Mr. Holben's head.

Dr. Varyani stated that he wants the response in writing, indicating the policies for deposits, enforcement, physician loan repayment, etc. Dr. Varyani stated that the Board needs to know what has been done and that things are working appropriately.

Mr. Holben stated that he will send this information to the Board by April 21, 2006.

Ms. Sloan commented that the Red Cross is audited by everyone, more often than any other entity. She has to have answers to all of the previous audits in writing, ready for the next auditor's review. The Board has to address all these issues.

Mr. Holben stated that they have been addressed, but they haven't been addressed in writing.

Dr. Varyani stated that if they aren't documented in writing, they aren't done.

Mr. Holben again stated that he will have the response in writing by the end of the following week.

Mr. Browning noted that Mr. Holben is assuming that in FY06, the Board will have a high water mark in terms of its cash balance, and then it starts drawing down. That will probably go on definitely until the Board raises fees.

Mr. Holben stated that that's correct.

Mr. Browning stated that Mr. Holben's assumption is that revenues will increase an average of 3% per year for FY08, FY09 and FY10, but the appropriation authority will average 2% for the same period. At the same time, there are built-in pay increases of 3% or more, which is 80% of the budget. Mr. Browning

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stated that 2% of spending seems to be pretty conservative.

Mr. Holben stated that he tried to be conservative in all his estimates.

Mr. Browning stated that, in some ways, it's being less than conservative if one is being too conservative because the fund balance will be drawn down faster.

Mr. Holben agreed.

Mr. Browning stated that probably the Board will sit here a year from now and not be at 2% when giving pay raises of 3% plus.

Mr. Holben stated that he hopes so. He added that the Governor's office has a lot of influence over what the Board gets in terms of appropriation authority. He stated that he thinks that the Board needs to do what he's talked about and then go back and ask for the \$150,000 it will take to make the move to the Rhodes Tower. He stated that he thinks it's a reasonable request.

Mr. Browning commented that that will just speed up the draw down. The draw down will probably happen faster than Mr. Holben has indicated in his report. The Board will not be keeping pace.

Mr. Holben stated that the next logical step to think further down the road is the need to review the cost of annual renewal.

Mr. Browning stated that it raises question about the necessary balance. In terms of the Board's strategic plan and the operations of the Board, the Board does not have a perfectly balanced situation in the sense that revenues and expenditures are not in sync. The Board is spending more than it's taking in; and, therefore, it has to draw down the balances. He added that that will probably speed up, rather than slow down.

Mr. Holben agreed.

Mr. Browning stated that he's not suggesting that this is a terrible situation, but that's where the Board is.

Dr. Kumar asked whether Mr. Holben took into account in his report the change in the fees for P.A.s

Mr. Holben stated that it wasn't a large increase; it was only about \$8,000.

Dr. Egner asked why Mr. Holben would make his projection less than what he knows it will be.

Mr. Holben stated that the projection is just that: A projection based on assumptions of what may or may not be. Arguably, different people can make different arguments.

Mr. Browning stated that mathematically, Mr. Holben's projections are too conservative.

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Dr. Egner asked what his thought process was in developing this.

Mr. Holben stated that he was being conservative in his assumptions.

Dr. Egner stated that Mr. Holben is the fiscal officer, and the Board wants to know what he thinks reality is.

Mr. Holben stated that he would rather under promise and over deliver.

Mr. Browning stated that in some ways it's the reverse of that. If you're too conservative, that's not being conservative on the spending side. You will actually spend more than 2% and you'll run the balance down faster. It won't last 20 years. He questioned how Mr. Holben can say that 80% of the budget is going up 3% or more, and then come up with a 2% growth assumption.

Mr. Whitehouse stated that he thinks there may be differences with the definition of conservative. He stated that it would be helpful having an analysis contemplating a 4% growth rate, which would seem to be more realistic. He believes that the intent was to draw down the balance and then, a couple of years out, having developed a better sense of where the Board needs to be, with the statistical data to back it up, go over and look at these across the Board and try to come up with the right mix, the right balance, that stabilizes the Board at a certain point.

Mr. Browning stated that in some ways the Board is running longer than it expected in terms of the years that have gone by since the last major fee increase in 1999.

Dr. Kumar asked whether the budget will allow for the printing of the Board's newsletter, commenting that that has been a problem in the past.

Mr. Holben advised that the Board has budgeted for two publications of the newsletter a year.

Mr. Varyani stated that he believes that the newsletter is important for the Board's licensees.

Dr. Egner stated that there are major expenditures coming up: employee pay raises, the move to another location, new employees. The Board would like to have a written report on what Mr. Holben projects those increases are going to be. The Board would also like to know where Mr. Holben is going to cut back.

Dr. Varyani stated that he wants to see the Board's budget.

Mr. Holben stated that the budget has already been done, and it's set in place. The Legislature did not increase the Board's appropriation authority for FY06 and FY07.

Dr. Varyani stated that he recalls discussing that, but he doesn't recall seeing Mr. Holben's projections. He stated that most financial officers will make a written report on projected spending, and then at the end of the year, a written report on what actually happened. That way the Board will know exactly where it's going.

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Mr. Holben stated that the Board does do that. It sets up allotments at the beginning of the year and the budget is divided into different categories.

Mr. Holben stated that he would like to provide the Board with more information. He added that is he available to Board members at any time. He added that he'd like to meet on a regular basis with the Board to increase communications and increase understandings. He suggested appearing before the Board or Executive Committee every quarter to make a fiscal report. That way he can be proactive in telling the Board what is going on. It will also give the Board the opportunity to provide him with feedback if he's not focused in the right direction.

Board members indicated that they want a written quarterly report provided to them prior to any appearance so that they can prepare questions concerning the report.

Mr. Browning noted that Mr. Holben has been employed by the Board for a year. He added that Board members have had concerns about his position not being filled fully and properly. Board members had concerns related to that as it relates to fiscal management. Mr. Holben came in and gave the Board a 30-day report, identifying a short list of priority items that he saw as significant concern that needed to be addressed. Mr. Browning stated that it would be helpful for the Board to get from Mr. Holben a report listing his significant concerns and the status of those items. He stated that Mr. Holben has touched on some of those, and some are in the audit report. Mr. Browning asked that, to start off Mr. Holben's second year in the right way, he prepare a written report so that everyone's on the same page about the fiscal and HR fundamentals about the organization. It would be helpful to have that by the May Board meeting. He stated that Mr. Whitehouse needs to be in agreement with that report.

Dr. Egner stated that Mr. Holben was also given a list of questions to address for this report.

Mr. Holben stated that he was told that there might be questions at this meeting.

Dr. Egner stated that the Board has gotten answers to some of their questions, but not all of them.

Mr. Browning stated that Mr. Holben will write a status report and give the Board details on what the auditor found, each of those areas, and how they have been addressed.

Mr. Holben stated that he was prepared to do that today. He was not aware that the Board needed it in writing.

Mr. Browning stated that it goes back to what Mr. Holben needs to do for the auditors and for the Board, so that the information is not just in his head.

Ms. Sloan stated that that's the only way to give such a report.

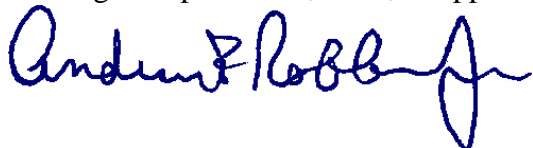
**DR. KUMAR MOVED TO ADJOURN. MS. SLOAN SECONDED THE MOTION.** All members voted aye. The motion carried.

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Thereupon at 10:00 a.m. on April 13, 2006, the April 12-13, 2006 meeting of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on April 12-13, 2006, as approved on May 10, 2006.



Andrew F. Robbins, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



