

May 10, 2006

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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**May 10, 2006**

Andrew F. Robbins, Jr., M.D., President, called the meeting to order at 1:00 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Deepak Kumar, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; Anquetette Sloan; Patricia J. Davidson, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: R. Gregory Browning, Ph.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Lori S. Gilbert, Assistant Executive Director; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, David P. Katko, Karen H. Mortland, Kathleen S. Peterson, William J. Schmidt, Angela Scott, Charles A. Woodbeck and Lynn Zondorak, Enforcement Attorneys; Lawrence D. Pratt, Kyle C. Wilcox, Damion M. Clifford, and Barbara J. Pfeiffer, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Chief, Executive Staff; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, 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. 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
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

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

Mr. Browning joined the meeting during the executive session.

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

MINUTES REVIEW

**MR. ALBERT MOVED TO APPROVE THE MINUTES OF APRIL 12-13, 2006.**

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

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He 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: Carl Floyd Gottschling, M.D.; Donald R. Kiser, D.O.; Gary Ray Lutz, D.O.; Sonia Shetal Shah, M.D.; and Stephen David Waite, M.D. A roll call was taken:

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

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

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

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

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

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

CARL FLOYD GOTTSCHLING, M.D.

Dr. Robbins directed the Board's attention to the matter of Carl Floyd Gottschling, M.D. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation and were previously distributed to Board members.

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

Dr. Gottschling was accompanied by his attorney, Kevin P. Byers.

Mr. Byers stated that he trusts that the Board has had the chance to consider his written objections and the totality of this matter. Mr. Byers stated that, if there are any "Eastway" issues, as far as impairment or mental health evaluations or concerns on behalf of Dr. Gottschling, Dr. Gottschling is more than willing to waive any type of objection or concern about "Eastway," if the Board considers an appropriate order would be licensure in some form with psychiatric workup, mental health evaluations or appropriate treatment, if

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the Board sees fit.

Mr. Byers stated that he thinks that it's very important that to note that Dr. Nearman, the individual who confronted Dr. Gottschling about six years ago and who forced Dr. Gottschling's resignation, has submitted a letter indicating that he is willing to rehire Dr. Gottschling. Dr. Nearman doesn't see Dr. Gottschling as having some flaw that would keep him out of the system.

Dr. Gottschling thanked the Board for allowing him to appear and address the issues. Dr. Gottschling indicated that he withheld details of his resignation from his position because he was personally embarrassed by the situation and the circumstances that led to the resignation, and he had a good faith belief that those specific details were not relevant when he was completing the application. When the relevance of those details did become apparent while he was being deposed, at that time he did openly provide all details requested.

Dr. Gottschling stated that he can honestly say that, while he admits that he intentionally withheld information from the Board on that application, he never intended to deceive the Board. This process has, personally, been very humbling and rather humiliating to him, but he can deal with that. Of greater importance to him is that he particularly regrets the negative impact and possible besmirchment of the integrity and reputation of the individuals at University Anesthesiologists, Inc., including Dr. Nearman, University Hospitals of Cleveland, and the institution of medicine in this state and as a whole.

Dr. Gottschling stated that he spent eleven years as an officer in the United States Marine Corps, held a top secret clearance for most of that time, and he was never questioned as to his character and integrity during that period. Dr. Gottschling stated that he honestly believes that this was a singular event, a miscalculation and error on his part; but it was a singular issue that will not recur.

Dr. Gottschling stated that he entered into medicine late in life, after leaving the Marine Corps. This is really his last career choice and change. He requested that the Board give him the ability to return to that profession. He stated that he is willing to accept whatever conditions and restrictions, including any psychological or medical evaluations or treatment, the Board may deem appropriate. Dr. Gottschling added that he is ready and willing to respond to any questions of the Board.

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

Mr. Clifford stated that this is a case where you have two (B)(5) violations, a finding of lack of good moral character, and a request or notification that the Board should exercise discretion under Section 4731.222, O.R.C. Mr. Clifford noted that, in the objections raised by Dr. Gottschling, he basically suggests that because the Board has the truth now, after a deposition and a hearing, he should get a license. Mr. Clifford stated that, in his viewpoint, that argument makes the whole application process meaningless. There have to be consequences for lying on the application. Granting a license just because the facts are out now versus when they should have been brought out at the initial application period would make no sense.

Mr. Clifford asked that the Report and Recommendation be adopted as written.

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**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF CARL FLOYD GOTTSCHLING, M.D. DR. STEINBERGH SECONDED THE MOTION.**

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

Dr. Kumar stated that he looked at this case very closely. He agrees with the Report, but he disagrees with the Recommendation in the sense that it is somewhat incomplete. If you deny an application, you're leaving an option that you're going to probably restore the license if certain conditions are met. The decision the Board has to make is whether Dr. Gottschling's activities were so bad or egregious that it would never grant him a license and a permanent denial would be appropriate, or whether Dr. Gottschling can be rehabilitated and that there are things he can do which would make him amenable to applying for the license again.

Dr. Kumar stated that he believes that there is reason to believe that Dr. Gottschling can be rehabilitated. He stated that he has drafted an amendment for the Board's consideration.

**DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. GOTTSCHLING BY SUBSTITUTING THE FOLLOWING:**

- A. **APPLICATION GRANTED:** The application of Carl Floyd Gottschling, M.D., for restoration of his certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements and subject to the following terms, conditions, and limitations:
- B. **SUSPENSION OF CERTIFICATE:** The certificate of Dr. Gottschling to practice medicine and surgery in the State of Ohio shall be SUSPENDED immediately for an indefinite period of time, but not less than one year from the effective date of this Order.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Gottschling's certificate to practice medicine and surgery until all of the following conditions have been met:
  1. **Application for Reinstatement or Restoration:** Dr. Gottschling shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
  2. **Personal Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Gottschling shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical

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Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

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

3. **Psychiatric Reports Evidencing Fitness to Practice; Recommended Limitations:** At the time Dr. Gottschling submits his application for reinstatement or restoration, Dr. Gottschling shall provide the Board with written reports of evaluation by two psychiatrists acceptable to the Board indicating that Dr. Gottschling's ability to practice has been assessed and that he has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such evaluations shall have been performed within sixty days prior to Dr. Gottschling's application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Gottschling has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his practice.
  4. **SPEX:** Prior to submitting his application for reinstatement or restoration, Dr. Gottschling shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess Dr. Gottschling's clinical competency.
  5. **Participation in Federal Health Care Programs:** At the time Dr. Gottschling submits his application for reinstatement or restoration, Dr. Gottschling shall provide the Board with documentation acceptable to the Board of his reinstatement to participation in the Medicare, Medicaid and other Federal health care programs.
- D. **PROBATION:** Upon reinstatement or restoration, Dr. Gottschling's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least three years:
1. **Obey the Law:** Dr. Gottschling shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
  2. **Declarations of Compliance:** Dr. Gottschling shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first

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day of the third month following the month in which Dr. Gottschling's certificate is reinstated or restored. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances:** Dr. Gottschling shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which Dr. Gottschling's certificate is reinstated or restored, or as otherwise directed by the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Prior Approval of Employment:** Dr. Gottschling shall obtain the approval of the Board for any medical practice or employment related to the health care fields. The Board shall consider, among other factors, the adequacy and continuity of supervision which will ensure the protection of the public, prior to approval or disapproval of the proposed employment.
5. **Monitoring Physician:** Prior to Dr. Gottschling's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Gottschling shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Gottschling and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Gottschling and his medical practice, and shall review Dr. Gottschling's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

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

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Gottschling must immediately so notify the Board in writing. In addition, Dr. Gottschling shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Gottschling

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shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

6. **Continue Psychiatric Treatment:** If a psychiatrist approved by the Board prior to Dr. Gottschling's reinstatement or restoration recommends that Dr. Gottschling undergo psychiatric treatment, Dr. Gottschling shall continue in psychiatric treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Gottschling's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Gottschling's compliance with the treatment plan; Dr. Gottschling's psychiatric status; Dr. Gottschling's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Gottschling shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Gottschling's quarterly declaration.

In addition, Dr. Gottschling shall ensure that his treating psychiatrist immediately notifies the Board of Dr. Gottschling's failure to comply with his psychiatric treatment plan and/or any determination that Dr. Gottschling is unable to practice due to his psychiatric disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Gottschling must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Gottschling shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

7. **Continuing Compliance with Repayment Agreement:** If Dr. Gottschling enters into a repayment agreement to repay his Health Education Assistance Loan as part of his reinstatement to participation in the Medicare, Medicaid, and other Federal health care programs, Dr. Gottschling shall maintain compliance with that repayment agreement and any amendments to the agreement.
- E. RELEASES:** Dr. Gottschling shall provide continuing authorization, through appropriate written consent **forms**, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Gottschling's psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43

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of the Ohio Revised Code and are confidential pursuant to statute.

Dr. Gottschling shall also provide the Board written consent permitting any psychiatrist, counselor, or other treatment provider from whom Dr. Gottschling obtains treatment to notify the Board in the event he **fails** to agree to or comply with any recommended treatment. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

- F. REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Gottschling shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Gottschling shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Gottschling receives from the Board written notification of his successful completion of probation.
- G. REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Gottschling shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Gottschling shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Gottschling shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Dr. Gottschling receives from the Board written notification of his successful completion of probation.
- H. VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Gottschling violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- I. TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Gottschling's certificate will be fully restored.

Dr. Kumar noted that his proposed order grants Dr. Gottschling restoration of his Ohio license, suspends the license for at least one year, and then imposes probationary terms, including: psychiatric evaluations, continuing psychiatric monitoring, and clearing his issue with the federal government regarding his

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medical school loan. Dr. Kumar commented that Dr. Nearman's letter had a big influence on him.

Dr. Egner stated that she doesn't understand why Dr. Kumar is ordering a psychiatric evaluation. She noted that Dr. Gottschling lied on his restoration application.

Dr. Kumar stated that Dr. Gottschling had a psychiatric problem going to the websites. Dr. Gottschling sought psychiatric treatment to some degree himself. He thinks that there's a reason to evaluate Dr. Gottschling, and to make certain that he is under treatment. As far as lying is concerned, Dr. Kumar stated that that is a big concern to him. That is why one of the requirements he is proposing is to take and pass an ethics course.

Dr. Kumar again stated that he believes that Dr. Gottschling can be rehabilitated.

**DR. STEINBERGH SECONDED DR. KUMAR'S MOTION.**

Dr. Steinbergh stated that this is a serious case and she feels that one of two things needs to happen: either the Board permanently deny restoration of Dr. Gottschling's license; or, the Board consider, in some form, that Dr. Gottschling should be able to return to practice. Dr. Steinbergh stated that Dr. Gottschling did lie on his application. She felt that his explanation at the hearing and, again, today is about as honest as he can be about it. He knows that he did an inappropriate thing. He lied on his application; he failed to pay his Health Education Assistance Loan, which she feels is a very serious thing; he's been excluded from Medicare and Medicaid. That absolutely has to be cleared up. Dr. Steinbergh stated that Dr. Gottschling cannot be hired to practice medicine with that hanging over him.

Dr. Steinbergh stated that she thinks that psychiatric evaluation is legitimate because of Dr. Gottschling's use of his employer's computer equipment to access pornography. She noted that Dr. Gottschling did seek psychiatric treatment for that, and realized that he had a problem. If the Board does consider licensing Dr. Gottschling, the Board does need to be assured that he is appropriate and is handling whatever thoughts he had in the past or has now. Dr. Steinbergh stated that she does feel that the proposed amendment is appropriate if the Board feels inclined to license Dr. Gottschling in some form.

**DR. KUMAR ASKED TO ADD TO HIS MOTION THAT THE ORDER WILL BECOME EFFECTIVE IMMEDIATELY. DR. STEINBERGH, AS SECOND AGREED.**

Dr. Steinbergh stated that another issue was the SPEX. She stated that she thought it would be good for Dr. Gottschling to be recertified in anesthesiology; but, without a license, he cannot sit for the recertification examination.

Dr. Egner stated that Dr. Gottschling is not boarded at all.

Dr. Steinbergh stated that his taking the SPEX fulfills one of the Board's criteria. In credentialing issues, if he's going to be hired as an anesthesiologist, someone has to credential him in that area and it will be their responsibility to be certain that he's appropriate for that field.

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Dr. Buchan stated that he came to the meeting today with similar thoughts. He added that he appreciates Dr. Kumar taking this on. He had made notes for a very serious order. Dr. Buchan stated that he's concerned, but he thinks that the bar is high enough and the supervision is clear enough that the citizens of the state will be appropriately served. Dr. Buchan stated that he would be in favor of the proposed amendment, as written. He also agrees with the psychiatric evaluation in continuing to monitor that issue, even though that wasn't necessarily a subject of the Report.

Dr. Steinbergh stated that Dr. Gottschling does have a diagnosis of dysthymia.

Dr. Varyani expressed concern about Dr. Gottschling's psychiatric issues with pornography. He stated that Dr. Gottschling is an anesthesiologist. As an anesthesiologist, his patients are usually in a very compromised position. Dr. Varyani stated that he thinks that the Board should follow him for a long time.

Dr. Steinbergh stated that he is under probation for three years under this proposed amendment.

Dr. Buchan stated that he was also concerned about that.

Dr. Varyani stated that, as an anesthesiologist, Dr. Gottschling will always have patients in totally helpless position. They're mostly exposed. He stated that he's wondering how that will affect his condition. The Board needs to be careful about monitoring that.

Dr. Steinbergh stated that, if the Board grants Dr. Gottschling a license, it will be immediately suspended for not less than one year. He will then need to go through reinstatement stipulations, which includes psychiatric evaluations. When he is capable of practice, he will have to have an approved practice plan, where someone will be monitoring him, supervising him. Dr. Steinbergh indicated that she does believe the safeguards are in place.

Dr. Varyani stated that he's not offering a modification, he just wants his concerns on the record.

Dr. Egner stated that she really thinks that the issue in this case is that Dr. Gottschling is dishonest and he lies. He has a history of this. He has not shown that he's a stellar physician. Dr. Egner stated that it's very unusual for someone to finish his or her training in the 1990s and never become board certified. No repayment of his student loans is a sign of a dishonest person. It has nothing to do with his propensity to look at pornography. Dr. Gottschling lied on his application, and he even said today that he intentionally withheld the information, but he doesn't consider that as intentional deceit. Dr. Egner stated that she thinks that Dr. Gottschling has a different set of ethics from what the Board is looking for in physicians in Ohio. Dr. Egner stated that she thinks that the Board should permanently deny Dr. Gottschling.

Dr. Davidson agreed. She stated that she hasn't heard anything that would make her want to vote against the recommendation of the Hearing Examiner. There is example after example of bad character. He walked away from his student loans. Dr. Davidson stated that this is a physician with a lot of dishonesty in his past and, probably, in his future.

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

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

The motion failed.

**DR. EGNER MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT DENIAL. MS. SLOAN SECONDED THE MOTION.**

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

Dr. Buchan stated that he's not necessarily convinced that the Board should close the door permanently. Dr. Buchan stated that he doesn't disagree that dishonesty is a standard that the Board holds at a most high level. He doesn't disagree with his colleagues who suggest denial. He stated that he's debated this issue himself. Dr. Buchan stated that he's not interested in closing the door permanently on Dr. Gottschling. He stated that he thinks that there is some possibility for recovery.

Mr. Browning stated that he concurs, but he thinks that the Board needs to see some evidence of progress in the right direction. He's for allowing Dr. Gottschling the opportunity.

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

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

The motion carried.

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**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF CARL FLOYD GOTTSCHLING, M.D. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

The motion failed.

Dr. Steinbergh suggested on voting on the original motion to approve and confirm the Hearing Examiner's Proposed Order.

Dr. Davidson asked for further discussion. She stated that she also wrestled with the permanent vs. non-permanent denial. She stated that the Board has a lot of physicians under probationary terms. It is taking on a lot of responsibility for monitoring these people. She indicated that she's concerned that a new application would go through the licensure department without a problem. She's also concerned by a strict denial, because Dr. Gottschling could reapply tomorrow and the Board would be in the same position it is now.

Dr. Egner stated that the Board has to have faith in the licensure process.

Dr. Davidson asked whether this would even come to the Board to decide whether this is a changed physician.

Dr. Kumar stated that that is the reason he suggested placing conditions on the restoration of a license. He stated that he would not support a permanent denial.

Dr. Buchan stated that the message to Dr. Gottschling at this point is that the Board has presented a bar that was not high enough. He knows what he needs to do. He must exceed the previous, failed motion.

Dr. Steinbergh stated the Board will either deny Dr. Gottschling, who will have the record of this meeting and have a sense of what he needs to accomplish the possibility of licensure; or the Board could license him with stipulations, monitor him, and become convinced that he meets the standard. Dr. Steinbergh stated that she thinks that licensure with the proposed stipulations is a difficult task for him. He'd be out of

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practice for a year and then he'd have to meet the stipulations, but it does give an outline where he can be successful if he wishes to be and if he's able to follow the guidelines. On the other hand, if the Board doesn't want to monitor this physician, it can deny him. It will then be up to Dr. Gottschling to some day come back and prove to the Board that he's improved things. The issue of lying is never going to go away. He did do that. The concern about his not paying back the loans is a huge one that will never go away.

Dr. Buchan stated that his infractions will follow him, as will the minutes of this meeting. His hope is that there will be another group of people who will be looking at these minutes and reflecting where the Board is today. If Dr. Gottschling chooses to practice in Ohio, he will need to exceed the previously failed motion and the Board will make a decision at that time. Dr. Buchan again spoke in support of denial rather than permanent denial.

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

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

The motion carried.

DONALD R. KISER, D.O.

Dr. Robbins directed the Board's attention to the matter of Donald R. Kiser, D.O. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

Dr. Robbins advised that a motion for remand has been filed by the Office of the Attorney General and was previously distributed to Board members. He asked whether the Board wished to remand this matter.

**DR. STEINBERGH MOVED TO REMAND THE MATTER OF DONALD R. KISER, D.O., TO THE HEARING EXAMINER WITH INSTRUCTIONS TO HOLD THE RECORD OPEN UNTIL SUCH TIME AS THE WEST VIRGINIA BOARD OF OSTEOPATHY CAN CONDUCT A HEARING AND ISSUE A FINAL ORDER REGARDING THEIR ORDER OF JUNE 30, 2005. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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

The motion carried.

GARY RAY LUTZ, D.O.

Dr. Robbins directed the Board's attention to the matter of Gary Ray Lutz, D.O. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members. Dr. Robbins noted that these objections were not filed in a timely manner. He asked whether the Board wished to accept the late objections into the hearing record.

**DR. STEINBERGH MOVED TO DENY DR. LUTZ' REQUEST TO ADMIT HIS OBJECTIONS INTO THE HEARING RECORD.** The motion died for lack of a second.

Dr. Steinbergh stated that she feels that the Board has been generous in accepting objections that arrive only one or two days late. These objections were received ten days late, and she doesn't think they should be accepted.

Dr. Egner stated that the issue before the Board is the possible permanent revocation of Dr. Lutz' license. In these circumstances, she believes the Board should accept the late objections.

**DR. EGNER MOVED TO ACCEPT DR. LUTZ' OBJECTIONS INTO THE HEARING RECORD. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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

Dr. Lutz was accompanied by his attorney, John P. Carney.

Mr. Carney asked to note that the objections have to be filed within ten days of receipt of the actual Report and Recommendation. That was not provided to Dr. Lutz, so that's why there was a lag time.

Mr. Carney at this time deferred to Dr. Lutz. He added that the objections filed speak for themselves.

Dr. Lutz thanked the Board members for allowing him to address it. He stated that it has been a long road with this Board, and he's sorry to have to be here before the Board today. He has over the past eight years attempted with great effort to follow all orders issued him to fulfill in order to keep his Ohio license to practice medicine. Until this issue arose concerning his prescribing to these four patients in Nevada, in the practice that he took over there, he has been compliant with his Ohio requirements.

Dr. Lutz advised that, regarding the Nevada action, the four patients cited in the Nevada action were the most difficult of his patients there. There were also only four, out of thousands of charts, that the Board and its officers had to look at. They do not reflect, nor fairly represent, the standards he utilized and the care he took with his patients. In fact, this figure is less than .6 of 1%. He did learn in reviewing his charts and looking back at his care that there were errors and shortcomings in regard to the documentation and care taken with these patients. It is because of a long history with this Board and the completion of all that he was asked to do that he does feel that he should be given consideration to maintain his Ohio license. He still maintains his SAA meetings weekly, reporting in with the compliance officer, and the counseling that this Board directed that he continue.

Dr. Lutz stated that he has learned much and still grows from these meetings, and he has used what he has learned to pass the knowledge on to others. Dr. Lutz stated that he is the only member of the SAA in Las Vegas that has been going every week for six years. No one has consistently gone longer every week. The Sunday meetings still exist there because of him. He advised that he has been instrumental in recruiting people for that helping service there. Dr. Lutz stated that he owns up to his mistakes and errors in judgment, and he requests his Ohio license to continue the practice of medicine. Alternatively, he requested the Board's consideration of an indefinite suspension rather than one that is permanent, so that he may have the chance to later prove to himself and to the Board, after he finishes the reapplication process afforded him by the President of the Nevada State Board. Dr. Lutz stated that he is presently in the process of reapplying in Nevada.

Dr. Lutz advised that he has maintained his C.M.E. hours. He also will be taking a course at Vanderbilt University on prescribing narcotics. He has erred, but he has learned from this; he hopes to be able to resume practice in Nevada with their Board's permission. Dr. Lutz stated that he respectfully asks that the Ohio Board act similarly and continue all required of him in the past, including SAA, seeing the psychiatrist and, of course, check ins with his compliance committee.

Dr. Lutz asked for the Board's forgiveness for the errors he made in the practice of medicine, both in

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Nevada's eyes and in Ohio's. He asked for the opportunity to make them up in the Ohio Board's sight by learning and helping patients in the future.

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

Mr. Clifford stated that the Report and Recommendation found violations of 4731.22(B)(15) and (B)(22). The former because Dr. Lutz was under a 1999 Board-ordered probation at the time of the incidents in Nevada. The Nevada Board summarily suspended Dr. Lutz in 2004. At a hearing regarding the summary suspension, Dr. Lutz admitted that in his treatment of Patient B, which lasted from January 24, 2004 through February 2, 2004, he prescribed controlled substances, including methadone, Lortab and Oxycontin in excessive amounts. With regard to Patient C, whom he treated from January 8, 2003 to January 20, 2004, he prescribed controlled substances to include Actiq, hydrocodone, Xanax, Percocet, OxyContin, and Klonopin. Patient D, whom he treated from May 7, 2001 to December 12, 2003, was prescribed controlled substances to include Percodan, Percocet, Lortab, Klonopin, OxyContin, and Actiq, in excessive amounts.

Mr. Clifford stated that there is expert testimony with regard to Patient A that Dr. Lutz failed to refer Patient A to a psychiatric or medical facility, after the patient had previously expressed suicidal ideology. Ultimately, Patient A committed suicide.

Mr. Clifford noted that the Nevada Board concluded that Dr. Lutz committed gross malpractice in the treatment of these patients. He overprescribed medications, his care and treatment of patients including medical procedures, services, and treatments were inappropriate, inadequate and/or unnecessary. The Nevada Board stated that the treatment of these patients fell below the standard of care for osteopathic physicians in the community, and noted that Dr. Lutz also continued practice while his Nevada medical license was suspended.

Mr. Clifford stated that the Hearing Examiner addressed all of this information and the Report and Recommendation is proper. He advised that the Board is not limited by the actions in Nevada to make its determination.

Mr. Clifford stated that he would like to address one issue that Dr. Lutz continues to raise: These are the most difficult patients and not typical of his practice. Mr. Clifford stated that at hearing, Dr. Lutz testified that three of the four patients did not have health insurance. In fact, three of the four could not even afford to pay the 10% to 20% typical co-pay, if they had insurance. He also said that pain clinics would turn these patients away. He also did not have the experience in dealing with pain medicine. Mr. Clifford commented that at the same hearing, Dr. Lutz admitted that 75% of his patients don't have insurance. So it seems that Dr. Lutz is saying that these four patients aren't typical, but this is exactly the type of patient with whom he deals on a regular basis. Mr. Clifford added that he doesn't think it's a good statement to say that just because patients don't have insurance, they're not entitled to proper care by physicians.

Mr. Clifford asked that the Report and Recommendation, as written, be adopted by the Board.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF**

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**FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF GARY RAY LUTZ,  
D.O. DR. STEINBERGH SECONDED THE MOTION.**

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

Dr. Egner stated that she remembers this physician. She stated that she thinks that today Dr. Lutz has said pretty much the same things he said in 1998. He admitted that he did wrong, but not that wrong, and that he's capable of improvement. Dr. Egner stated that she doesn't see that to be the case at all. In 1998 Dr. Lutz completely denied that there was any sexual issue with what had gone on with a teenage boy, and yet today he is a stellar member of SAA. He likes to talk about the statistics of .6 of 1% of his practice. Another statistic could be that, of his most difficult patients, 25% are dead. Dr. Egner stated that what Dr. Lutz has done here is egregious. She does not want him to practice in Ohio; he deserves a permanent revocation.

Dr. Steinbergh agreed with Dr. Egner, adding that in 1998 the Board issued a license revocation, but stayed the revocation. That was a signal that if he comes back before the Board, it probably won't look good. He practiced without a license in Nevada; he had the cases that were previously discussed. Dr. Steinbergh stated that it's a real concern. Just looking at the 1998 record alone convinces her that a permanent revocation is appropriate. Dr. Steinbergh stated that this Board is not reliant on what happens in the state of Nevada. In the state of Ohio, permanent revocation is appropriate.

Dr. Buchan also agreed, adding that the Hearing Examiner did an excellent job of putting the Findings of Fact and Conclusions of Law together. He stated that he supports permanent revocation, as he did in 1998.

Mr. Browning indicated that he also agrees with permanent revocation.

Dr. Kumar also agreed with the Report and Recommendation, as written. He added that one thing that really bothered him was, despite the fact that he was revoked by Nevada, he continued to prescribe for a short period of time.

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

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

The motion carried.

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SONIA SHETAL SHAH, M.D.

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

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

Ms. Jacobs at this time directed the Board to the hearing examiner's corrected disciplinary guidelines memorandum, contained in their agenda pockets. This memorandum addresses part of the problem raised in Dr. Shah's objections.

Dr. Shah was accompanied by her attorney, Mr. Byers. Mr. Byers stated that the Hearing Examiner's memorandum takes away the erroneous reference to Section 4731.22(A). As noted in Dr. Shah's objections, this reference wasn't anywhere else in the Report and Recommendation. The bottom line is that there was no allegation of fraud and deception against this Board. These were all essentially bootstrapped items of matters that occurred in Dr. Shah's residency.

Mr. Byers stated that he trusts that the Board has had the chance to review the objections, has considered all of Dr. Shah's testimony and the exhibits that came into the record. He stated that he thinks that it is important to highlight that the Hearing Examiner recommends not finding against Dr. Shah in two of the four allegations. The Hearing Examiner suggested that there is sufficient proof of appropriate moral character for licensure. Secondly, the Hearing Examiner also recommends not finding against Dr. Shah in the issue of the examination of the cervix, simply because the evidence wasn't there to support that. Mr. Byers stated that Dr. Shah heartily endorses those recommendations.

At this time Dr. Shah thanked the Board for allowing her the opportunity to address it. She stated that she is here to ask the Board to allow her to withdraw her permanent license application. She advised that she came from India after finishing medical school. In 2000 she did residency training. She did excellent work there, and left on a good note, with good letters of recommendation. Due to her marriage, she moved to Akron, Ohio, and started her second year of training. Dr. Shah stated that that was a tough year. She made some mistakes, and she realizes that. While the training was going on, she asked her Program Director to allow her to resign because of difficulties she was having. It was strongly recommended that she not resign. They asked her to continue in her program and advised that they would try to support her. Dr. Shah stated that they did offer some support, but they failed to recognize her postpartum depression, for which she sought help after her termination from the program. She's gotten appropriate medical treatment and counseling. Since then she has gained her life back.

Dr. Shah continued that she lost her residency, but she did make a turn-around. She has pretty much recovered from that time. She has become more positive, has gained more strength and become more stable. All this she was able to do with the help of her husband, who is very supportive. She has two great children. She also has extended family support.

Dr. Shah advised that, since 2005, she's been working in research at the Cleveland Clinic in the Pulmonary and Critical Care Department. She stated that she has a great mentor who has backed her up and helped her with her endeavors. She currently sees a psychiatrist, who thinks that she is appropriate to return to residency in the future. She has several publications since 2005 in international and U.S. journals. She has been chosen to represent the Cleveland Clinic at the World Transfer Congress in Boston in July. Dr. Shah stated that she feels more confident now with the backing that she has from her mentor, her family, her husband and her psychiatrist.

Dr. Shah stated that she did make mistakes, but she did realize her mistakes and she has made changes. She asked that the Board allow her to withdraw her application so that she can come back in the future and practice medicine.

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

Mr. Clifford stated that he did not.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF SONIA SHETAL SHAH, M.D. MR. BROWNING SECONDED THE MOTION.**

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

Dr. Steinbergh stated that the difference between a license denial, which is not permanent, versus allowing withdrawal of application is significant in the sense that the Board has a case before it that is significant. She stated that she's not saying that she wouldn't vote for withdrawal, but she's not sure that withdrawal of the application sufficiently represents what the Board is dealing with. Her concerns involve the lying that went on during the residency, the failure to provide appropriate patient care, and to respond to patient care. Dr. Steinbergh stated that she appreciates Dr. Shah's explanation; it was obviously a very difficult time for her. Dr. Steinbergh added, however, that the Board must be certain that the applicant really understands the flaws that it takes to make those kinds of decisions. To walk away from a patient at any time could compromise patient care. Patient care was, in fact, compromised. When one takes on the responsibility of licensure and the practice of medicine, there's nothing that comes before that. Every decision that a physician makes, even to the disadvantage of the physician's family, has to be toward patient care. A physician cannot compromise that. Dr. Steinbergh stated that her concern is with the decisions that Dr. Shah made to walk away from patient care and to lie to her supervisors.

Dr. Steinbergh stated that she could go further with her concerns, but she questions whether or not, with this knowledge that the Board has, that it would be responsible for the Board to allow her to withdraw her application. She added that she does understand the implications of both denial and withdrawal.

Dr. Kumar stated that this is obviously a very difficult case. First of all, Dr. Shah does not meet the statutory guidelines to issue a license because she hasn't done two years of training through the second year level. Issuance of a license is not the issue at this time.

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Dr. Kumar stated that legitimate questions have been raised regarding whether or not Dr. Shah has been truthful. Dr. Kumar stated that, presuming that all the things that she did were due to the stress of her pregnancy and other circumstances, his advice to Dr. Shah is that coming back in six to eight months with additional residency training and asking for a license isn't going to fly. Dr. Shah will need to have a long period, probably another two years of a clean, stellar record in any residency program before the Board will consider giving her a license. Whether the Board denies Dr. Shah's application or allows her to withdraw her application, there will have to be a long record of clear activity before an application from Dr. Shah will be considered.

Dr. Kumar continued that he can see Dr. Shah's concern with having a denial on her record. Taking into account that Dr. Shah experienced problems relating to a difficult pregnancy, etc., he would be in favor of allowing Dr. Shah to withdraw her application at this time.

Dr. Egner stated that she would like to speak on Dr. Shah's behalf, adding that she disagrees with a couple of things that have been said. Dr. Egner noted that Dr. Shah was a family practice resident, was newly married, got pregnant right away, had a baby. She had lots of life stresses at home and at work. Dr. Egner stated that she thinks that all of these things came tumbling down all together.

Dr. Egner stated that there are a few key episodes in the record. Dr. Egner commented that she doesn't think that Dr. Shah compromised patient care, and reviewed the episodes as follows:

1. Dr. Shah skipped making rounds at 7:00 a.m. when a conference was going to start at 9:00 a.m. Dr. Egner noted that Dr. Shah had someone else make the rounds for her, so she didn't compromise patient care. The patients were still rounded on and were still taken care of.
2. There's a discrepancy as to whether Dr. Shah checked the cervix on a patient to rule out labor. Dr. Egner stated that there's nothing written in the chart; there is no evidence to support either way. She can't say whether that happened or not. Dr. Shah said that she checked the patient and the cervix was closed. The next resident checked the patient and the cervix was dilated. The question is whether or not Dr. Shah checked the patient to begin with, and Dr. Shah advised that she did. There's nothing in the record that says that she didn't. Dr. Egner stated that she can't put a lot into that allegation. It's a serious thing if it happened, but she doesn't know that it did. There's nothing that says that Dr. Shah really compromised patient care.
3. Another incident involved the fact that Dr. Shah was to watch the monitor board on call all night. Dr. Egner stated that she doesn't know of any resident on a labor and delivery (L & D) rotation who is told to do that task. It's not generally a resident's job to watch the monitors all night. Dr. Egner stated that she thinks that Dr. Shah was on a very difficult rotation and that she was asked to do something that normally one wouldn't be asked to do.
4. Concerning the incident involving the ER shift, Dr. Egner stated that her take on that was that Dr. Shah did arrange with someone to work an ER shift, and she couldn't work in L & D that night. The person with whom she traded could work the ER shift; and instead of going back to L & D to monitor a patient of whom she wasn't in charge, Dr. Shah went home.

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5. Dr. Egner stated that the last thing is that Dr. Shah tried to resign during her residency program and the director did tell her not to. Dr. Egner stated that she doesn't think that the director actually did a lot for Dr. Shah. He told her to get some counseling.

Dr. Egner stated that every time Dr. Shah was at home, she felt like she wasn't being a very good doctor; and every time she was at the hospital, she felt that she wasn't being a very good wife and mother. Dr. Egner stated that she believes Dr. Shah found herself in a terribly stressful situation. She got depressed; it wasn't treated, and she was in a no-win situation.

Dr. Egner continued that all of Dr. Shah's evaluations prior to the birth of her child were average and above-average. She did not have poor evaluations until after she went through this time.

Dr. Egner stated that she'd like to address the role of a family practice resident on specialty rotations. She stated that she believes these residents are at a grave disadvantage. If an OB resident were having these kinds of problems and wanted to stay at home and not make rounds at 7:00 a.m. to get things together for their life and asked a colleague to make rounds for him or her because he or she is stressed or overworked and he or she needed those two hours, their colleague would say "okay." Dr. Shah wasn't in that situation; she didn't have the camaraderie that other residents do. A family practice resident is seen as the outsider, and it was obvious, on this rotation especially, nobody was there to help her. When she tried to resign again, she's told she can't because she's on probation.

Dr. Egner stated that she feels that Dr. Shah will be an excellent physician. Dr. Egner referred to Dr. Shah's earlier statements wherein she advised that she's still seeing a psychiatrist, she has her life more in order, she has a research job and she's written papers. Dr. Egner stated that she thinks that Dr. Shah will be a great physician, but she went through a really terrible time. If Dr. Shah wants to withdraw her application, Dr. Egner will support that decision. She should get the training that she needs and then reapply.

Mr. Browning stated that Dr. Egner makes a compelling case for Dr. Shah.

**DR. EGNER MOVED TO AMEND THE PROPOSED ORDER TO ALLOW DR. SHAH TO WITHDRAW HER LICENSURE APPLICATION. MR. BROWNING SECONDED THE MOTION.**

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

Dr. Buchan stated that he's a little more in the middle on this case. He stated that Dr. Egner does speak well on the matter, and he appreciates that; but there are some issues and truthfulness is large. Dr. Buchan noted that Dr. Egner suggested that there wasn't evidence that Dr. Shah didn't check the cervix, but the patient said that Dr. Shah didn't check the cervix. This is not a one-way street. Dr. Buchan stated that he is compelled by Dr. Shah's emotional status in a very stressful time, and he thinks that leniency and grace are the appropriate tracks to take. Dr. Buchan stated that he thinks this is a very serious matter, and he doesn't take withdrawal of this application lightly. He will go along with that at this point as being

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reasonable.

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

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

The motion carried.

**MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF SONIA SHETAL SHAH, M.D. MS. SLOAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

**STEPHEN DAVID WAITE, M.D.**

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

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

Dr. Waite was accompanied by his attorney, Mr. Byers.

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Mr. Byers stated that there are objections on the table. He stated that these may not be in the typical form of objections because Dr. Waite has been very professional, dignified and responsible throughout the course of this proceeding. Mr. Byers advised that Dr. Waite certainly realizes the importance of his Ohio license and has done his very best to cooperate throughout the process. He noted that Dr. Waite tried to explain and not duck, weave or dodge responsibility. Mr. Byers stated that Dr. Waite's testimony at hearing was very credible about his treatment of these patients so long ago, when he was just out of residency.

Dr. Waite at this time addressed the Board. He appealed to the Board to allow him to continue to hold his license to practice medicine in this state. Dr. Waite stated that he recognizes that the Board has a duty to protect the citizens of the state, and he does recognize that he departed from the standard of care on several occasions with the cases before the Board. He advised that, although this process has been uncomfortable, he thinks that it has been instrumental in highlighting those departures. Dr. Waite stated that he is confident that similar departures would not occur.

Dr. Waite stated that Hearing Examiner would have the Board permanently revoke his license to practice in the state, based on these seven cases from the first nine months after his residency, as an attending, and the one case from 2001. He stated that he believes that what has occurred in the interim should be considered. Since 1997 and 1998, he has become Board certified by the American Board of Emergency Medicine. He's also taken care of thousands of patients without similar departures. Dr. Waite stated that he recognizes the State's desire and need to ensure that physicians are conforming with the standards of care, but he doesn't think that it can be said that a pattern of poor medicine has ensued since these early departures.

Dr. Waite stated that, admittedly, there were errors in 1997. When questioned in the hearing, he was asked to explain his decision making. He was not trying to give an excuse, but to answer the questions. Given these same cases today, similar errors in judgment would not occur. He believes that improvement has taken place, as evidenced by the intervening years. He advised that he, like many of his colleagues, would manage cases differently if he had a second opportunity. Dr. Waite stated that the recommendation of permanent revocation, in light of the temporal nature of these cases and the lack of a similar pattern is unduly harsh. Dr. Waite asked that the Board allow him to continue to practice in this state.

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

Mr. Clifford stated that he will defer to the Report and Recommendation.

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

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

Dr. Kumar stated that it is always difficult to completely evaluate what went on and what is going on in

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minimal standards cases. On the record there are eight cases. He would exclude case number 2, which was the subarachnoid hemorrhage, because he doesn't think that he can fault Dr. Waite significantly for what he did. He added that he believes that that was the only case that went to a malpractice trial. He was acquitted at the trial.

Dr. Kumar stated that in the other seven cases, Dr. Waite admits that he practiced below standards of care. He actually practiced way, way, way below the minimal standards of care. The question really comes down to whether this physician can be rehabilitated, retrained to be an effective physician. Dr. Kumar stated that it's easy to retrain a physician to go and look at the CT scans and what they look like. It's very hard to train a person not to lie about something missed. Dr. Kumar stated that in this case, Dr. Waite said that he ordered a CT scan, but he actually didn't order the scan.

Dr. Kumar continued that it's easy to train a person on what to do to figure out whether the patient has an MI or not; however, it is harder to train a physician to go back and realize that "you have to look at more than just one focus of chest pain issues."

Dr. Kumar stated that he thinks that it is easier to say that the issues here are those of medical documentation. Dr. Waite suggests that the error was a lack of proper documentation. Dr. Kumar stated that he disagrees with that. He added that, if you look at the documentation, it is in the newest format, which talks about the chief complaint, the history, etc. Dr. Kumar stated that pertinent things are missing from the documentation. It's not a matter that Dr. Waite doesn't know how to document; it's a matter that Dr. Waite's mindset is not looking at what is important or not important to document. That sometimes is a lot harder to educate a person to do. It's easy to educate a person that when you are looking for a person with an injury to the lungs because of inhalation of some chemicals; but it's hard to train a person that, even if the patient looks good, the patient should be kept in the hospital under observation for at least a short period of time. Dr. Kumar continued that it's easy to find a fractured rib on an x-ray, but it's harder to teach someone that he needs to consider that there may be other injuries which need to be found and given attention.

Dr. Kumar stated that he cannot comprehend Dr. Waite's care of the less-than-two-week old child with sepsis and no monitoring being done. There was no admission or exact workup done.

Dr. Kumar stated that, concerning Patient 8, Dr. Waite wrote a discharge note on the patient, but the next physician on duty admitted the patient. Dr. Kumar stated that he believes that Dr. Waite wanted to discharge the patient, but the patient got kept because the next physician on site realized that the patient needed to be admitted. Dr. Kumar stated that he thinks that Dr. Waite realizes that himself. Dr. Waite has a knowledge base, but has difficulty applying to actual effective practice. That's why he thought about changing his career and began law school. Maybe that's a better profession for Dr. Waite.

Dr. Talmage left the meeting at this time.

Dr. Kumar stated that, considering all these things, he doesn't believe that the Board can effectively rehabilitate and monitor him. Dr. Waite was terminated from one place and went to another place where he continued to have the same problems. He didn't learn in those three-four years. Dr. Kumar again stated

that he doesn't believe that the Board can rehabilitate Dr. Waite, and for that reason, he will vote for permanent revocation.

Dr. Egner stated that she has a lot of the same thoughts as Dr. Kumar. She doesn't know if medicine is Dr. Waite's career. Dr. Choo, the State's expert on many cases, said that Dr. Waite's thinking was disjointed. Dr. Egner stated that it's a thought practice of how to evaluate patients, how to diagnose them, and how to treat them. Dr. Waite should have had it by then.

Dr. Egner stated that she is troubled that there are very few minimal standards cases that the Board sees where the licensee will also look at those cases on the record and say, "you're right, there are some things that I should have done differently, or could have done better." On just about every one of these cases, except for Patient 3, he saw things that he agreed with the State's expert on. Today he says the same thing.

Dr. Egner stated that her other problem is that she doesn't know what kind of physician Dr. Waite is today. He might be okay. She does believe that physician's get better with age to a point, and so he may be a better physician today. He may be a fine physician today, but she doesn't know that. She'd like to remand this and have Dr. Waite evaluated. Dr. Egner stated that that's what Colorado's Center for Personalized Education for Physicians (CPEP) is for, and she thinks that he fits the kind of problems that they could evaluate. She stated that the Board is not looking at Dr. Waite's surgical skills, but at how he thinks and processes. Does he have the right knowledge base. Dr. Egner noted that Dr. Waite is Board certified today and wasn't at the time of these occurrences.

Dr. Egner stated that she doesn't know what to do, but she's not sure that permanent revocation is appropriate.

Dr. Egner stated that she would like to say that the Report and Recommendation is excellent. It's very clear and easy to tell what happened with the patients. It presents all sides of this case. Dr. Egner stated that Hearing Examiner Murphy did an excellent job with the Report.

Dr. Steinbergh agreed with Dr. Egner. The Report and Recommendation allowed the Board to clearly follow what happened in the number of cases that were reviewed.

Dr. Steinbergh stated that the cases were bad. She was particularly taken by the baby cases. The baby comes in under the age of 30 days and doesn't get an appropriate evaluation. That was bad. A woman came in on Coumadin, and no INR is done. There wasn't even an evaluation of the anemia that she presented with. No one seemed to be concerned about that.

Dr. Steinbergh stated that she thinks that Dr. Waite realizes the kinds of mistakes that he made. There's no question about the mistakes. The real issue is where he is today. Does the Board need to permanently revoke this license or not? Dr. Steinbergh stated that her feeling after finishing reading this case was: He's a young physician; he's made a number of very serious mistakes, without question. In 2001 he made a serious mistake in the last case reviewed. The question is whether Dr. Waite is someone who can go for remediation, and, if so, what does the Board do. Dr. Steinbergh stated that she does think that Dr. Waite meets the criteria for CPEP. Dr. Steinbergh stated that she would be willing to table this to draw up an

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alternative order that would include a CPEP evaluation. This would send him at his expense to be evaluated. It's a lengthy procedure but it would give the Board some reassurance and would actually tell Dr. Waite where he is; he may think he's a good physician today, but there are still some doubts about that. The alternative order would suspend Dr. Waite's license indefinitely.

Dr. Egner suggested that the Board remand this matter because the Board won't know what to do with him without the evaluation. If the Board remands the matter to the Hearing Examiner, he or she can offer a proposed order based on the results of CPEP.

Dr. Buchan stated that this is very difficult, but the pattern of Dr. Waite's behavior frightened him. Dr. Buchan added that, that having been said, he's leaning more toward the revocation direction. He stated that he's not sure that Dr. Waite's thinking and processing was encouraging enough for him to believe that the Board should remand or send Dr. Waite for further remediation. He stated that he will continue to stay somewhat open to that idea, but these are frightening cases to review.

Dr. Varyani stated that he knows that Dr. Waite admitted to mistakes concerning Patients 6, 7, 8, and 5, but he can't imagine an emergency room doctor, knowing that a patient is on Coumadin, not ordering clotting studies. Concerning the case of the 13-month-old who came into the emergency room with breathing difficulties, no treatment was given. Dr. Varyani stated that everyone should know what to do. He added that he's not an emergency room physician, but he would know what to do and how to treat that patient.

Dr. Varyani stated that Dr. Kumar was very nice to Dr. Waite. These are cases that he cannot ignore. He might ignore one or two examples, but he cannot ignore five serious cases. Dr. Varyani stated that he knows that Dr. Waite is now board certified, but board certification means bookish knowledge. The problems were with the pure practical, clinical side of medicine. If you have bookish knowledge but don't apply it clinically, he doesn't know how a physician could improve. Dr. Varyani stated that he doesn't feel comfortable with another order.

Dr. Varyani continued that the Report and Recommendation was excellent, and he's sure that a lot of time went into it. He added that he, personally, cannot allow a license to someone who did something so egregious, who missed five very simple things.

Dr. Davidson stated that she has a little bit different point of view, but she was given pause by the fact that he's practiced, become board certified, and the Board has let him have his license for the intervening five years. There are residencies that are better than others and that give you more opportunities to experience different things. Dr. Davidson stated that Dr. Waite should have known these even if he went through a mediocre residency, and he apparently didn't. Dr. Davidson stated that she does like Ms. Murphy's suggestion that the Board might give Dr. Waite the chance to prove that his current fitness to practice is adequate. Dr. Davidson stated that she is leaning more in the direction of Dr. Egner and Dr. Steinbergh and requiring a CPEP evaluation.

Mr. Browning stated that, given the documented history of incompetence that, unfortunately, wasn't dealt with for years, why wouldn't it be reasonable to revoke the license, but not permanently. If Dr. Waite can build a case, either by going to Colorado or anything else he wants to do, the Board will then take it under

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advisement and, meanwhile, the public will be protected.

Mr. Browning stated that he can't ignore the history. Even if Dr. Waite fixed the problems he had, there are still the documented, serious problems in the past.

Dr. Egner agreed.

Ms. Sloan stated that she sees Mr. Browning's point, but she's also looking at the fact that there has been quite a few years between the time these egregious mistakes were made and now. What has Dr. Waite done to make any type of improvements to change what he had been doing? She stated that she doesn't know what kind of physician he is today; she added that she would hope that he's a better physician, but she can't say that. For her, that seems to be the question now. What can the Board do? Ms. Sloan stated that the Board should find out whether or not he's improved. The Board shouldn't leave it to his own devices. It should make sure that Dr. Waite gets to an evaluation so that the Board has that information. Ms. Sloan stated that she leans toward Dr. Egner's and Dr. Steinbergh's position because she would want to have that information in front of her in order to make an intelligent decision as to whether or not he is a good doctor.

Dr. Kumar stated that time has passed, and maybe Dr. Waite has learned and improved. He pointed out that in those last four or five years Dr. Waite has been working in the emergency room as a part-time physician. He's not working in a full-time capacity. He's also going to law school and he's also working in the emergency room in an Indian reservation. Dr. Kumar stated that he's not sure that Dr. Waite has faced all the tough things that come through the emergency room doing the part-time work.

Dr. Kumar stated that he's not opposed to sending Dr. Waite to CPEP, if that's the judgment of everybody. If the Board remands it, what will the hearing examiner do without further information? Dr. Kumar stated that the Board would have to create an order to permanently revoke, stay the revocation, and then order him to go through the evaluation and abide by the evaluators' recommendations.

Mr. Browning stated that he doesn't think that that's the Board's responsibility. There is strong evidence to revoke Dr. Waite's license. The Board could impose a non-permanent revocation, and give Dr. Waite an opportunity to prove that he's a fundamentally different physician. The Board may or may not agree that that's the case. He does not offer the amendment assuming that the Board will be back here giving Dr. Waite a license.

**MR. BROWNING MOVE TO AMEND THE PROPOSED ORDER IN THE MATTER OF  
STEPHEN DAVID WAITE, M.D., BY DELETING THE WORD, "PERMANENTLY."  
DR. BUCHAN SECONDED THE MOTION.**

Dr. Steinbergh stated that she could support that. She added that she thinks that it is particularly important to consider the public members' input in these cases. Under the proposed amended order, Dr. Waite would have the record of this meeting and would understand what he needs to do before he applies for restoration. He would have to prove that he's an appropriate physician, and that would take some time. Dr. Steinbergh at this time asked whether she could ask Dr. Waite a question.

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Ms. Pfeiffer advised that the Board must base its decision on the hearing record.

Dr. Egner stated that she likes Mr. Browning's idea. She thinks that it's a good idea to revoke. Dr. Waite now knows what the Board is looking for. If the CPEP evaluation comes back and says that he has a great knowledge base now and looks good, that's nice. If CPEP says that he has a very poor knowledge base and is not good at logical medical decision making, the Board will know what to do. Then, if it comes back being not quite the report the Board was looking for, the Board will then have to look and decide whether these cases are serious enough to permanently revoke a physician. Dr. Egner stated that they are serious enough.

Dr. Steinbergh stated that the Board will still have the opportunity to evaluate and to make a determination as to whether or not he needs continued monitoring. Dr. Steinbergh stated that she thinks that CPEP is very thorough in its recommendations, and the Board would have to apply that into a consent agreement should the Board decide to license Dr. Waite. The amendment puts the onus on Dr. Waite and the Board will have nothing to do with it until Dr. Waite brings back information that will make the Board members feel more comfortable about licensing him.

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

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

The motion carried.

**DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. MURPHY'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF STEPHEN DAVID WAITE, M.D. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

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Dr. Steinbergh - aye

The motion carried.

Dr. Kumar left the meeting at this time.

PROPOSED FINDINGS & PROPOSED ORDERS

KATHERINE ALICIA HUMES, M.D.

Dr. Robbins directed the Board's attention to the matter of Katherine Alicia Humes, M.D. He advised that by letter of December 14, 2005, the Board notified Dr. Humes that it proposed to deny her application for a certificate to practice medicine and surgery in the State of Ohio based on allegations contained in the letter. The notice was mailed to Dr. Humes' address of record and proper service was documented. No hearing request has been received from Dr. Humes, and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Davidson, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition.

**MR. BROWNING MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 14, 2005 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF KATHERINE ALICIA HUMES, M.D. AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. STEINBERGH SECONDED THE MOTION.**

Dr. Steinbergh stated that she agrees with the Proposed Order of revocation. This is a case of chemical dependency, major depression, multiple relapses and non-compliance with previous consent agreements. Dr. Humes did not request a hearing. The Proposed Order revokes Dr. Humes' license. Dr. Steinbergh commented that some day Dr. Humes may be able to take her sobriety seriously and apply for restoration of her license.

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

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

The motion carried.

Mr. Albert left the meeting at this time.

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ANIL KUMAR TRIPATHY, M.D.

Dr. Robbins directed the Board's attention to the matter of Anil Kumar Tripathy, M.D.. He advised that by letter of October 13, 2004, the Board notified Dr. Tripathy that it proposed to deny his application for a certificate to practice massage therapy in the State of Ohio based on allegations contained in the letter. The notice was mailed to Dr. Tripathy's address of record and proper service was documented. No hearing request has been received from Mr. Allen and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Davidson, who prepared a Proposed Findings and Proposed Order, and is now before the Board for final disposition.

**DR. BUCHAN MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE OCTOBER 13, 2004, NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF ANIL KUMAR TRIPATHY, M.D. AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. STEINBERGH SECONDED THE MOTION.**

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

Dr. Steinbergh referred to Proposed Finding # 20, noting that it says "...Dr. Tripathy has not failed to complete an examination sequence... ." She noted that it should read, "...Dr. Tripathy has failed to complete an examination sequence... ."

Dr. Steinbergh added that the record is very clear about Dr. Tripathy's misrepresentations on his application, and that he hasn't met licensure requirements.

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

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

The motion carried.

Dr. Kumar returned to the meeting at this time.

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FINDINGS, ORDERS AND JOURNAL ENTRIESJAMES DANIEL CARPENTER, D.O.

Dr. Robbins noted that, by letter of March 8, 2006, the Board issued a Notice of Opportunity for Hearing to James Daniel Carpenter, D.O., based upon allegations contained in the letter. The Notice was mailed via certified mail, return receipt requested, to Dr. Carpenter'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. Carpenter 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 MARCH 8, 2006 NOTICE TO DR. CARPENTER, AND TO ENTER AN ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY. DR. BUCHAN SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

KEVIN JAMES CLEARY, M.T. APPLICANT

Dr. Robbins noted that, by letter of March 8, 2006, the Board issued a Notice of Opportunity for Hearing to Kevin James Cleary, M.T., based upon allegations contained in the letter. The Notice was mailed via certified mail, return receipt requested, to Mr. Cleary'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 Mr. Cleary and more than thirty days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

**DR. BUCHAN MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE MARCH 8, 2006 NOTICE TO MR. CLEARY, AND TO ENTER AN ORDER OF PERMANENT DENIAL, EFFECTIVE IMMEDIATELY. MS. SLOAN SECONDED THE MOTION.**

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

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Mr. Albert returned to the meeting at this time.

Dr. Steinbergh stated that permanent denial is appropriate in this case. Mr. Cleary was convicted of sexual imposition.

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

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

The motion carried.

DAN LEONARD ECKLUND, M.D.

Dr. Robbins noted that, by letter of November 9, 2005, the Board issued a Notice of Opportunity for Hearing to Dr. Ecklund, based upon allegations contained in the letter. The Notice was mailed via certified mail, return receipt requested, to Dr. Ecklund'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. Ecklund 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 NOVEMBER 9, 2006 NOTICE TO DR. ECKLUND, AND TO ENTER AN ORDER OF PERMANENT REVOCATION, EFFECTIVE IMMEDIATELY.**

Dr. Steinbergh stated that she found this to be a pathetic case, involving sexual misconduct both in and out of the course of Dr. Ecklund's practice, as well as inappropriate prescribing in Alabama.

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

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

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Ms. Sloan - aye  
Dr. Davidson - aye  
Dr. Steinbergh - aye

The motion carried.

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSION

PAULA CLARK ADKINS, 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. EGNER MOVED TO SEND THE CITATION LETTER TO DR. ADKINS.  
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

JAMES CURTIS DILDAY, 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. DILDAY.  
DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

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Dr. Steinbergh - aye

The motion carried.

TERA JEAN MARTIN, M.T. – CITATION LETTER

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

**DR. KUMAR MOVED TO SEND THE CITATION LETTER TO MS. MARTIN.  
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

CHARLES M. MOMAH, M.D. - NOTICE OF AUTOMATIC SUSPENSION AND OPPORTUNITY FOR HEARING

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

**DR. KUMAR MOVED TO SEND THE NOTICE OF AUTOMATIC SUSPENSION AND OPPORTUNITY FOR HEARING TO DR. MOMAH. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

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.

JANET L MCDERMOTT, M.D. – SURRENDER OF LICENSE

**DR. STEINBERGH MOVED TO RATIFY THE SURRENDER OF DR. MCDERMOTT'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO.**

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

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

The motion carried.

RICHARD JOSEPH MURPHY, M.D. – CONSENT AGREEMENT

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

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

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The motion carried.

STEWART NEWMAN NICKEL, M.D. – VOLUNTARY RETIREMENT

**DR. STEINBERGH MOVED TO RATIFY DR. NICKEL’S VOLUNTARY RETIREMENT.  
DR. KUMAR SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

GARY W. WALTZ, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

KEVIN WAYNE BOWERS, M.D. – CONSENT AGREEMENT

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

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

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

The motion carried.

MARK ANDREW BANKS, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

ROBERT L BRANDT, JR., M.D. – CONSENT AGREEMENT

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

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

The motion carried.

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MATTHEW RICHARD GRIFFIN, M.T. APPLICANT – APPLICATION WITHDRAWAL

**DR. STEINBERGH MOVED TO RATIFY THE WITHDRAWAL OF MR. GRIFFIN'S APPLICATION TO PRACTICE MASSAGE THERAPY IN THE STATE OF OHIO.**

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

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

The motion carried.

WILLIAM L. HOPPE, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

JAMES CARL MAUCH, M.D. – CONSENT AGREEMENT

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

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

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

The motion carried.

MUKUNDA D. MUKHERJEE, M.D. – SURRENDER OF LICENSE

**DR. STEINBERGH MOVED TO RATIFY THE SURRENDER OF DR. MUKHERJEE’S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

JODY LEE NELSON SHORT, D.O. – CONSENT AGREEMENT

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

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

The motion carried.

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BARBARA JEAN WILLOWS, D.O. – SURRENDER OF LICENSE

**DR. VARYANI MOVED TO RATIFY THE SURRENDER OF DR. WILLOW'S LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY IN THE STATE OF OHIO.**

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

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

The motion carried.

ALAN B STORROW, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

REUBEN I. THAKER, M.D. – CONSENT AGREEMENT

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

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

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

The motion carried.

RICHARD S. SKOBLAR, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

Dr. Talmage returned to the meeting at this time.

JOYCE A. ZAGURSKY, M.D. – APPLICATION WITHDRAWAL

**DR. VARYANI MOVED TO RATIFY THE WITHDRAWAL OF DR. ZAGURSKY'S APPLICATION TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

At this time Dr. Egner complimented the enforcement staff on the tremendous amount of work it did in preparing these consent agreements for this month's agenda.

#### PERSONAL APPEARANCES

##### KAREN A. CLEMENCY, M.D.

Dr. Clemency appeared before the Board pursuant to her request for release from the terms of her April 11, 2001 Consent Agreement.

In response to Board members' questions, Dr. Clemency stated that her leaving pre-signed prescriptions for her P.A. to use was a careless thing that she did, she thought, for the benefit of the patients. In fact, it was not. She no longer has pre-signed prescriptions, and she no longer employs P.A.s. She uses single-copy prescriptions for scheduled drugs, and uses the same prescription form for everything. She keeps her prescription pad in her pocket at all times. Dr. Clemency stated that she discontinued using P.A.s because she doesn't want to be responsible for another person's decisions. She had another P.A. after this incident, but when he left they decided to switch to nurse practitioners. She does feel responsible for her nurse practitioner, but the difference between nurse practitioners and P.A.s is that the nurse practitioner has her own license and can write prescriptions. She takes responsibility for her own prescriptions.

Dr. Kumar indicated that under recent legislation, P.A.s can write prescriptions as well.

Dr. Clemency stated that she doesn't think that they will go back to employing P.A.s. She advised that they are happy with the nurse practitioner.

Dr. Steinbergh asked where Dr. Clemency works. She advised that she works at Dennison Ave. Medical Center, which is owned by Dr. Arnold Allenius. She further advised that she is the only physician working at that center.

**DR. BUCHAN MOVED TO RELEASE DR. CLEMENCY FROM THE TERMS OF HER CONSENT AGREEMENT. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

ADAM P. HALL, D.O.

Although scheduled, Dr. Hall did not appear before the Board this month.

RONALD C. HETMAN, D.P.M.

Dr. Hetman made his initial appearance before the Board, pursuant to the terms of his February 8, 2006 Consent Agreement. He was accompanied by his attorney, Kevin R. Kerns.

In response to Board members' questions, Dr. Hetman stated that he is doing very well. During his suspension he is doing a lot of gardening, maintenance in his building and he's been restoring Ford Mustangs with a friend. He goes to recovery, seeing continuing care on Thursday mornings. He's been attending A.A. meetings once a week, but has recently learned that the continuing care meetings don't qualify toward the three meetings a week, so he will now attend two A.A. meetings a week. Dr. Hetman advised that he does understand the terms of his consent agreement, and he is now clear of what is required of him to meet the meeting requirement. Dr. Hetman stated that he has taken measures to rectify all he has done. He has his prescription pads under lock and key, and he's the only one who knows where the key is. He's gotten an MRI for his back and is seeing a neurosurgeon. He takes Tylenol, and he tries to eliminate being on his feet as much as possible. He also uses moist heat packs. He has a herniated disc, a bulging disc, degenerative joint disease, stenosis. He will be seeing an orthopedic surgeon and a neurosurgeon. He's meeting with his family doctor next week. He added that he is a solo practitioner.

Ms. Bickers explained that aftercare meetings do not count as one of the A.A./N.A. meetings.

**DR. KUMAR MOVED TO CONTINUE DR. HETMAN UNDER THE TERMS OF HIS FEBRUARY 8, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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Mr. Kerns stated that Dr. Hetman has agreed to take a prescribing course and a medical records course. He has sent information concerning two such courses. He noted that both courses were found on the Board's website. Mr. Kerns asked whether the Board's Secretary and Supervising Member could approve those.

Board members agreed to allow the Secretary and Supervising Member to approve the courses.

MELANIE LYNNE LEU, M.D.

Dr. Leu made her initial appearance before the Board, pursuant to the terms of her February 8, 2006 Consent Agreement.

In response to Board members' questions, Dr. Leu stated that she's been seeing Aaron Billowitz, M.D., her nominee for treating psychiatrist, every two weeks since around the time she signed the consent agreement. She commented that she and he both wonder what they're doing every two weeks. Dr. Leu stated that she understands that the Board requires that, yet she's a person who's taking only one medication. There's not a lot that seems to need to be done.

Dr. Steinbergh asked whether there is any discussion about her depression, etc.

Dr. Leu stated that they talk about how that impacts both her personal life and work life. Dr. Leu stated that she has more in-depth discussions about those things with her psychologist than her psychiatrists. Her visits with the psychiatrist are relatively brief. She sees both a psychiatrist and a psychologist, as per the consent agreement.

Dr. Leu advised that her arm is in a sling because she injured her shoulder in Afghanistan, which is where she also suffered her first episode of major depression. She tore the labrum in the long head of the bicep. She had surgery on April 11, and she is currently on disability. She has been off work for one month, and will be off for an additional month. Dr. Leu stated that she is right-handed and not able to use her right arm. Dr. Leu commented that she had known that her shoulder was injured for some time, but waited until she left the military where she'd have a better chance to make her own choices about who did the surgery. She was operated on by a surgeon at the Cleveland Clinic.

Dr. Leu stated that she is employed at the Cleveland Clinic, as well. Her employment there started on December 1, 2005. When she signed her contract and agreed to join the practice, she was going to join four other doctors in a practice that is part of the Cleveland Clinic. Within a couple of weeks of the time that she was to start, all of the doctors told the Cleveland Clinic that they were actually leaving for University Hospitals of Cleveland and had been in the process of making that agreement for some time, but was only then notifying the Cleveland Clinic of that. She did not know this during her interview process, nor did the Clinic. When she began, she was the practice for a very brief period of time. Dr. Leu stated that she was very honest with the physician who employed her. She added that she had known the physician who hired her. She babysat for his children, and his son was friends with her brother. Dr. Leu stated that she thinks that that may be the only reason she was employed because at the time she was in the process of negotiating a consent agreement and being placed on probation by the Board. She's not sure

anyone else would have hired her. Dr. Leu stated that within weeks of her starting in the job, they hired other physicians, so she is now one of four physicians and one nurse practitioner.

Dr. Leu stated that it's hard with all of them being so new in the practice, but it's good in that they get to, to some extent, make the practice what they want it to be. One of the positive aspects is that they're rebuilding a practice because not only did the physicians leave, they took probably about 80% of the patients with them. They have a fairly small number of patients at this point and are rebuilding. Dr. Leu stated that this works well for her because the mistake she made, in combination with the stresses of being in the war zone and that kind of thing, was that she gave everything to medicine, to the exclusion of herself. Dr. Leu stated that she thinks that she always made excellent choice with respect to patients, other than the decision that she didn't want to live anymore, which would have left her patients without a doctor. Dr. Leu stated that she didn't do that and neglect her patients. Dr. Leu stated that she gave everything to patient care and has come to realize that she didn't just strive for excellence; she was actually seeking perfection. Therefore, she was constantly dissatisfied with her performance because perfection is impossible to achieve, and she was never meeting her goal. She was the head of the department of family medicine at the Air Force base and she sees now that she imposed those same perfectionist standards on others and they felt dissatisfied with their work because they felt that she was dissatisfied with their work.

Dr. Egner stated that it sounds that Dr. Leu has gained a lot of insight. She stated that Dr. Leu will have to remember not to fall back into that mindset as her practice grows larger.

Dr. Leu stated that she's made some decisions in an attempt to prevent herself from being a workaholic. She doesn't aspire to be a 30-patient-a-day kind of doctor. That's not who she wants to be. She feels overwhelmed at that pace. She also has two supervising physicians, one of whom is in urgent care and one of whom is in the family practice clinic, located in the same building. Dr. Leu stated that she's doing one-third urgent care because urgent care requires minimal follow-up. When the day is done, you get to leave. She indicated that she feels that one of the flaws in the medical system as it's set up in most places is that they have you do what they call 36 to 38 hours of patient care, which almost invariably ends up being longer than that. Their assumption is that you'll get two hours of administrative time to accomplish all of the other responsibilities of the job of a physician. She commented that 38 hours of patient care generates 10 to 15 hours of administrative responsibility. Dr. Leu stated that she will work part-time if she feels overwhelmed by the pace.

Dr. Leu stated that she does want to make it clear that there was no time at which she practiced bad medicine; there was no time at which someone reviewed her charts and found her to be deficient in her practice. In fact, she was admitted because they wanted to send her home on leave and she knew that she had nothing but work. If they sent her home, she wouldn't come out any better after two weeks of "vacation" from work. She had no place to go. At the time of the admission, the admitting psychiatrist asked the chief of staff to review her charts for the two to four weeks prior to that and said that she was at or above the standards of the other physicians.

Dr. Egner stated that the Board knows that quality of care is not the issue.

Dr. Leu stated that she feels like a criminal in this situation.

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Dr. Egner stated that Dr. Leu has been here on a day when the Board has heard some really difficult and bad cases, and it's not always like this. The Board doesn't put everyone into the same pot.

Dr. Talmage asked when Dr. Leu entered the military system.

Dr. Leu stated that she entered the military system immediately after completion of residency. All of her medical training and residency was civilian. She went to Case Western Reserve for medical school and then to Ohio State for her residency. She then entered the military and spent just under six years practicing medicine in the military. She was medically discharged from the military due to major depression. Therefore, she's not even eligible to return to the military.

Dr. Egner left the meeting at this time.

**DR. KUMAR MOVED TO CONTINUE DR. LEU UNDER THE TERMS OF FEBRUARY 8, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. KUMAR FURTHER MOVED TO APPROVE DR. BILLOWITZ TO SERVE AS DR. LEU'S TREATING PSYCHIATRIST. 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
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Steinbergh	- aye

The motion carried.

#### LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

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

Dr. Robbins noted that there are a couple Probationary Requests where the Secretary and Supervising Member recommendations differ from the request made.

**DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF**

**CONFERENCES ON MARCH 6 & 7, 2006 WITH: MARK L. ALLEN, M.D.; MARK D. BALDWIN, D.O.; ROBERT A. BERKMAN, M.D.; BRIGHTWELL, D.O.; JASON V. CHURCH, M.D.; ALLAN W. CLARK, M.D.; RICHARD G. DAY, M.D.; PAUL E. DUNCAN, M.D.; JAMES E. FLEMING, M.D.; MICHAEL SHANE GAINEY, M.D.; STEPHEN R. GIORDANO, D.O.; DARRELL A. HALL, M.D.; RYAN P. HANSON, M.D.; TERRENCE F. MCCOY, M.D.; BRUCE JEFFREY MERKIN, M.D.; JEFFREY VAUGHN MEYER, M.D.; FRANCINE R. MOSLEY, M.D.; MICHAEL J. O'BRIEN, D.O.; JOHN RUSSELL OGDEN, M.D.; THOMAS R. PICKETT, P.A.; NYKOLAI VASIL PIDHORODECKYJ, M.D.; ROBERT S. REEVES, JR., M.D.; MARK ALLEN RENZ, M.D.; LEROY P. RISE, M.D.; TOM R. STARR, M.D.; SCOTT THOMAS STEWART, P.A.; JAMES E. STURMI, M.D.; GARY W. WALTZ, M.D.; AND JEFFREY W. WINHOLT, M.D.; DR. STEINBERGH FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:**

- **TO APPROVE MARK E. BLAIR, M.D.'S REQUESTS FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS, AND A REDUCTION IN HIS PSYCHIATRIC SESSIONS REQUIREMENT TO EVERY 6 MONTHS ;**
- **TO REDUCE FRANK R. BRUENING, M.D. 'S APPEARANCE SCHEDULE TO EVERY SIX MONTHS, TO REDUCE HIS COUNSELING SESSIONS TO EVERY FOUR WEEKS; AND TO DENY DR. BRUENING'S REQUEST TO REDUCE HIS PSYCHIATRIC SESSIONS REQUIREMENT;**
- **TO APPROVE MABBU GAJAPATHY SHIVA PRASAD, M.D., TO SERVE AS PAUL CLAASSEN, D.O.'S SUPERVISING PHYSICIAN;**
- **TO APPROVE KEVIN R. CLARK, M.D.'S PROPOSED PRACTICE PLAN AS A PRIMARY CARE PHYSICIAN IN A GROUP PRACTICE SETTING IN AN UNDERSERVED SECTION OF CLEVELAND, OH. FURTHER MOVED TO APPROVE GREGORY L. HALL, M.D. TO SERVE AS DR. CLARK'S MONITORING PHYSICIAN WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO APPROVE RUTH ANN COOPER, D.P.M. TO SERVE AS LESLIE R. (WOLF) DYE, M.D.'S NEW MONITORING PHYSICIAN;**
- **TO APPROVE NORMAN I. HIRSCH, D.O.'S PROPOSED PLAN TO PROVIDE 100 HOURS OF COMMUNITY SERVICE AT THE JEWISH FAMILY SERVICE OF CINCINNATI, IN FULFILLMENT OF PARAGRAPH 2.D., OF HIS CONSENT AGREEMENT OF JUNE 1, 2002;**
- **TO APPROVE RALPH A. HUGUNIN, M.D.'S REQUEST FOR APPROVAL OF CASE WESERN RESERVE UNIVERSITY'S INTENSIVE COURSE IN CONTROLLED SUBSTANCE MANAGEMENT, AS FULFILLING PARAGRAPH B.4. OF THE BOARD'S**

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**ORDER OF AUGUST 10, 2005;**

- **TO APPROVE JAMES W. BEAN, M.D., TO SERVE AS KEVIN DALE MCKEE, D.O.'S MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH;**
- **TO APPROVE WILLIAM O. MURTAGH, JR., M.D.'S REQUESTS FOR: A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS, A REDUCTION IN DRUG SCREENS TO 2 PER MONTH; AND A REDUCTION IN PSYCHIATRIC SESSIONS TO ONE PER MONTH;**
- **TO APPROVE BRUCE S. WORRELL, D.O.'S REQUESTS FOR: A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS; A REDUCTION IN DRUG SCREENS TO 2 PER MONTH; TO INCREASE HIS WORK HOURS TO 50 HOURS PER WEEK; AND TO DISCONTINUE MARRIAGE COUNSELING SESSIONS;**

**DR. STEINBERGH FURTHER MOVED TO APPROVE FOR LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, THE PHYSICIAN APPLICANTS LISTED IN EXHIBIT "A", THE P.A. APPLICANTS LISTED IN EXHIBIT "B", THE P.A. UTILIZATION PLANS SUBMITTED BY THE FOLLOWING: RAJESH AGARWAL, M.D.; SUBHASH KUMAR, M.D.; STRIEBEL FAMILY PRACTICE; WAKEMAN AREA FAMILY CARE CENTERS, INC.; AND SHELDEN WICAL, D.O.; AND THE ACUPUNCTURIST APPLICANTS LISTED IN EXHIBIT "C". DR. KUMAR SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

**REINSTATEMENT REQUESTS**

**STEVE AMOILS, M.D.**

Dr. Amoils' request for reinstatement of his license, which was suspended by consent agreement of November 9, 2005, was presented to the Board for consideration at this time.

Dr. Steinbergh noted that the agreement requires Dr. Amoils to submit "a written report describing the

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ethics course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.” She asked that Board members be provided with a copy of this report, and all such written reports submitted by probationers.

**DR. STEINBERGH MOVED THAT THE APPLICATION FOR THE REINSTATEMENT OF THE LICENSE OF STEVE AMOILS, M.D., TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO BE APPROVED, EFFECTIVE MAY 9, 2006, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED IN THE NOVEMBER 9, 2005 CONSENT AGREEMENT. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### REPORTS BY ASSIGNED COMMITTEES

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

Dr. Davidson reported that Ms. Wehrle has worked up a draft newsletter. They hope to send it to the printer soon, for publishing in June. She commented that the draft is 24 pages longer, 18 of which are disciplinary actions taken by the Board. Dr. Davidson thanked Dr. Robbins and Dr. Talmage for submitting articles.

##### LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Browning referred Board members to the Legislative Report, a copy of which shall be maintained in the exhibits section of this journal. He stated that there are four bills of top priority for the Board. H.B. 516, Medical Board Complaints, is a proposal to shorten the timeframe for review of all cases for two years. This bill is partially in response to a longstanding and serious case that is now closed. Mr. Browning stated that the Board needs to take this bill seriously. Mr. Whitehouse and Mr. Miller will be meeting with the bill’s sponsor, Representative White, in the next ten days or so to explain the process, explain that not all cases are treated in the same way, and that priorities are set consistent with the gravity of the situation.

Dr. Kumar offered to accompany Mr. Whitehouse and Mr. Miller to Representative White’s office. He stated that he knows Mr. White well.

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Mr. Browning stated that there is a new substitute bill for H.B. 117, Alternative Complementary Medicine. He stated that the sponsor is Linda Reidelbach. The bill raises concerns about medical standards, what is legitimate medicine, and what isn't. The Committee is communicating accordingly. Mr. Browning stated that he does not believe that this bill will pass this year. He noted that there are legitimate concerns about this legislation. However, the Board does need to be vigilant.

S.B. 246, Chiropractic Acupuncture – The bill allows chiropractors to perform acupuncture within limits. Mr. Browning stated that he thinks that a consensus can be reached as far as not opposing this bill if it's done in the right way.

Mr. Browning stated that the last bill of concern is H.B. 522, Surgical Anesthesia. The second hearing on the bill is scheduled for May 11. There has been no activity on this bill since April.

Dr. Talmage asked whether, concerning S.B. 246, there is a consensus that 200 hours of training will be adequate.

Mr. Browning stated that the original bill required 300 hours of training. He asked Dr. Talmage whether he had an opinion on that.

Dr. Talmage stated that he doesn't know.

Mr. Browning stated that the chiropractors are saying that they have relevant expertise and shouldn't be required to have as high a number of hours.

Dr. Varyani stated that a school in San Francisco requires 200 hours of training for graduation. He indicated that he felt this was sufficient.

#### LICENSURE COMMITTEE

Dr. Robbins stated that the Committee reviewed a number of applications and requests.

#### Praveen Menon, M.D.

Dr. Robbins advised that Dr. Menon is applying for a full license, and has requested a waiver of the U.S.M.L.E. seven-year rule. Dr. Menon is over the seven-year time limit by two years and five months. He passed all Steps on his first attempt. Dr. Robbins stated that Dr. Menon trained in the United Kingdom from November 1996 until September 2003, at which time he immigrated to the United States.

Dr. Robbins stated that although the Committee had quite a discussion about Dr. Menon's excellent training, it still felt that the Board should deny the waiver since he missed the deadline by the extended amount of time that he did.

Dr. Talmage asked whether there was a reason it was so long between his sitting for Step 2 and Step 3.

Dr. Robbins stated that he indicated that he was unable to get a visa for a number of years.

Dr. Kumar stated that that is a problem, and he's addressed it before. In order to take Step 3 you need a visa to come to the United States. The visa process is a long, arduous process, and you won't get a visa just to come and take the CSA. That does create a problem. Many times you have to wait years to get approved for a visa.

Dr. Talmage asked whether that is the case if someone is only coming over for four days.

Dr. Kumar stated that it is. He stated that they're not going to grant a visitor's visa. You have to be able to get a visa somehow or another, having a family member here that can sponsor the person in some fashion. It's an arduous process. That delays them coming over here, and half the time when they get here they don't even know that they have to do it within so many years. It's a problem.

Dr. Steinbergh suggested asking for some documentation from Dr. Menon on why he couldn't take the exam. She stated that she doesn't know whether he did submit anything.

Dr. Robbins stated that he said that he applied initially in 1993, 1994 and 1995, was rejected, and then went to train in cardiothoracic surgery in India and the U.K. He reapplied for a visa and was accepted in February 2001. Dr. Robbins stated that the Board doesn't know whether he continually asked for a visa between 1995 and 2001.

Dr. Kumar stated that at that time he was in London, training in cardiothoracic surgery. Dr. Kumar commented that a lot of people do that when they can't get a visa. It's easier to go the U.K. because there is no visa requirement, essentially. People go to study there and keep looking for a way to come to the United States.

Dr. Talmage asked whether Dr. Menon is currently on a training visa only or an immigration visa.

Dr. Kumar stated that he's probably on some kind of J-1 visa or something. He stated that the reasons for Dr. Menon not doing the sequence within the seven years are beyond his control in many aspects. It's not that he was sitting on it.

Dr. Buchan stated that the Board doesn't know that. He did not make a compelling case that the Board should extend the seven-year rule. Unless he presents compelling information, the Board is just spending its time without facts. He suggested that the Board approve the Committee's recommendation and deny the waiver.

**DR. BUCHAN MOVED TO DENY DR. MENON'S REQUEST FOR A WAIVER OF THE SEVEN-YEAR RULE.**

Ms. Thompson reminded the Board that a denial will trigger hearing rights. Then Dr. Menon could bring documentation showing how long it took him to get a visa to come to the United States.

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

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

The motion carried.

Imran S. Chaudhry, M.D.

Dr. Robbins advised that Dr. Chaudhry has also requested a waiver of the U.S.M.L.E. seven-year rule. Dr. Chaudhry is over the seven-year limit by three months. He passed Steps 1 and 2 on the first attempt, and Step 3 on the second attempt. Dr. Robbins stated that Dr. Chaudhry indicates that he wasn't able to take the exam within the seven years because when he migrated to Canada with his parents and had multiple family issues adjusting to a new country, keeping him away from educational activities. When he did take it, he failed U.S.M.L.E. 3 on the first attempt, which would have been within the seven years. He then passed on the second attempt, three months beyond the seven years.

Dr. Robbins stated that the Committee was split down the middle on this application.

**DR. STEINBERGH MOVED TO GRANT DR. CHAUDHRY A WAIVER OF THE SEVEN-YEAR RULE. MR. BROWNING SECONDED THE MOTION.**

Dr. Kumar asked what the Committee discussion involved.

Dr. Robbins stated that the discussion was that a rule is a rule. Some members didn't like Dr. Chaudhry's excuse. Those who voted against the exemption felt that he did not have a good reason to not have completed the sequence within seven years. The others felt that it was close to completing it within the time limits.

Dr. Buchan stated that if you don't pass the exam sequence within seven years, you have to take it again.

Dr. Talmage stated that that's correct.

Mr. Albert stated that it's the rule.

Dr. Buchan stated that he doesn't know how else to assess this. "Good cause" means matters of health. He

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stated that he's interested in exercising compassion when he can, but applicants know, or should know, that they have seven years to complete the sequence. If the Board continues to be ambivalent on the matter, it's going to continue to have this discussion month after month.

Mr. Browning stated that the Board has made judgments about this. The Board could do this today and be consistent with the judgments of the past. The Board has a window of seven to ten years, where it uses discretion for people who go over seven. The ten is only there because the M.D./Ph.D. applicants get ten years. Mr. Browning suggested that the Board might consider a tiered system. If you completed the sequence somewhere in between seven and eight years, and you meet certain standards, the Board will use its discretion and may allow it. Beyond that, the odds of the Board's granting the waiver are next to zero, because it's just too far out. The staff could look at the pattern to see where the Board is with that, and to see if most of the judgments the Board has made have been between seven and eight years.

Mr. Browning stated that his question on this application was whether or not the Board is adding any value from a public protection and standards perspective by denying the request for a waiver. Is the Board getting anything out of a denial? He stated that his read is that it isn't. It's making somebody retake the exams because a rule is a rule. Yet, the Board has used its discretion repeatedly in cases like this. The Board should do so, and it should make these decisions on a case-by-case basis.

Dr. Steinbergh stated that, had he passed Step 3 the first time he took it, he would have finished within the seven years. He passed the second time, and it's only three months. Dr. Steinbergh stated that she can't see a reason to deny this request.

Dr. Buchan stated that the Board has set a standard. He added that there's not a matter of health involved, and he doesn't find good cause in his not meeting the deadline.

Dr. Steinbergh stated that Dr. Chaudhry went from failing the examination with a score of 72 to passing it with a score of 81 three months later.

Dr. Talmage stated that society is built on limits. If you don't pay your taxes on time, you're in trouble. That's the way life is.

Dr. Robbins stated that he agrees with Dr. Buchan on this matter. He was not compelled by this physician's request or why he needed extra time to do this. If he passed Step 3 on the first time, the Board wouldn't be discussing it. Granted, he passed it on the second time, but he didn't give the Board a significant or compelling reason why he couldn't have done it within seven years. Dr. Robbins stated that a rule's a rule. The worst that will happen is that Dr. Chaudhry will take the first two steps again and hopefully pass them. Dr. Robbins commented that the Committee was split right down the middle on this case.

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

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

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

The motion failed.

**MR. ALBERT MOVED TO DENY DR. CHAUDHRY'S REQUEST FOR A WAIVER OF THE SEVEN-YEAR RULE. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Robbins advised that the Committee also reviewed two requests for special accommodations under the A.D.A. for the June 2006 massage therapy examination. He stated that both applicants are visually impaired and legitimately need the accommodations requested.

**DR. STEINBERGH MOVED TO APPROVE: KRISTINE SMITH'S REQUEST FOR EXTENDED TESTING TIME OF TIME AND A HALF, AN ENLARGED PRINT EXAMINATION PACKET AND A SEPARATE TESTING AREA; AND JAMISA H. VIBBARD'S REQUEST FOR A TAPED EXAMINATION, EXTENDED TESTING TIME OF TIME AND A HALF, AN ENLARGED PRINT EXAMINATION PACKET AND A SEPARATE TESTING AREA. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

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Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Steinbergh	- aye

The motion carried.

QUALITY ASSURANCE COMMITTEE

In Dr. Egner's absence, Ms. Wehrle advised that the Committee reviewed the list of complaints closed by the Secretary and Supervising Member and found all to have been closed appropriately.

LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed two requests for certificates of good standing, and recommends approval of both.

**DR. BUCHAN MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO: BOULDER COLLEGE OF MASSAGE THERAPY AND TO SOUTHEASTERN SCHOOL OF ELECTROLOGY. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Dr. Buchan stated that the Committee would also like to recommend an appointment to the Massage Therapy Advisory Committee (MTAC).

**DR. BUCHAN MOVED TO APPOINT JEANNE DEMONTAGNAC-HALL, M.T., TO THE MTAC. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

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

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Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Buchan continued that, should Ms. deMontagnac-Hall be unable to serve, the Committee recommends approval of Monique Moore Gibson, M.T. as the alternate.

**MR. BROWNING MOVED TO APPOINT MS. GIBSON TO THE MTAC, SHOULD MS. DEMONTAGNAC-HALL BE UNABLE TO ACCEPT THE APPOINTMENT. DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### MINIMAL STANDARDS OF CARE COMMITTEE

At this time Dr. Kumar reviewed Proposed Rules 4731-26 and 4731-27, noting the amendments made to the original draft.

**DR. TALMAGE MOVED TO INSTRUCT STAFF TO FILE THE PROPOSED RULES AND TO PROCEED TO RULES HEARING ON PROPOSED RULE 4731-26. DR. BUCHAN SECONDED THE MOTION.** A vote was taken:

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

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The motion carried.

**DR. BUCHAN MOVED TO INSTRUCT STAFF TO FILE THE PROPOSED RULES AND TO PROCEED TO RULES HEARING ON PROPOSED RULE 4731-27. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

P.A. COMMITTEE

Ms. Sloan stated that the Committee reviewed a number of supplemental plans.

Vascular & Endovascular Specialists of Ohio

Ms. Sloan advised that the Committee reviewed the above-captioned group's request for its P.A.s to perform the instillation of pharmacological agents for the purpose of treating sclerosis of varicose veins. Ms. Sloan advised that the Board has approved this procedure for other groups, and the Committee recommends approval of this request.

**DR. KUMAR MOVED TO GRANT VASCULAR & ENDOVASCULAR SPECIALISTS OF OHIO'S REQUEST FOR ITS P.A.S TO PERFORM THE INSTILLATION OF PHARMACOLOGICAL AGENTS FOR THE PURPOSE OF TREATING SCLEROSIS OF VARICOSE VEINS IN AN OFFICE SETTING, UTILIZING 100% ONSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM NO LESS THAN 25 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM NO LESS THAN 25 PROCEDURES TO DETERMINE COMPETENCY. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

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Ms. Sloan - aye  
 Dr. Davidson - aye  
 Dr. Steinbergh - aye

The motion carried.

Joyesh Raj, M.D.

Ms. Sloan advised that the Committee reviewed Dr. Raj's request for his P.A. to perform Restylane injections and botox injections for cosmetic purposes in his office. The Committee recommends denial because of the complications that might arise from the procedure if done incorrectly.

**DR. DAVIDSON MOVED TO DENY DR. RAJ'S REQUEST FOR HIS P.A. TO PERFORM RESTYLANE INJECTIONS AND BOTOX INJECTIONS FOR COSMETIC PURPOSES, ON THE BASIS THAT THERE IS A HIGH RISK OF COMPLICATIONS IF DONE INCORRECTLY. MR. BROWNING SECONDED THE MOTION.** A vote was taken:

Vote:

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

The motion carried.

Timeless Skin Solutions

Ms. Sloan advised that the Committee reviewed the group's request for its P.A.s to: use blue and infrared light for acne and deep tissue heating; use intense pulse light to remove unwanted hyperpigmentation and vascularity use of 1064 laser for vein removal. The Committee recommends denial as this procedure is prohibited by Board rule.

**DR. TALMAGE MOVED TO DENY TIMELESS SKIN SOLUTIONS' REQUEST FOR ITS P.A.S TO: USE BLUE AND INFRARED LIGHT FOR ACNE AND DEEP TISSUE HEATING; USE INTENSE PULSE LIGHT TO REMOVE UNWANTED HYPERPIGMENTATION AND VASCULARITY; AND USE OF 1064 LASER FOR VEIN REMOVAL ON THE BASIS THAT THE PROCEDURES ARE PROHIBITED BY RULE. DR. KUMAR SECONDED THE MOTION.**

A vote was taken:

Vote:

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

The motion carried.

### Reproductive Gynecology

Ms. Sloan stated that the Committee reviewed Reproductive Gynecology's requests for its P.A.s to perform transvaginal/pelvic ultrasound and intrauterine insemination. Ms. Sloan advised that the Committee tabled the first request in order to obtain clarification. Concerning the second request, the Committee recommends approval.

**DR. TALMAGE MOVED TO APPROVE REPRODUCTIVE GYNECOLOGY'S REQUEST FOR ITS P.A.S TO PERFORM INTRAUTERINE INSEMINATION, IN AN OFFICE SETTING, UTILIZING 90% ONSITE, 8% OFFSITE, AND 2% DIRECT SUPERVISION, WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM 5 PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM NO LESS THAN 25 PROCEDURES TO DETERMINE COMPETENCY. DR. KUMAR SECONDED THE MOTION. A vote was taken:**

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

The motion carried.

Ms. Sloan stated that the Committee also reviewed the Licensure Staff's request for permission to eliminate the requirement to send letters of approval for supervision agreements. Instead, verification can be done on the Board's website.

Ms. Rieve advised that the new P.A. statute no longer requires written notification of a supervision agreement.

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**MR. BROWNING MOVED TO DISCONTINUE THE REQUIREMENT OF SENDING LETTERS OF APPROVAL FOR SUPERVISION AGREEMENTS. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

Ms. Sloan advised that the Committee also reviewed various P.A. application forms that were revised pursuant to the new P.A. statutes. The Committee did make some recommendations for minor alterations.

Ms. Rieve asked that the Board approve the use of these forms, contingent upon the Committee changes being made, so that staff can begin using them when the P.A. statute goes into effect on May 17.

Ms. Sloan stated that one thing about the application is that they will have to be changed again because of rules that will be required. There will be major changes made in the future.

**MR. BROWNING MOVED TO APPROVE, CONTINGENT ON COMMITTEE RECOMMENDATIONS BEING IMPLEMENTED, THE FOLLOWING REVISED P.A. FORMS: THE P.A. SUPERIVSION AGREEMENT APPLICATION; THE ADDENDUM TO THE P.A. SUPERVISION AGREEMENT APPLICATION; THE PHYSICIAN SUPERVISORY PLAN APPLICATION; AND THE ALTERNATE SUPERVISING PHYSICIAN APPLICATION. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

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Ms. Sloan stated that the Licensure staff has also requested that the Board delegate the approval of standard supervisory plans to the staff.

Ms. Rieve stated that the Board in the past has questioned the need for the Board to see these.

Mr. Browning agreed, stating that, as long as the plan is consistent with the Board's criteria, the Board staff could do the administrative work.

**MR. BROWNING MOVED TO DELEGATE THE APPROVAL OF STANDARD SUPERVISORY PLANS TO THE BOARD STAFF. DR. DAVIDSON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

#### SCOPE OF PRACTICE COMMITTEE.

Dr. Steinbergh stated that the Committee did not meet this month.

#### ADMINISTRATIVE REPORT

At this time Ms. Pfeiffer introduced Steven C. McGann, who will pick up Ms. Berrien's pending cases. She advised that Mr. McGann is a 2002 graduate of Capital University Law School, and has worked for the Attorney General for just over three years. She noted that Mr. McGann will have clients other than the Medical Board, as does she. She added that he had done some work for the Medical Board, and is also assigned to the Department of Health and the Occupational Therapy, Physical Therapy and Athletic Trainer's Board.

Mr. Browning left the meeting at this time.

At this time Ms. Wehrle reviewed the Federation's Annual Report of Disciplinary Actions and Public Citizen's Board Action Reports for the year 2005. She noted that in the Citizen Action Report, the Board is number four overall, but number one among states with more than 15,000 licensees. Copies of the reports can be found in the Administrative Report, a copy of which shall be maintained in the exhibits section of this journal.

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Mr. Albert recommended that this information be provided to the House, the Senate and the press. He noted that *The Columbus Dispatch* did print an editorial after one such press release that was very complimentary to the Board.

At this time Gary Holben, Administrator, Fiscal, Human Resources & Information Technology, joined the meeting.

Dr. Robbins suggested that, instead of Mr. Holben going through the specifics of his report, Board members ask questions about those materials.

Dr. Kumar noted that the Board's audit will begin on May 15. He asked whether all the areas faulted in the previous audit have been corrected.

Mr. Holben stated that they have been.

Dr. Varyani stated that he only saw Mr. Holben's report the previous day and has not had the opportunity to review it.

Mr. Browning advised that it would be helpful if the Board had a summary statement, and not just a printout with numbers, on the current status of the budget issues. He noted that there were ten different attachments. It would have been helpful to have one that basically gave an executive summary level analysis of where the Board is, as opposed to just the charts.

Mr. Holben stated that what he had planned on doing on a monthly basis is a distilled version of what all the charts were. It's entitled "FY 2006 Allotment vs. Actual Spending." That's the distilled version.

Mr. Browning stated that just gets it to where he is relative to his allocations here today. It doesn't get to the fiscally related management and operational issues. Is the Board on track? The summary helps, but there are other issues.

Mr. Whitehouse stated that Ms. Sloan has provided a template that she uses that deals essentially with that. It tracks on a monthly basis, shows line by line what's taken place and allows the Board the opportunity to look at trends or events. He stated that he and Mr. Holben will work on moving toward using that.

Ms. Sloan stated that, basically, it compares month to month and from month to year from the previous year, so the Board can see the differences. Also, she told Mr. Whitehouse and Mr. Holben that it's not only that piece of paper that you get in your hand, but you get a narrative as to what all of those numbers actually mean. Ms. Sloan stated that she gave this information to Mr. Whitehouse and Mr. Holben today because she couldn't get it to them earlier. She stated that if they have any questions, she'll be glad to work with them.

Dr. Varyani asked whether the Board wants monthly or quarterly operating reports.

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Dr. Robbins stated that he would like it to be to the Executive Committee and not the full Board.

Mr. Browning asked Mr. Holben if the Board is on track fiscally.

Mr. Holben stated that it is. He added that the Board will finish out without a problem with its level of appropriation. He does think that the Board needs to go back to the Controlling Board on three items: The approximate cost of \$150,000 to move; increased rent; and four additional staff persons. As it looks now, the Board will be moving in March/April 2007.

Mr. Browning asked when Mr. Holben would go to the Controlling Board.

Mr. Holben stated that political timing is important. He thinks that shortly after the July timeframe would be more appropriate than the fall or the beginning of the new administration.

Mr. Albert agreed with going before the election.

Mr. Holben suggested that it would be hard to turn the Board down for the \$150,000 move.

Mr. Browning asked whether going in July for the four positions is consistent with the message that the Board got.

Mr. Holben stated that it's the exact message that the Board got from OBM. Referring back to his charts, Mr. Holben noted that the Board will have to address raising licensing fees in 2010.

Mr. Whitehouse stated that he and Mr. Holben have had two preliminary meetings with the auditors, who are going to begin the audit on May 15 and will stay for three weeks. He asked whether the Board will have the results by the next meeting.

Mr. Holben stated that it wouldn't, but they should have a sense of the auditor's concerns.

Mr. Whitehouse reported on the progress being made in writing the position descriptions for the additional employees already approved by OBM. He then referred the Board to his written report, a copy of which shall be maintained in the exhibits section of this journal. .

## PRESIDENT'S REPORT

Dr. Robbins advised that he has made the following appointments to the P.A. Policy Committee: Robert W. Zaayer, Jr., P.A.-C (two-year term); Michael W. Bowen, M.A., R.N., P.A.-C. (one-year term); David Ballinger, PA-C (two-year term); Eugene Imbrogno, M.D., M.P.H. (one-year term); John M. Jonesco, D.O. (two-year term); Anquetette Sloan (one-year term); Lance A. Talmage, M.D. (two-year term); Kevin J. Mitchell, R.Ph. (two-year term); and Debra L. Parker, Pharm.D., CACP (one-year term).

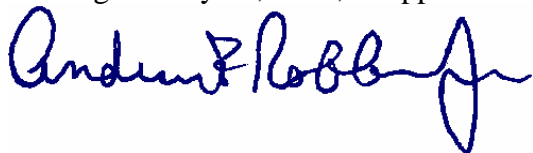
**DR. DAVIDSON MOVED TO ADJOURN. DR. KUMAR SECONDED THE MOTION.** All members voted aye. The motion carried.

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Thereupon at 5:17 p.m. the May 10, 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 May 10, 2006, as approved on June 14, 2006.



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



Lance A. Talmage, M.D., Secretary

(SEAL)

