

August 9, 2006

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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**August 9, 2006**

Deepak Kumar, M.D., Vice-President, called the meeting to order at 1:05 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: Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Patricia J. Davidson, M.D.; Dalsukh Madia, M.D.; and Anita M. Steinbergh, D.O. The following did not attend the meeting: Andrew F. Robbins, Jr., M.D., President; David S. Buchan, D.P.M.; and Nandlal Varyani, M.D.

Also present were: Richard A. Whitehouse, 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; Lawrence D. Pratt, Damion M. Clifford, Steven C. McGann 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; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance 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. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Revised Code, the Board went into executive session at 1:06 p.m. The Board came out of executive session at 1:50 p.m., with all members present.

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The following joined the meeting after the executive session: R. Gregory Porter, Chief Hearing Examiner.

MINUTES REVIEW

**MR. BROWNING MOVED TO APPROVE THE MINUTES OF JULY 12-13, 2006.**  
**DR. DAVIDSON SECONDED THE MOTION.** A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He advised that the Board has been unable to achieve service in the matter of Suzanne A. Haritatos, D.P.M. The Report and Recommendation in her case will therefore be considered at a future meeting. Also, the Board has granted Terri Lynne Savage, M.D.'s request for a postponement of consideration of her case until the September meeting. Dr. Savage has signed an agreement to continue her summary suspension until such time as the Board takes final action on her case.

Dr. Kumar 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: Cynthia Y. Alston, M.D.; Richard C. Gause, M.D.; Jorge Arturo Martinez, M.D.; Chijioke Victor Okoro, M.D.; and Jose Raul Quintana, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

Dr. Kumar asked whether each member of the Board understands that the disciplinary guidelines do not

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limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

Dr. Kumar 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. Dr. Kumar advised that Dr. Talmage and Mr. Albert were the Secretary and Supervising Member and must abstain in the matters of: Dr. Martinez, Dr. Okoro, and Dr. Quintana. They may participate in the discussion and vote in the matters of Dr. Alston and Dr. Gause. The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

CYNTHIA Y. ALSTON, M.D.

Dr. Kumar directed the Board's attention to the matter of Cynthia Y. Alston, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

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

Dr. Alston thanked the Board for allowing her to be present to address the Board. She stated that she is a board certified internist and also has an MBA in health care administration. At this time she has no disciplinary actions against her, nor does she have any malpractice actions pending. There is nothing on her in the National Practitioners Data Bank. She is currently licensed in the States of Illinois and Wisconsin, and at this time she is a medical director at Cigna Health Care. Dr. Alston stated that her office is in Chicago, and she's been there for about a year and a half.

Dr. Alston continued that, before she was at Cigna, she was the regional medical director for Wexford Health Sources, Inc. She supervised 29 other medical directors. In the course of performing her duties there, she actually did see patients on a fairly regular basis, which she feels constituted the practice of medicine.

Dr. Alston stated that she will have to admit that she did commit an error in filling out her application. She should have been more careful in filling out the time that was actually allotted as administrative versus clinical. She attempted to correct that, but it was too late when she realized what had happened.

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Dr. Alston asked that the Board grant her an unrestricted license to practice medicine. She indicated that she would answer Board members' questions.

Dr. Talmage asked whether the states in which Dr. Alston is currently licensed have CME requirements.

Dr. Alston stated that they do, and she has met those requirements.

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

Mr. Wilcox indicated that he does not wish to address the Board in this matter.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF CYNTHIA Y. ALSTON, M.D. DR. MADIA SECONDED THE MOTION.**

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

Dr. Steinbergh stated that she agrees with the Proposed Order, granting Dr. Alston a license. She stated that it was clear after her review that Dr. Alston simply did not consider the consequences of administrative versus clinical care in response to percentages. She stated that this Board has always encouraged the licensure of medical directors and, in this case, Dr. Alston is appropriate for licensure. Dr. Steinbergh stated that she would encourage Dr. Alston to be recertified in internal medicine, although that is not a requirement for licensure.

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

RICHARD C. GAUSE, M.D.

Dr. Kumar directed the Board's attention to the matter of Richard C. Gause, M.D. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

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

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**FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF RICHARD C. GAUSE, M.D. DR. MADIA SECONDED THE MOTION.**

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

Dr. Talmage stated that it is logical to require Dr. Gause to take the SPEX for licensure. He stated that the Proposed Order is appropriate.

Dr. Davidson noted that Dr. Gause advised that he wants an Ohio license in order to get a Florida license. Dr. Gause indicated that the Medical Board in Florida advised him that he could obtain a Florida license by showing that he's currently licensed in two states in addition to Michigan. She asked whether it's true that you need three licenses to get licensed in Florida.

Dr. Kumar stated that that also surprised him; he couldn't figure it out.

Dr. Steinbergh stated that it might be a requirement so that he doesn't have to take the Florida exam. She stated that she doesn't know whether Florida has its own examination for allopathic physicians, but they do for osteopathic physicians. Dr. Steinbergh stated that it may have to do with the sequence of his Board examinations years ago. Dr. Steinbergh asked whether the Board is okay with the Order, as written, which requires Dr. Gause to take either the SPEX or the American Board of Internal Medicine recertification examination.

Dr. Talmage stated that he thinks that the Board has been consistent with this requirement.

Dr. Kumar noted that the Proposed Order gives Dr. Gause a year to complete the exam, and not the usual six months the Board requires.

Dr. Steinbergh stated that she thinks that the point about the certifying body is very important in this case. She stated that she agrees with Dr. Davidson.

Dr. Talmage stated that the Board has debated whether the SPEX is appropriate in some cases where somebody's been in a subspecialty or specialty such as general surgery, neurosurgery, and things like that. In this case, this is a general internist, and the SPEX covers general medicine, so it is appropriate.

Dr. Egner commented that she thinks that the Board would like physicians to apply for licensure in Ohio when they intend to practice in Ohio. She does have some problem with someone saying that they don't want to practice here, but only have the license so they can do disability physicals in Florida. Dr. Egner stated that she takes giving a license very seriously. Dr. Egner stated that the Board should see that every person to whom the Board grants a license is a potential physician to practice here. Is this someone the Board wants to practice in Ohio?

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

ROLL CALL:

Mr. Albert

- aye

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Dr. Egner	- aye
Dr. Talmage	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

JORGE ARTURO MARTINEZ, M.D.

Dr. Kumar directed the Board's attention to the matter of Dr. Martinez. He advised that Mr. Porter and Mr. McNeil were the Hearing Examiners. Dr. Kumar advised that objections were filed to Hearing Examiner McNeil's Report and Recommendation and were previously distributed to Board members.

**DR. MADIA MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JORGE ARTURO MARTINEZ, M.D. MR. BROWNING SECONDED THE MOTION.**

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

Mr. Browning stated that this is a significant case involving someone with a 58 felony count charge and conviction, including 8 counts of distribution of a controlled substance, 10 counts of wire fraud, 15 counts of mail fraud, 23 counts of health care fraud, and 2 counts of health care fraud resulting in death. Mr. Browning noted that the Hearing Examiner recommends permanent revocation, and he supports that recommendation fully, given this record.

Dr. Davidson expressed concern that there have been a few physicians whose cases have come before the Board when they were in prison. Dr. Davidson stated that she read Dr. Martinez' eight-page written statement, and she asked how someone in jail, with his or her assets frozen, can get a fair hearing from the Board. He can't be here; he can't even type his statement so that it looks the same; he can't have an attorney represent him before the Board. Dr. Davidson stated that Dr. Martinez makes a point in his letter, which she can understand, and that is that a lay jury found him guilty and he was looking forward to his day in court with his peers, and the Board isn't even going to look at the primary evidence. The Board is saying that the court found him guilty and the Board has a rule that says that if you do a felony in the course of practice, we can take your license, and it's done.

Ms. Pfeiffer stated that Dr. Martinez could have had an attorney represent him before the Board.

Dr. Davidson stated that his assets were frozen, and what attorney would extend him that courtesy.

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Dr. Steinbergh asked whether Dr. Martinez could have gotten a public attorney.

Ms. Pfeiffer stated that she doubts that he could on a civil matter. You can only get one on a criminal matter, where you risk going to jail. Ms. Pfeiffer stated that the only other option would be for the Board to wait until Dr. Martinez is out of jail.

Dr. Davidson stated that the Board has been asked to do that before, to wait until the physician gets out of jail so that he can have a fair hearing, like everybody else gets. Dr. Davidson stated that she doesn't feel that it's equal; it's not a fair treatment when she reads someone's handwritten statement and she knows that he or she is in jail. She doesn't treat the case the same as she does everybody else who comes all dressed up and sits at the end of the table.

Mr. Browning stated that he appreciates what Dr. Davidson is saying. He added, however, that there aren't standards in this country that, if you're a doctor, you get a jury of your peers, namely doctors. That's not how it works. Mr. Browning stated that it appears that this man went through the judicial system and he was convicted of all these counts, including the death of an individual. Mr. Browning stated that he doesn't see any scenario, no matter what he says, given these facts and given the fact that the Board cannot retry these cases, where the Board wouldn't permanently revoke a license for this egregious, outrageous behavior. He stated that he doesn't see even a glimmer of hope that this would somehow result in Dr. Martinez continuing in the practice of medicine. He added that if he did, he would agree with Dr. Davidson. He just doesn't see any scenario where that would be the case on the merits.

Dr. Steinbergh asked how many years Dr. Martinez will be in prison.

Dr. Davidson stated that he was sentenced to 151 months in prison.

Dr. Steinbergh stated that she supports the permanent revocation.

Dr. Egner stated that she agrees with Mr. Browning. She stated that she doesn't think that in this particular case, with what Dr. Martinez was convicted, that the Board would have any other outcome than a permanent revocation. She also thinks that people do get fair hearings, even when they are not represented by an attorney. When you look at the hearing transcript, the Hearing Examiner often allows physicians more leeway when they are not represented by an attorney. Dr. Egner stated that she thinks that the Attorney Hearing Examiner tries to be extremely fair in those situations. Is it the same sending an eight-page written document from prison? No, but there is no way that this person will ever have a license in Ohio after 58 felony convictions, eight of which were in the course of practice.

Dr. Davidson stated that this is allegedly pain prescribing. Dr. Davidson expressed concern that physicians won't prescribe needed drugs because of the chilling effect of what was on the news.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye

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Dr. Talmage	- abstain
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

CHIJOKE VICTOR OKORO, M.D.

Dr. Kumar directed the Board's attention to the matter of Chijioke Victor Okoro, M.D. He advised that Mr. Porter and Mr. McNeil were the Hearing Examiners. Dr. Kumar further advised that objections were filed to Hearing Examiner McNeil's Report and Recommendation and were previously distributed to Board members.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF CHIJOKE VICTOR OKORO, M.D. MS. SLOAN SECONDED THE MOTION.**

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

Mr. Browning stated that, again, this case involves a series of felony convictions that the Board must accept as the law of the land. This is what happened in the court process. Dr. Okoro was found guilty of seven counts of health care fraud, three counts of filing false federal income tax returns, 15 counts of mail fraud, based on allegations that Dr. Okoro hired unlicensed foreign medical school graduates to act as doctors in clinics. With the aid of others, Dr. Okoro devised a scheme to obtain money by means of false and fraudulent pretenses. Again, these multiple felony convictions just lead the Board to permanent revocation. That is the Hearing Examiner's recommendation, and he supports it.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

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The motion carried.

Ms. Pfeiffer at this time reminded the Board that, before there is a finding of guilt in the criminal context, the standard is proof beyond a reasonable doubt. That is a much higher standard than is needed in the administrative hearing process, where a preponderance of evidence is sufficient. She stated that this may give the Board a little bit more comfort, knowing that the elements of those crimes were presented to a very, very high level of proof, a much higher level than is required in the hearing process.

Dr. Davidson stated that that's a good point.

JOSE RAUL QUINTANA, M.D.

Dr. Kumar directed the Board's attention to the matter of José Raul Quintana, M.D. He advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JOSE RAUL QUINTANA, M.D. DR. MADIA SECONDED THE MOTION.**

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

Dr. Steinbergh spoke in support of the Report and Recommendation, stating that she does think that Dr. Quintana should be granted a license with a reprimand. Dr. Steinbergh noted that Mr. Porter found that the evidence is insufficient to support a conclusion that the conduct of Dr. Quintana constitutes making a false, fraudulent, deceptive or misleading statement. Dr. Steinbergh stated that she thinks that physicians need to be cautioned that they need to understand what they say in their applications and so forth.

Dr. Steinbergh stated that she found Dr. Quintana's explanation of why he was denied privileges to be very inappropriate. Dr. Quintana felt that people were trying to take his practice away from him. However, the bylaws apparently stated that Dr. Quintana was required to have board certification; and if he didn't get it in a timely manner, he would lose his privileges. Dr. Steinbergh stated that they do that at her hospital. She stated that her hospital does, unfortunately, have to remove privileges if a physician doesn't meet the standard of board certification. Dr. Steinbergh stated that she doesn't agree with Dr. Quintana's assessment of why he lost his privileges. She found that to be denial on his part as to the real reasons why he lost his privileges. There was no question that he had a restriction on his license. Dr. Steinbergh added that she does believe that Dr. Quintana should be granted a license, but he should also be reprimanded.

Dr. Davidson stated that she also supports the Report and Recommendation. She stated that this licensee of both the Ohio and Florida Boards could argue that, on legal advice, he was also confused about what a letter of concern and a big fine means and how other boards are supposed to deal with this. Dr. Davidson suggested that perhaps a specific dialogue with Florida, via the Federation, would help this Board. She commented that this Board spends a lot of time on the question of what discipline means to Florida compared to Ohio.

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Dr. Steinbergh stated that the fact is that, regardless of what the language is, and the Board knows how different the languages are from state to state, Dr. Quintana did not have a free and unrestricted license at that time. She thinks that anyone who doesn't have a free and unrestricted license should understand that that is discipline. She noted that Dr. Quintana had to complete CME in certain areas that other physicians don't have to do, he had to perform community service that other physicians with a license didn't have to do. Those are restrictions. Those are stipulations that he has to meet, and that's discipline.

Dr. Egner stated that she looks at this case and has to say that she's not sure that Dr. Quintana is the most stellar physician. Board certification has become a standard, not an exception just for excellent physicians. Dr. Quintana completed his residency in 1993. He didn't complete it in 1975 when board certification was not as commonplace as it is today. Dr. Egner stated that she does look differently at any physician who has finished a residency in the last 15 years and has not become board certified. That is a red flag to her. Dr. Egner stated that the question asked of Dr. Quintana was whether he had ever been examined by any specialty board but failed to pass the exam. Dr. Egner asked whether that question is ambiguous. She noted that Dr. Quintana says that he read that question to mean that he never went before a group of people. Dr. Egner stated that all physicians refer to their exams as "taking my boards," whether they're written or oral. Everybody has an understanding of what "taking your boards" means. For OB/GYNs, it's a written exam and an oral exam. She doesn't know that she really buys into Dr. Quintana's explanation that the written exam is only your route to get to the oral exam. She stated that she thinks all physicians look at it as being part and parcel of the board certification process. Dr. Egner stated that, in retrospect, she doesn't feel that this is a good explanation for him.

Dr. Steinbergh commented that Dr. Quintana would have gotten a letter saying that he did not pass. They don't just tell the physician to try again so he can get to his oral exam.

Dr. Egner agreed, and added that his explanation makes her concerned. Dr. Egner commented that, if Dr. Quintana lost his privileges in a Florida hospital because he never became board certified, she's a little concerned about the hospital in Ashtabula who wants him. She added that she assumes that that hospital has very few OB/GYNs.

Dr. Steinbergh stated that some smaller hospitals don't require board certification.

Dr. Egner stated that she knows that the Board can't decide this case based on his board certification, and she's not saying that the Board should; but she added that it is a bit of a red flag to her. She noted that Dr. Quintana offers an explanation that the Board can believe or not believe. If the Board believes his explanation, he should be granted a license. If the Board feels it's a convenient explanation, but not 100% truthful, she's not sure that the Board should grant him a license.

Dr. Steinbergh stated that the Hearing Examiner felt, by law, the Board can't prove that Dr. Quintana has failed to furnish satisfactory proof of good and moral character. She stated that she thinks that Dr. Quintana was foolish in his response, and that he's foolish in how he feels about that, but she's not sure that the Board has any true evidence otherwise. She added that she agrees with Dr. Egner and she doesn't buy Dr. Quintana's explanation.

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Dr. Steinbergh stated that a Credentials Committee will have to decide whether or not Dr. Quintana can practice in their hospital. Dr. Quintana does have a clear license now in Florida.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

#### FINDINGS, ORDERS AND JOURNAL ENTRIES

##### IMRAN SHAUKAT CHAUDHRY, M.D.

Dr. Kumar noted that, by letter of June 21, 2006, the Board issued a Notice of Opportunity for Hearing to Dr. Chaudhry, based upon allegations contained in the letter. The Notice was mailed via certified mail, return receipt requested, to Dr. Chaudhry's address of record. A signed certified mail receipt was returned to the Board documenting proper service of the notice. No hearing request has been received from Dr. Chaudhry and more than thirty days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

**DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE JUNE 21, 2006 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. CHAUDHRY'S APPLICATION FOR LICENSURE IN THE STATE OF OHIO.**

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSION

AZBER AZHER ANSAR, M.D. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. ANSAR.  
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

GEORGE JAMIL-ELIAS BOUTROS, M.D. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. BOUTROS.  
MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

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. EGNER MOVED TO SEND THE CITATION LETTER TO MR. FISCHKELTA.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

THOMAS LEON GEMMER, 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. STEINBERGH MOVED TO SEND THE CITATION LETTER TO MR. GEMMER.  
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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DAVID GOTHAM, JR., DO. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. GOTHAM.  
MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

BRIAN FREDERIC GRIFFIN, M.D. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. GRIFFIN.  
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

LAWRENCE J. HARRIS, D.P.M. – 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.

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**MR. BROWNING MOVED TO SEND THE CITATION LETTER TO DR. HARRIS.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

JOY G. HARRISON, M.D. – CITATION LETTER

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

**MR. BROWNING MOVED TO SEND THE CITATION LETTER TO DR. HARRISON.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

KYLE ELLIOTT HOOGENDOORN, D.P.M. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. HOOGENDOORN.  
DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

MARTIN H. KATA, M.D. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. KATA. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

WILLIAM DAVID LEAK, MD. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. LEAK. DR. MADIA SECONDED THE MOTION.** A vote was taken:

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

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Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye

The motion carried.

LALSINGH P. ROHIRA, M.D. – CITATION LETTER

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

**MR. BROWNING MOVED TO SEND THE CITATION LETTER TO DR. ROHIRA.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

PHILIP GARY WAGMAN, M.D. – CITATION LETTER

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

**DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. WAGMAN.  
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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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.

MICHAEL TODD ADAMS, M.D. – CONSENT AGREEMENT

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

JEFFREY VAUGHN MEYER, M.D. – CONSENT AGREEMENT

**DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. MEYER. DR. MADIA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

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MICHAEL JOHN LEN, M.D. - REQUEST FOR WITHDRAWAL OF APPLICATION FOR TRAINING CERTIFICATE

**DR. STEINBERGH MOVED TO RATIFY DR. LEN'S REQUEST FOR WITHDRAWAL OF HIS APPLICATION FOR A TRAINING CERTIFICATE. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Egner left the meeting at this time.

MARK LAMET, M.D. – CONSENT AGREEMENT

**DR. DAVIDSON MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. LAMET. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Kumar stated that he has concern where there are issues pertaining to how these things were being performed in surgery. The Florida Board issued a reprimand and fines. Ohio is essentially piggybacking that Order, but has no way to investigate the situation. In a way, this agreement protects the citizens by requiring that he provide the Board with a practice plan. Dr. Kumar added that he can't come up with any other resolution of this matter.

Dr. Steinbergh stated that she believes that the agreement is appropriate for the information this Board has. The agreement meets the demands of the Florida board, and if the physician ever comes to Ohio, this Board will have the right to require a practice plan and approve that, so he will be monitored.

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

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

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Dr. Kumar - aye

The motion carried.

Dr. Egner returned to the meeting at this time.

MARIA LYNN YUNKER, M.T. – SURRENDER OF LICENSE

**DR. STEINBERGH MOVED TO RATIFY MS. YUNKER’S SURRENDER OF HER LICENSE TO PRACTICE MASSAGE THERAPY AND CONSENT TO REVOCATION. DR. DAVIDSON SECONDED THE MOTION.**

Dr. Steinbergh noted that the agreement says that the action “may be reported.” She asked whether it would be reported.

Ms. Jacobs advised that it will be reported.

A vote was taken on Dr. Steinbergh’s motion to ratify:

Vote:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

DAVID B. AXELSON, M.D. – CONSENT AGREEMENT

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

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

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The motion carried.

At this time, Dr. Kumar asked for a motion to table the topic to consider an additional settlement agreement later in the meeting.

**DR. STEINBERGH MOVED TO TABLE THE TOPIC OF RATIFICATION OF CONSENT AGREEMENTS. MS. SLOAN SECONDED THE MOTION.** All members voted aye. The motion carried.

At this time, 2:40 p.m., the Board took a brief recess. The meeting reconvened at 3:05 p.m.

#### PERSONAL APPEARANCES

##### STEVE AMOILS, M.D.

Dr. Amoils made his initial appearance before the Board, pursuant to the terms of his November 9, 2005 Consent Agreement, which was based on Dr. Amoils' failure to conform to minimal standards of care and violation of a code of professional ethics by engaging in sexual contact with a specified patient despite their ongoing physician-patient relationship.

In response to Board members' questions, Dr. Amoils stated that he has returned to his job as Medical Director of the Alliance Institute for Integrated Medicine in Cincinnati. He sees patients and performs his duties as a medical director. He did take an ethics course developed by Ida Schick, PhD, M.S., FACHE.

Dr. Steinbergh asked Dr. Amoils to tell the Board what Dr. Schick's course meant to him, and how it's affected his care of patients and his conduct with patients.

Dr. Amoils stated that this episode was an extremely painful one for him and his family, and it made him realize how quickly one can begin on a slippery slope that leads you to a place that you don't want to go. The course on ethics helped him to understand how to see these things and how to stop them from happening in the future. He stated that, in his situation, he's always been aware of it. He stated that he's been open with his colleagues, adding that he has six physicians working with him, as well as many other medical professionals. He's been open with them, and they've talked about how to stop this. His rooms are in a hallway where there are no doors. He makes sure that there is someone with him or popping in and out of the room all the time. They have put into place ways to red flag patients about whom they are concerned so that this doesn't happen to other physicians. On top of this, they are part of a network of centers around the country, other centers of which are predominantly university centers, and he's spent some time going around to the centers and talking about what had happened and finding out whether it had happened to them. Dr. Amoils stated that he thinks that they have put in place practices that will stop this, not only in their center but in other centers.

Dr. Steinbergh stated that she's not hearing any personal responsibility from Dr. Amoils.

Dr. Amoils stated that he is extremely aware about this, about never getting into this situation again. He's

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very aware that he could lose his license, and he takes it very seriously. Dr. Amoils stated that he takes full responsibility for what happened, and he doesn't think at any point he can remember one day or one moment when he hasn't thought about what has happened to him. Dr. Amoils stated that he accepts responsibility for it. He's never going to get into this situation again.

Dr. Amoils stated that his wife is with him today, and she is co-medical director with him. He stated that it was, obviously, very difficult for them during this time. His children have had to endure this and have had to endure a lot of problems related to this person. His daughter is currently in pre-med at Stanford and is also doing a genetics program at UC. She was called in recently when people read about what happened. Dr. Amoils stated that this is very painful for him, his wife and his children.

Dr. Kumar commented that Dr. Amoils advised that he is tagging the charts of patients to identify where there could be a problem for his other colleagues. Dr. Kumar asked Dr. Amoils what he means by that. He stated that sexual impropriety is an individual thing.

Dr. Amoils stated that there are men and women who have suffered from sexual abuse who are more likely to be in a situation. If during conversation any of this comes up, they review the charts and they advise the physicians to have a chaperone with them when they see the patients.

Dr. Kumar asked how the patients are being tagged.

Dr. Amoils stated that "tagging" is probably not a good word. What they do is hold regular meetings with the physicians to discuss all problems that occur. In the patient's history, sexual abuse is noted. There's a subtle way that they've developed that, if the doctors see this, they know to have a chaperone with them.

Mr. Browning asked why Dr. Amoils does that. He asked whether Dr. Amoils feels that he might be victimized by his own patients.

Dr. Amoils stated that, as a physician, his goal is for the greatest good for his patients. He doesn't want to ever be in a situation where either the patient or the physician is compromised.

Dr. Egner stated that she thinks that part of the problem here is that, because of Dr. Amoils' consent agreement, the Board doesn't know all the details of what happened. What the Board knows is that Dr. Amoils had an inappropriate sexual relationship with an ongoing patient. What the Board is hearing him say is that he now has protected himself and his partners from being manipulated and victimized by patients who can put him in a compromised position. Dr. Egner stated that what she is hearing is that that is what Dr. Amoils thinks happened that brought him before the Board. She stated that if Dr. Amoils could explain a little bit more about what happened and his take on it, it might help the Board understand.

Dr. Amoils stated that they have an integrated medical center that they developed in Cincinnati, which they were asked to do by a group of hospitals that they worked for. Two years after the center was established, the hospitals' top echelon of administration changed, and they came to the center and said that they were going to have to shut the center down. There were many people who had given up their livelihoods to come and work at the center, and they developed a fundraising program, a business development program,

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to start looking at ways in which they could save the center. One of the people who offered money was a patient of his. He would meet with her and her husband. It was during this time that one day he had gone to her house to review a business plan with her, and the inappropriate relationship occurred. He had had a dental abscess, had had his tooth pulled, and he went to her house to review the plan, and it was at that point that she asked him to sit down and review the plan on the computer. That is when this inappropriate action occurred. Dr. Amoils stated that he could go into more detail, but it's a very difficult thing to discuss.

Dr. Steinbergh asked how long the personal relationship with this woman went on.

Dr. Amoils stated that this happened one time. She was a patient, but she got involved as a business consultant. She was a patient of his prior to this act. This is where he made an ethical mistake and he accepts full responsibility from that.

Dr. Steinbergh stated that she thinks the Board's point is that Dr. Amoils is going on and on talking about how to protect your partners and so forth from this type of contact, where each physician makes this decision on his or her own.

Dr. Amoils again stated that he accepts full responsibility. He stated that it was in a time of extreme stress because they were going to close his center down. That's how he ended up in this relationship. Dr. Amoils advised that what he learned is that it's not worth it for anything. It's not worth losing your license to get into a relationship like this.

Dr. Kumar asked whether Dr. Amoils understands the problems of a relationship of this kind between a patient and a physician. He told Dr. Amoils to forget about the other business side of the relationship.

Dr. Amoils stated that he does understand.

Mr. Albert asked whether Dr. Amoils only had sex with this woman one time.

Dr. Amoils stated that he didn't have sex with her. He stated that the incident only happened one time.

Mr. Albert stated that he doesn't believe Dr. Amoils.

Dr. Amoils stated that, based on what has happened, he knows that Mr. Albert would not believe him. He added that he has two people here with him today who can confirm that the patient accused him of having sex with her on multiple occasions. At all times he showed quite clearly that he was not even in the vicinity where it was possible.

Mr. Albert asked how the Board found out about this.

Dr. Amoils stated that he thinks that the patient came to the Board.

Mr. Albert again stated that he doesn't believe that it was one incident.

Dr. Steinbergh stated that, regardless, the Board has entered into a Consent Agreement with Dr. Amoils. Dr. Steinbergh stated that, concerning Dr. Kumar's questions, she believes that Dr. Kumar wants to hear from Dr. Amoils about what it means to be a physician in a relationship with a patient. She stated that the Board understands what Dr. Amoils is telling it, but Dr. Kumar wants to know, in regard to his course on professional ethics, what that has meant to him in regard to his personal actions. What does it mean when a physician has a sexual boundary type of issue with a patient.

Dr. Amoils stated that there are various models in how you look at this. What he understands from his ethics course is that, as a physician, he has a fiduciary relationship with his patients. It's a relationship in which there is trust, and in which the physician is reimbursed monetarily for this relationship, and the patient's best good is in the physician's hands. If there is a sexual relationship, a few things occur: You can no longer be in a position for the patient's highest good, it's very difficult to give good medical care; the patient is bound to the physician, which clearly places them in an unequal relationship. In fact, the opposite can occur, as well, in which the patient may manipulate the physician.

Dr. Steinbergh stated that, from that last perspective, she now understands why he has concerns about his partnership. Dr. Steinbergh asked Dr. Amoils how long after he had the contact with this patient the physician/patient relationship continued.

Dr. Amoils stated that he thinks it was a few weeks. The patient came in the following week and he told her he could no longer see her. At that point she told him that he was the only physician who had ever been able to help her; she told him that there were a lot of people who were going to lose their livelihoods if she didn't give them money; and she told him that her husband has a very notorious, vicious temper, and if he found out, he would be very destructive. Dr. Amoils stated that he initially, mistakenly, agreed to see her as long as there was someone with them in the room. After a few appointments, he told her again that he could no longer see her, and he dismissed her.

Dr. Steinbergh asked what he was seeing the patient for.

Dr. Amoils stated that the patient was coming in for alternative therapies, predominantly acupuncture.

Dr. Steinbergh asked whether he was seeing her for chronic benign pain.

Dr. Amoils indicated that that was correct.

Dr. Egner stated that she thinks that Dr. Amoils' other relationship with this patient borders on problems. Getting into a business relationship with a patient, getting money to support his business, presents its own set of issues. She asked what happens when that individual wants the physician to take care of him or her when he's not on call and go that extra mile, and then that extra mile is ten miles, and then you're feeling an obligation because they're giving you money. Dr. Egner stated that he got himself into a sticky situation on multiple levels.

Dr. Amoils agreed, and stated that he discovered that very clearly. He again stated that he accepts

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responsibility and he made a mistake. In looking back at how he thought he was doing this, this was not his business. This is a non-profit business, belonging to a non-profit group of hospitals. They had received \$500,000 from people who wanted to support this. None of that money ever came to him. It went to the hospital. He was not looking for any personal gain out of this.

Dr. Egner stated that it was his livelihood, his job.

Dr. Amoils stated that he understands, but he never worried about his own livelihood as much as he did the people around him. Dr. Amoils stated that he's explaining how he thought at the time, adding that he doesn't feel like that anymore. He realized what trouble you could get into.

Dr. Steinbergh stated that Dr. Amoils may very well have looked at it from an altruistic sense of maintaining a valuable organization for patient care.

Dr. Kumar asked whether Dr. Amoils had any questions of the Board, and whether he understands the terms of his Consent Agreement.

Dr. Amoils stated that he does understand them, and that he doesn't have any questions.

**DR. STEINBERGH MOVED TO CONTINUE DR. AMOILS UNDER THE TERMS OF HIS NOVEMBER 9, 2005 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

KEVIN W. BOWERS, D.O.

Although scheduled, Dr. Bowers did not appear before the Board.

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

Dr. Myers made his initial appearance before the Board, pursuant to the terms of the Board's Order of

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September 14, 2005. The basis for the Board's action was Dr. Myers' having prescribed controlled substances to a family member and failing to maintain medical records to document such prescribing, in violation of Board rules.

In response to Board members' questions, Dr. Myers stated that he is doing okay. His license was reinstated on May 9. The hospital in which he was employed in a family practice setting is now employing him in an urgent care setting. Dr. Myers commented that they're hopeful that the insurance industry will let him back on their panels so that the hospital can bill for his services. He advised that at the end of May they petitioned 18 different companies. As of a week ago, two companies have responded: United Mineworkers and Summa. Anthem has told the administration specifically to expect a 60 to 90 day wait, in spite of the fact that he's been with them for 25 years.

In response to further questions, Dr. Myers stated that his wife is in pain every day. She's being treated by an internist that is close to their home. Dr. Myers advised that the family doctor who had taken care of her before has moved out of the area. She's seeing a specialist in urogynecology, who has indicated that there's nothing more he can do. Dr. Myers stated that he's hoping at her next visit that they can refer her to someone at the Cleveland Clinic.

Dr. Egner noted that Dr. Myers got a pretty stiff penalty from the Board: A stayed permanent revocation, six months out of practice for prescribing to a family member. Dr. Egner stated that when the Board permanently revokes a license, and then stays the revocation, they do so because they thought that what he did was serious enough for permanent revocation. On this occasion the Board stayed the permanent revocation and went with another penalty. Dr. Egner warned Dr. Myers that if he comes before the Board again, that stayed permanent revocation comes right back in front of him.

Dr. Myers indicated that he understands that.

Dr. Egner stated that she knows that Dr. Myers is in a no-win situation here; he lives with a wife in pain and he can't prescribe for her.

Dr. Myers stated that the best thing a physician can do for his or her family is to find an expert in that discipline and get the family member to that specialist, to make sure that there is call available when the specialist isn't available, to ask questions and to be an effective messenger. You can be an advocate without being the physician in charge; and, in fact, you can't be the physician in charge of the family member. It doesn't work. Dr. Myers stated that he was neither effective nor very smart about any of that.

Dr. Egner stated that she appreciates Dr. Myers' words today, adding that it seems like he gets it.

Dr. Myers stated that if he could turn back the clock, he would do things a lot differently. He can't take care of his family if he's not working, he can't take care of his patients if he's not working, and he has maybe 20 years left to try to rebuild his reputation.

Dr. Egner stated that he will rebuild his reputation. She stated that, when these things happen to physicians, she truly believes that if they face things honestly and deal with situation, their patients, the

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public, and the Board are very forgiving. He will recover from this. Dr. Egner stated that people will still want to see a good physician.

Ms. Sloan stated that she's glad that Dr. Myers had the opportunity to make the comments that he's made. She stated that it is a great concern, when your family member is still in pain and still dealing with this issue, that he does get it, that he does understand that this is not something that he can become totally involved in, and that he has actually passed it on to someone who could help in the situation.

Dr. Myers stated that it's an ongoing process because the patient in pain still has difficulty understanding why there are limits. It's clear to him that her understanding is not necessary for what his behavior has to be. They have ongoing discussions, and when they reach an impasse, that's still okay. This is forbidden. There are good and proper reasons, and if she doesn't accept them, that's fine and he understands why. Dr. Myers stated that he will be a husband and father, but not a doctor, to his family.

Dr. Steinbergh asked whether the pressure is off him because of the Board's action.

Dr. Myers stated that it is. He stated that when he saw the list of prescriptions compiled by the investigator, and the length of time involved, he was appalled. He never envisioned it going on that long. He expected that either there would be more honesty with the prescribing physician that they circumvented, or somebody would own up. The idea that it went on as long as it did was unbelievable. He stated that that's why the Board was appropriately harsh.

Dr. Steinbergh stated that, besides the prescribing, the Board was concerned that Dr. Myers was delaying appropriate care for his wife. The Board was concerned about proper evaluations being performed. She stated that that was a big piece of it for the Board members, as physicians.

Dr. Myers stated that he understands the Board's concern, and added that it's probably not pertinent to get into a debate over that. The primary care doctor involved had involved a specialist who missed it. As a primary care person, when you have a specialist involved who says, "this is the situation," you depend on that. Frankly, the whole specialty of urogynecology was new to him four years ago or so.

Dr. Steinbergh commented that it's still new.

Dr. Myers acknowledged this. He stated that, like anything else, some physicians are better than others. They have a very good one at this point, but they also have a very difficult patient. It's a difficult disease process.

**DR. STEINBERGH MOVED TO CONTINUE DR. MYERS UNDER THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 14, 2005, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MADIA SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye

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Dr. Talmage	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.

JODY LEE NELSON SHORT, D.O.

Dr. Short made his initial appearance before the Board, pursuant to the terms of his May 10, 2006 Consent Agreement. The basis of the Board's action was that Dr. Short was diagnosed with opiate dependence and alcohol abuse with probable alcohol dependence, and was determined to be impaired in his ability to practice according to acceptable and prevailing standards of care due to the habitual or excessive use or abuse of alcohol and drugs.

In response to Board members' questions, Dr. Short stated that he lives in Dayton and participates in continuing care at the Woods at Parkside. Dr. Short stated that he started treatment at Parkside and was introduced to the twelve steps of A.A. and the fellowship that goes along with A.A., recovering with other people who have similar problems. He spent 28 days in the inpatient program. Dr. Short stated that he thinks each one kind of individualizes his or her own program under the umbrella of A.A. to get out of it what they need. He stated that you certainly get out of it what you put into it. For him, it usually starts in the morning with reading a passage from a book called, "Reflections," which is an A.A. book. He tries to take what he reads and apply it to his life at some point throughout the day. He also reads a scripture passage in the morning, and tries to reflect on that with a little meditation. Through his day, he's always been an angry person, so even now he gets frustrated and agitated at things at work, driving or whatever. He tries to think back on his passages and so forth and give himself a moment to be grateful for what he does have. Dr. Short advised that he's also attending A.A. meetings, and has a sponsor with whom he frequently talks.

Dr. Short stated that he attended the medical college in Pomona, California. He was in training at Grandview in Dayton in a neurology residency. He was in PGY 2, almost PGY 3. When he gets through his suspension, he hopes to return to the same program. Dr. Short stated that the program does want him back.

In response to questions regarding his family and support system, Dr. Short stated that both of his parents are deceased. He really does not have any family left. He advised that he was adopted by his great aunt and uncle, who were much older. As far as family goes, he doesn't have much of a support system. He has quite a few friends that he's met in his recovery circle, and he had friends at the hospital who have been close to him and supportive through this. He also gets support from the program director at the hospital, and the head of his medical education has been amazingly supportive. Dr. Short stated that that

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really helps.

Dr. Steinbergh asked Dr. Short whether Dr. David Goldberg is involved in his program.

Dr. Short stated that he saw Dr. Goldberg for an evaluation, and he doesn't know if he will see Dr. Goldberg again.

Dr. Kumar asked Dr. Short who the program director at Grandview Hospital is.

Dr. Short stated that Dr. Michael Valley is the neurology residency program director.

Dr. Davidson noted that Dr. Short was prescribed Suboxone at one point for his opioid dependence. She stated that the Board has been dealing with the issue of Suboxone and practicing physicians and recovering physicians. Dr. Davidson stated that she would be interested in Dr. Short's observations or personal experience with Suboxone.

Dr. Short stated that it was amazing. It was an incredible help with the initial period of getting off the narcotics. He was on Suboxone for a year and a half. When he took it, he immediately felt better. Dr. Short stated that he'd wanted to quit pretty badly anyway; he was tired of dealing with taking pills and he was destroying his life with them. Dr. Short stated that he doesn't know how much of it was his wanting to quit and how much of it was the Suboxone helping him, taking cravings away and so forth. He stated that he's not quite off the Suboxone yet; he still takes a low dose. He's weaning off, and has been in the weaning process about two weeks. Dr. Short stated that he saw Dr. Jones about two weeks ago and she felt it was time to discontinue it.

Dr. Steinbergh noted that one of Dr. Short's comments was that he'd always been angry. She stated that the Board sees a lot of people with dual diagnoses. Dr. Steinbergh stated that the Board wants Dr. Short to be successful, so he will need to address all of his issues so that the total package gets helped. She asked what Dr. Short is doing in terms of anger management, in terms of psychiatric issues. She asked what he is doing to make certain that the whole person is being healed as he goes through this process.

Dr. Short stated that for his anger issues, he's seeing someone in the Employee Assistance Program, and they're working through why he's angry. He stated that he's come to the conclusion that a lot of it has to do with shame. His parents didn't want him, and he seems to be harboring some shame about that, and some resentments. He realizes that life is not fair, and he's starting to move on past that at this point. As far as psychiatric illness, Dr. Short advised that he's never been diagnosed with bipolar. The psychiatrist at Parkside thought that he might have a little bit of depression, but he really wasn't 100% sure. The psychiatrist felt that Dr. Short should be depressed because of the situation he was in. Dr. Short stated that he is now taking Lexipro for depression. He added that he does see a difference in himself on that medication. He feels better about things. Dr. Short stated that this is certainly a difficult situation, and he's not sure whether some of it is reactionary to the circumstances he's working through right now, and how much of it was there before he had problems, such as drug addiction. Dr. Short stated that he's happy with that at this point.

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Dr. Steinbergh commented that Dr. Short appears to be appropriately introspective about that. She stated that Dr. Short is a young physician with a whole life ahead of him; and if he can conquer this and understand that it's a life-long illness, then once he gets done with this, he won't have to come back before the Board. That's the goal. She stated that Dr. Short will have to make individual choices every day about what he's going to do to be healed. He'll have to look at it every day and say, "today I am going to be well."

Dr. Egner asked Dr. Short whether he was married.

Dr. Short advised that he is not.

Dr. Egner advised Dr. Short that he has a long road ahead of himself. She stated that residency is stressful and practice is stressful. She commented that Dr. Short has so many challenges to face in medicine. Dr. Egner stated that Dr. Short must look at some of the choices he makes and ask himself whether they are appropriate in terms of putting himself in certain stressful situations, and asking how he'll act. She stated that this is the same discussion the Board had a couple of months ago with an anesthesiology resident. The Board strongly advised that individual to not return to anesthesiology, but she could tell that he didn't want to hear that advice. Dr. Egner stated that Dr. Short is not that far into his training, and he has to ask whether neurology is the best choice for him when the residency program is so long. It may be best since the residency is so controlled, but he must look at the choices he makes. He has to ask himself whether he should put himself into a particular position; is he putting himself more at risk than he could if he made another choice? Dr. Egner stated that Dr. Short will have to do that multiple times along the way. She recommended that he not go into solo practice.

Dr. Short stated that he's already considered that and decided against it.

**DR. STEINBERGH MOVED TO CONTINUE DR. SHORT UNDER THE TERMS OF HIS MAY 10, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

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RATIFICATION OF SETTLEMENT AGREEMENTS

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

JOHN ANDERSON KING, D.O. – SURRENDER OF LICENSE

**DR. STEINBERGH MOVED TO RATIFY THE SECRETARY AND SUPERVISING MEMBER'S ACCEPTANCE OF THE PERMANENT SURRENDER OF DR. KING'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

EXECUTIVE SESSION

**MR. BROWNING MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO DISCUSS THE DISCIPLINE OF A PUBLIC EMPLOYEE. DR. STEINBERGH 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
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

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Pursuant to Sections 121.22(G) (1), Revised Code, the Board went into executive session at 3:40 p.m. The Board came out of executive session at 4:42 p.m. with all members present.

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

Thereupon at 4:43 p.m. the August 9, 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 August 9, 2006, as approved on September 13, 2006.



Andrew F. Robbins, Jr., M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

August 10, 2006

Deepak Kumar, M.D., Vice-President, called the meeting to order at 8:04 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: Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Patricia J. Davidson, M.D.; Dalsukh Madia, M.D.; and Anita M. Steinbergh, D.O. The following did not attend the meeting: Andrew F. Robbins, Jr., M.D., President; David S. Buchan, D.P.M.; and Nandlal Varyani, M.D.

Also present were: Richard A. Whitehouse, Executive Director; Kathleen S. Peterson, Enforcement Attorney; Barbara J. Pfeiffer, Assistant Attorney General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Kay L. Rieve, Administrative Officer; Barbara Jacobs, Public Services Administrator; and Jackie A. Moore, Disciplinary Information Assistant.

#### LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

Dr. Kumar 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. Kumar 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.

Dr. Egner left the room at this time.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON JULY 10 & 11, 2006 WITH: MOHAMMAD A. ADAS, M.D.; MARK L. ALLEN, M.D.; ROBERT A. BERKMAN, M.D.; CRAIG L. BIERER, D.O.; JEFFREY A. BRIGGS, M.D.; ROBERT R. BRIGHTWELL, D.O.; RICHARD G. DAY, M.D.; NICHOLAS C. DIAMANTIS, M.D.; PAUL E. DUNCAN, M.D.; MOUNIR BASHEER EL-BADEWI, M.D.; WILLIAM H. FIEGENSCHUH, JR., M.D.; MARK S. FLEMING, M.D.; STEPHEN R. GIORDANO, D.O.; MARK E. GOLDSMITH, M.D.; DARRELL A. HALL, M.D.; PAUL F. HEYSE, M.D.; CYNTHIA J. JOHNSON, P.A.; JEANNE M. KIRKLAND, M.D.; MAHENDRA K. MAHAJAN, M.D.; THOMAS A. NGUYEN, M.D.; NYKOLAI VASIL PIDHORODECKYJ, M.D.; JOHN RUSSELL OGDEN, M.D.; ROBERT S. REEVES, JR., M.D.; LEROY P. RISE, M.D.; STEPHEN J. ROLFE, M.D.; DAVID P. SPEARS, D.O.; TOM R. STARR, M.D.; SCOTT THOMAS STEWART, P.A.; AND VIRGINIA C. WOODROW, M.D. DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:**

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- **TO APPROVE ALAN D. GILBERTSON, Ph.D., TO SERVE AS ROBERT L. BELLUSO, M.D.'S TREATING PSYCHOLOGIST; ;**
- **TO APPROVE: DOUGLAS A. SONGER, M.D., TO SERVE AS ROBERT L. BRANDT, JR., M.D.'S TREATING PSYCHIATRIST;**
- **TO APPROVE DONALD E. HARRIS, D.O., TO SERVE AS MICHAEL B. BURGHARDT, M.D.'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO APPROVE GARY R. PETERSON, M.D., TO SERVE AS PAUL CLAASSEN, D.O.'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH; AND TO APPROVE MABBU GAJAPATHY SHIVA PRASAD, M.D., TO SERVE AS DR. CLAASSEN'S TREATING PSYCHIATRIST;**
- **TO APPROVE OSCAR URREA, M.D., TO SERVE AS ALLAN W. CLARK, M.D.'S TREATING PSYCHIATRIST;**
- **TO APPROVE KEVIN R. CLARK, M.D.'S PROPOSED PRACTICE PLAN, TO JOIN WEXFORD HEALTH SOURCES, AS A PRIMARY CARE FAMILY PRACTITIONER;**
- **TO APPROVE RANI A. LAHKI, M.D., TO SERVE AS RYAN STEVEN FRYMAN, D.O.'S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO APPROVE ROBERT E. MARSICO, JR., M.D.'S REQUESTS TO REDUCE HIS A.A. ATTENDANCE REQUIREMENT TO TWO MEETINGS PER WEEK WITH A MINIMUM OF TEN MEETINGS PER MONTH; AND TO DISCONTINUE HIS CHART REVIEW REQUIREMENT;**
- **TO APPROVE JAMES M. MCGINNIS, D.O.'S REQUEST TO DISCONTINUE HIS PSYCHIATRIC SESSIONS;**
- **TO APPROVE MICHAEL J. O'BRIEN, D.O.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY 3 MONTHS TO EVERY 6 MONTHS;**
- **TO APPROVE MICHAEL PAUL PARKER, M.D.'S REQUEST TO ADD KRISTOPHER R. BRICKMAN, M.D., AS ANOTHER MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH FROM THE NEW LOCATION;**
- **TO APPROVE STEVEN R. SCHNEIR, M.D., TO SERVE AS NATHAN THOMAS PENNEY, D.P.M.'S TREATING PSYCHIATRIST, AND MARIA C. DENARDIS, PSYD., TO SERVE AS HIS MENTAL HEALTH PROFESSIONAL;**



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

The motion carried.

Dr. Egner returned to the meeting at this time.

## LICENSURE

### MICHAEL TODD ADAMS, M.D.

Dr. Adams' application for endorsement of his U.S.M.L.E. scores was considered by the Board at this time. Dr. Kumar noted that the Board ratified a consent agreement with Dr. Adams during the previous day's meeting.

**DR. STEINBERGH MOVED TO APPROVE DR. ADAMS' APPLICATION FOR ENDORSEMENT OF HIS U.S.M.L.E. SCORES, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS, AND SUBJECT TO THE TERMS OF HIS AUGUST 9, 2006 CONSENT AGREEMENT. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

### JEFFREY VAUGHN MEYER, M.D.

Dr. Meyer's application for endorsement of his U.S.M.L.E. scores was considered by the Board at this time. Dr. Kumar noted that the Board ratified a consent agreement with Dr. Meyer during the previous day's meeting.

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**DR. STEINBERGH MOVED TO APPROVE DR. MEYER'S APPLICATION FOR ENDORSEMENT OF HIS U.S.M.L.E. SCORES, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS, AND SUBJECT TO THE TERMS OF HIS AUGUST 9, 2006 CONSENT AGREEMENT. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

AMENDMENT TO PROPOSED RULE 4731-26-01, OHIO ADMINISTRATIVE CODE

Dr. Kumar asked that the above-captioned rule be returned to Committee to iron out some problems with it.

**MR. BROWNING MOVED TO SEND THE AMENDMENT TO PROPOSED RULE 4731-26-01, OHIO ADMINISTRATIVE CODE BACK TO COMMITTEE FOR ADDITIONAL DISCUSSION. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

ADMINISTRATIVE REPORT

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

Mr. Whitehouse advised that a proposed agenda for the September Board retreat has been distributed to

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Board members. He asked that Board members review the agenda and contact him with any changes that they feel may be appropriate.

Dr. Kumar stated that there was some discussion of the retreat agenda during the Executive Committee meeting. He asked whether any Board member wanted to change things around or add something to the proposed agenda.

Mr. Browning stated that he would just like to say that, regarding the Strategic Plan, it would be important to look forward and not just backward in terms of determining the top goals for the current year.

Mr. Whitehouse stated that that would be presented at the retreat.

#### REPORTS BY ASSIGNED COMMITTEES

##### EXECUTIVE COMMITTEE

Dr. Kumar stated that the Committee approved out-of-state travel for Mr. Whitehouse and Ms. Thompson to attend the AIM meeting in Orlando, Florida in late September. They will report on Ohio's experience with F.C.V.S.

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

Dr. Davidson advised that Ms. Wehrle would give the report.

Ms. Wehrle advised that she distributed informational reports regarding the educational outreach activities of the Board through July. There have thus far been 36 presentations made, the record being 40 per year. The Board will far exceed that number for calendar year 2006.

Ms. Wehrle stated that there was also an additional report concerning the Board's media contacts, with a chart of the major media outlets that have contacted the Board most frequently. She advised that they usually call about a Board action or to ask questions about licensees within their area. At other times they'll ask general questions about health and other medical issues. She noted that the Columbus market is the most prominent.

##### IMPAIRMENT COMMITTEE

Mr. Albert advised that the Committee reviewed revised impairment rules. Mr. Miller is in the process of distributing those revisions to interested outside parties. Mr. Albert stated that the Committee hopes to bring those rules to the Board in October.

Dr. Steinbergh asked whether the Committee has held any discussion on Suboxone.

Mr. Albert stated that there is a proposed rule that basically says that the Board will not allow any impaired physician to practice while he's taking Suboxone.

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Mr. Miller stated that the rule states that a physician can't be take something like Suboxone for opiate dependence and practice while taking it.

Dr. Davidson stated that the Committee members put their heads together to make sure that there weren't any other similar controlled substances that would be in use. The rule would exempt the chronic pain patient. It specifically addresses the use of Suboxone for addiction.

Mr. Albert advised that Dr. Parran recommended that the Board should start using Naltrexone for physicians who are impaired on cocaine for the first year, and possibly forever for anesthesiologists. That was not addressed in the rules.

#### LICENSURE COMMITTEE

Dr. Davidson stated that she chaired the Committee in Dr. Robbins' absence. The Committee reviewed four applications.

#### Ashley K. Fernandes, M.D.

Dr. Davidson stated that Dr. Fernandes is over the seven-year limit by 18 months. He passed Steps 2 and 3 on the first attempt and Step 1 on the second attempt. He graduated from OSU College of Medicine in June 2003, and had taken a leave from OSU to pursue a masters and a PhD in bioethics at Georgetown. That's what stretched out his time. He's currently a third-year resident in pediatrics at St. Louis University of Medicine. Dr. Davidson advised that the Committee recommends approval.

**DR. DAVIDSON MOVED TO APPROVE THE LIMITED EXCEPTION TO THE SEVEN-YEAR RULE, TO ACCEPT DR. FERNANDES' EXAMINATION SEQUENCE AND TO GRANT DR. FERNANDES A LICENSE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- nay
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

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Krishnanath Gaitonde, M.D.

Dr. Davidson advised that Dr. Gaitonde also requested a waiver of the seven-year rule for good cause, as well as consideration of equivalency of 24 months of approved training through the second year level. The Committee reviewed those issues separately.

Dr. Davidson stated that Dr. Gaitonde is over the seven-year limit by 34 months. He recently took Step 1 and the clinical skills portion of Step 2 to bring his examination scores within the ten-year limit. He stated in his letter that his delay was because he completed Steps 1 and 2 in 1996, finished his training in India in 2001, and then completed training in Germany and Australia through 2004. He then came to Ohio to begin an endourology and laparoscopy fellowship at the University of Cincinnati.

Dr. Steinbergh indicated that if Dr. Gaitonde took the rest of Step 2, the Board wouldn't have to waive the seven-year rule.

Dr. Davidson stated that Dr. Gaitonde is also requesting that the Board find equivalency regarding his training. He's already completed 22 months of training in a fellowship at the University of Cincinnati. He will complete the remaining two months by November. Dr. Gaitonde's fellowship director and future employer have indicated that Dr. Gaitonde won't be hired unless he finishes the fellowship. Dr. Davidson stated that the Committee felt pretty comfortable with granting Dr. Gaitonde the equivalency.

Dr. Davidson stated that Dr. Gaitonde needs a license to get a visa to stay in the United States to finish his program.

**DR. DAVIDSON MOVED TO GRANT DR. GAITONDE'S REQUEST FOR A LIMITED EXEMPTION OF THE SEVEN-YEAR RULE. DR. DAVIDSON FURTHER MOVED TO FIND THAT DR. GAITONDE'S PREVIOUS TRAINING AND EXPERIENCE IS EQUIVALENT TO 24 MONTHS OF APPROVED TRAINING THROUGH THE SECOND YEAR LEVEL, AND TO LICENSE DR. GAITONDE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION.**

Dr. Steinbergh asked whether the motion would be contingent upon Dr. Gaitonde's finishing the fellowship he's in now.

Dr. Davidson stated that it is not. She noted that Dr. Gaitonde needs the license now to get a visa to stay in the country to finish the fellowship.

Dr. Egner stated that Dr. Gaitonde attended the Committee meeting. She stated that he was very well spoken and very well prepared.

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

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

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Dr. Talmage	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Steinbergh commented that she understands Mr. Albert's objections, but added that there are individual cases that the Board has to consider other issues and modify the absolute rule.

Mr. Albert suggested that the Board do away with the rule.

Abdi Alex Mohit, M.D.

Dr. Davidson stated that Dr. Mohit also requested a waiver of the seven-year rule. He is over the time limit by eleven months, but he did pass all three steps on the first attempt, with exemplary scores. Dr Mohit graduated from the University of Southern California/Keck School of Medicine in May 1999 and just completed training as a PGY 7 in neurosurgery at the University of Washington. Dr. Mohit did receive a PhD, but it was actually before he entered medical school. Dr. Davidson stated that the Committee recommends approving the limited exemption and granting the license.

Dr. Steinbergh asked why the Committee made that decision.

Dr. Davidson stated that Dr. Mohit was spending the extra time well. He was in fellowship training. She stated that it was sad that several times Dr. Mohit signed up and sent the money to take Step 3 and was told not to do it yet by his program. They told him that he had too much work to do and they wouldn't let him take time off to study and take the exam. Dr. Davidson stated that his own program put him in this situation.

Dr. Kumar suggested that the Board write a letter to the program explaining the requirements of passing all three steps within seven years.

Ms. Rieve stated that this program is in another state.

Dr. Steinbergh stated that Dr. Mohit points out that in Washington they don't have that rule. She added that, frequently, people in postgraduate training are getting advice about the state in which they are studying, and they don't really project ahead that other states might do things differently or that he might want to come to Ohio.

**DR. DAVIDSON MOVED TO GRANT DR. MOHIT AN EXEMPTION TO THE SEVEN-YEAR RULE, AND TO GRANT DR. MOHIT A LICENSE TO PRACTICE MEDICINE AND SURGERY IN OHIO, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND**

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**APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- nay
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dawn Edith Wood, M.D.

Dr. Davidson advised that Dr. Wood's application for licensure was considered by the Committee because she has not been engaged in the active practice of medicine since March 1996. Dr. Wood advised that she is board certified in internal medicine, and that she passed the SPEX in November 2005. Dr. Davidson stated that the Committee recommends approval of Dr. Wood's application.

**DR. DAVIDSON MOVED TO APPROVE DR. WOOD'S APPLICATION TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Somil Ashok Gupta, M.D.

Dr. Davidson advised that Dr. Gupta is over the seven year limit by only one month, and requests a waiver for good cause. He passed Steps 1 and 2 on the first attempt. He graduated from B. J. Medical College in November 1997, started a masters program in biomedical engineering in 2001. In his masters program, he concentrated on cell biology, genetics and pharmacology and their application to diabetes. Dr. Gupta is now a third-year resident at Ohio State and needs Board permission to take Step 3 in Ohio. The Committee

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recommends approving Dr. Gupta's request.

**DR. DAVIDSON MOVED TO APPROVE DR. GUPTA'S REQUEST FOR A LIMITED EXEMPTION OF THE SEVEN-YEAR AND ACCEPTING HIS EXAMINATION SEQUENCE IN ORDER FOR DR. GUPTA TO TAKE STEP 3. DR. STEINBERGH SECONDED THE MOTION.**

A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Tomasz Rogula, M.D.

Dr. Davidson stated that Dr. Rogula is requesting that the Board find his previous training and experience equivalent to 24 months of approved training through the second year level. Dr. Rogula trained in Poland from 1993 until 2002, relocated to New York, did clinical research at Mt. Sinai School of Medicine from July 2002 until June 2003. He has been at UPMC in a minimally invasive general surgery fellowship from July 2002 until June 2006. The program reported to F.C.V.S. that this was PGY 7 level training. Dr. Rogula holds a license in Pennsylvania.

Dr. Davidson stated that the Committee recommends that the Board approve Dr. Rogula's request for equivalency.

**DR. STEINBERGH MOVED TO TABLE DR. ROGULA'S REQUEST UNTIL SUCH TIME AS THE BOARD MEMBERS CAN REVIEW INFORMATION SUBMITTED. DR. DAVIDSON SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Davidson stated that the Board was recently notified that the Test of Spoken English (TSE), administered by the Education Testing Service would be discontinued as of July 2006. The Educational testing service was offering the TOEFL Internet-based Test (TOEFL iBT) as a replacement examination. The TOEFL iBT tests all four language skills that are important for effective communication: speaking, listening, reading, and writing. This is a different exam from the TOEFL examination given by ECFMG, because that exam only tests the applicant's skills in reading and writing the English language. The exam is given through the Prometric examination sites, like USMLE and other computer based exams. The Board needs to establish a "recommended score" for Ohio applicants. Dr. Davidson explained that a passing score wasn't set because the exam is used for all different types of groups.

Dr. Davidson stated that this test is an improvement over the TSE because it tests all four language skills; and the Committee recommends that the Board approve a minimum passing score of 26 on both the speaking and listening components, and a minimum total score of 90. She stated that this is the top end of any of the other professional associations or schools. The Board could revisit the issue if it later feels that the score is too high or too low.

**DR. DAVIDSON MOVED THAT THE BOARD APPROVE A MINIMUM PASSING SCORE OF 26 ON BOTH SPEAKING AND LISTENING COMPONENTS, AND A MINIMUM SCORE OF 90 ON THE COMPLETE EXAM.**

Dr. Madia asked for clarification as to who has to take this test.

Ms. Rieve said that it's only for people who do not meet any exemptions for the TSE. If they've taken the CSA or clinical skills, they don't have to take this test. She stated that it will become less and less of an issue. There won't be a great number of people taking this.

Dr. Kumar stated that he took the E.C.F.M.G. in 1970, and he still remembers the TSE, even with E.C.F.M.G.

Mr. Albert commented that Board members used to give a test to those who scored below a certain level on the TSE. No one ever failed that test.

Dr. Steinbergh stated that she and Dr. Buchan would give the exam. They would engage the applicant in conversation, ask certain questions, including medical issues. She stated that they weren't testing their medical knowledge, just having a basic conversation to understand how they describe certain medical conditions.

Mr. Browning stated that he's in support of the recommendation, but as he sits here and thinks about it, he's not entirely clear what the Board is doing relative to the status quo. Does the Board now have the same standard or a higher standard than it has? Is this standard higher or equivalent?

Ms. Rieve stated that she could not get an equivalency. The passing score for the TSE is a 40. She was unable to get an equivalency as to what that relates to in this new exam; it's apples and oranges. What they recommend is that each institution sets its own passing score.

Mr. Browning stated that, obviously, it's hard to set a score when you don't know where you are relative to the other test.

Ms. Rieve stated that, according to their rubric in this exam, 26 to 30 is the highest level that could be scored in each part, 22 to 26 is very good, and 20 to 22 is good.

Mr. Whitehouse stated that this score could be adjusted either up or down, as needed. Setting it at the high end of the average is a good baseline to begin.

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Dr. Steinbergh stated that the average score is 80 to 90 out of 120, and the Board is setting theirs at 90.

Dr. Kumar stated that his understanding is that this test is an improvement on TSE, which only tested understanding of spoken and written English.

Dr. Davidson agreed.

**MR. BROWNING SECONDED DR. DAVIDSON'S MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### QUALITY ASSURANCE COMMITTEE

Dr. Egner advised that the Committee reviewed the Closed Complaint Review Summary Report, and agrees with the decisions made by the Secretary and Supervising Member.

#### FINDINGS & ORDER IN THE MATTER OF ADOPTION OF PROPOSED AMENDED RULES 4731-11-09, 4731-22-01, 4731-22-02, 4731-22-07 AND 4731-22-08, OHIO ADMINISTRATIVE CODE, AND RESCISSION OF RULE 4731-22-05, OHIO ADMINISTRATIVE CODE

Dr. Kumar at this time asked for a motion concerning the above topic.

**DR. DAVIDSON MOVED THAT THE "FINDINGS AND ORDER IN THE MATTER OF ADOPTION OF PROPOSED AMENDED RULES 4731-11-09, 4731-22-01, 4731-22-02, 4731-22-07 AND 4731-22-08, OHIO ADMINISTRATIVE CODE, AND RESCISSION OF RULE 4731-22-05, OHIO ADMINISTRATIVE CODE," AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 10TH DAY OF AUGUST 2006, BE ADOPTED AS THE FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE RULES CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULES IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER, WITH AN EFFECTIVE DATE OF AUGUST 31, 2006. MR. BROWNING SECONDED THE MOTION. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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Dr. Talmage	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye

The motion carried.

#### REPORTS BY ASSIGNED COMMITTEES

##### LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Steinbergh stated that she chaired the group's meeting in Dr. Buchan's absence. The group reviewed credentials from a series of schools. The Committee recommends approval of all.

**DR. STEINBERGH MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO THE FOLLOWING INSTITUTIONS: CARLSON COLLEGE OF MASSAGE THERAPY, AMAMOSA, IOWA; KEISER COLLEGE, PORT ST. LUCIE, FLORIDA; MIAMI-JACOBS CAREER COLLEGE, DAYTON, OHIO; NEW YORK INSTITUTE OF MASSAGE, WILLIAMSVILLE, NEW YORK; AND OWENS COMMUNITY COLLEGE, TOLEDO, OHIO. DR. MADIA SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Steinbergh stated that, in regard to the schools, there is another issue to discuss. She deferred to Dr. Talmage.

Dr. Talmage advised that a complaint was received that there was some discrepancy in the faculty of one school. One of the faculty was alleged to be a student at the school. Dr. Talmage stated that there was some misinformation about a national test. Dr. Talmage stated that this was hearsay, an anonymous complaint. He stated that he did ask for clarification and found that the schools are inspected and recertified every two years. There is a danger that the faculty list isn't reviewed during that two-year interval, but it is reviewed at each two-year recertification. Dr. Talmage stated that the Board didn't have any basis to go forward on the complaint. An investigator did find the school's faculty list to be legitimate.

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### PHYSICIAN ASSISTANT COMMITTEE

Dr. Talmage stated that the Committee reviewed correspondence from three individuals, expressing concerns about the new application process. Dr. Talmage stated that the new P.A. legislation does require P.A.s to sign forms indicating that they would be supervised by a physician, and it requires physicians to sign that they were supervising a P.A. In large groups, this requirement is difficult, and administrators are complaining that it is difficult to get everybody to sign the forms in time to get someone assigned.

Dr. Talmage stated that the Committee discussed potential remedies, and will continue that discussion. No final decision was made.

Dr. Talmage stated that the P.A. rules were reviewed by the Committee, and suggestions for changes were made. Those rules will come to the Board in due course. The Committee will have to have the rules to the Board by November. Dr. Talmage stated that Ms. Debolt is doing an excellent job of writing out and incorporating Committee changes in the rules. Dr. Talmage stated that there was no action taken by the Committee this meeting.

Dr. Davidson stated that she's concerned that the hospital employs the P.A. and maybe employs the doctor, and maybe doesn't make it clear to the doctors that they are supervising these P.A.s. Dr. Davidson stated that she would like to think that having a paper put in front of the doctor to sign indicating that he is supervising the P.A. may be the only evidence that physicians know. She stated that she doesn't think that the Board should get rid of that signature altogether.

Dr. Talmage stated that the Committee didn't intend to do so. Information is being sought as to whether a copy of a signature is sufficient. For instance, the hospital might get a copy signed by the physician and then distribute it to the P.A.s. Are all those copies legitimate? Dr. Talmage stated that there is a potential for abuse; for instance, someone may make a large number of copies of the physician signed document to send out every time a new P.A. is hired, and the doctor won't even know who the P.A. is. Dr. Talmage stated that he thinks that the Committee is sensitive to the abuse. He added that the Board has had no complaints from physicians that they have to sign these. The Committee is looking at who is complaining and why, and it will try to come up with a solution that is both as safe and accommodating as they can be.

Dr. Madia stated that they have to apply for hospital privileges anyway.

Dr. Talmage stated that oftentimes hospital privileges are delayed by 90 days, which is far more than the delay in having the physicians and P.A.s sign these forms.

### LICENSURE COMMITTEE

**DR. TALMAGE MOVED TO REMOVE THE LICENSURE APPLICATION OF TOMASZ ROGULA, M.D. FROM THE TABLE. DR. STEINBERGH SECONDED THE MOTION.** All members voted aye. The motion carried.

Dr. Davidson stated that Dr. Rogula is looking for equivalency of 24 months of U.S. training. She stated

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that what he has done adds up to about 36 months that he's been in this minimally invasive general surgery fellowship program. The Committee recommends approval.

**DR. DAVIDSON MOVED TO FIND THAT DR. ROGULA'S PREVIOUS TRAINING AND EXPERIENCE ARE EQUIVALENT TO 24 MONTHS OF APPROVED TRAINING THROUGH THE SECOND YEAR LEVEL, AND TO GRANT DR. ROGULA'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### EXECUTIVE SESSION

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

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Pursuant to Sections 121.22(G) (3), Revised Code, the Board went into executive session at 8:55 a.m. The Board left executive session at 11:18 a.m.

**DR. TALMAGE MOVED TO ADJOURN. DR. DAVIDSON SECONDED THE MOTION.** All members voted aye. The motion carried.

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Thereupon at 11:19 a.m. on August 10, 2006, the August 9-10, 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 August 9-10, 2006, as approved on September 13, 2006.



Andrew F. Robbins, Jr., M.D., President



Lance A. Talmage, M.D., Secretary

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