

September 13, 2006

MINUTES

THE STATE MEDICAL BOARD OF OHIO

September 13, 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 #1960, with the following members present: Deepak Kumar, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Nandlal Varyani, M.D.; David S. Buchan, D.P.M.; Anquetette Sloan; Patricia J. Davidson, M.D.; Dalsukh Madia, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Carol L. Egner, M.D.; and 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; William J. Schmidt, Staff Attorney, Enforcement, Compliance & Investigations; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, David P. Katko, Karen H. Mortland, Kathleen S. Peterson, Angela Scott, Charles A. Woodbeck and Lynn Zondorak, Enforcement Attorneys; Damion M. Clifford, Steven C. McGann and Barbara J. Pfeiffer, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant.

MINUTES REVIEW

MR. ALBERT MOVED TO APPROVE THE MINUTES OF AUGUST 9-10, 2006.

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

The motion carried.

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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. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Revised Code, the Board went into executive session at 1:03 p.m. The Board came out of executive session at 1:58 p.m., with all members present, including Dr. Egner and Mr. Browning, who joined the meeting during the executive session.

The following joined the meeting after the executive session: Patricia A. Davidson, Acting Chief Hearing Examiner; R. Gregory Porter and Gretchen Petrucci, Hearing Examiners.

At this time Mr. Whitehouse announced that Mr. Woodbeck was attending his last Board meeting as he is retiring at the end of the month. Prior to joining the Medical Board staff, Mr. Woodbeck rose to the rank of full colonel in the U.S. Army. Mr. Woodbeck received a number of citations, including those for meritorious service, valor and the Bronze Star. Mr. Woodbeck has been with the Board for fourteen years. Mr. Whitehouse stated that in the months that he has had the privilege of working with Mr. Woodbeck, Mr. Woodbeck has been very generous in sharing his wisdom. Mr. Whitehouse thanked Mr. Woodbeck for his service to the State of Ohio.

The Board members recognized Mr. Woodbeck with applause.

Mr. Woodbeck advised that most of the time he's been with the Board, he's dealt with the other 49 states and several foreign countries. Mr. Woodbeck stated that he doesn't think that the Board recognizes how well thought of its decisions are by the other states, and at least one foreign country where a Board decision got into that country's court system. Mr. Woodbeck stated that this is a wonderful thing for the State of Ohio, and he knows that the people of Ohio are very well served by this Board. The Board does great work that is recognized around the country.

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The Board members expressed their gratitude for Mr. Woodbeck's remarks.

Mr. Whitehouse at this time introduced Gretchen Petrucci, the Board's new Hearing Examiner. Ms. Petrucci previously worked for the Public Utilities Commission of Ohio.

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: Gerald Anthony Coniglio, M.D.; Souhail A. El-Asfour, M.D.; Suzanne A. Haritatos, D.P.M.; Randall Don LeuVoy, D.O.; and Terri Lynne Savage, 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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

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

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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

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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.

GERALD ANTHONY CONIGLIO, M.D.

Dr. Robbins directed the Board's attention to the matter of Gerald Anthony Coniglio, M.D. He advised that objections were filed to Hearing Examiner Porter'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. Coniglio. Five minutes would be allowed for that address.

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

Mr. Byers stated that objections were filed and he trusts that the Board members have had a chance to study those, as well as the full record. He stated that he would like to make one correction. He noted that in his objections he'd referenced the Michigan sanction, which is also a bootstrap of the Nevada denial. He explained that he had erroneously said in his objections that Dr. Coniglio was in the midst of resolving that Michigan citation by accepting a \$250 fine and a reprimand. The Michigan action has now been completely resolved, but it does not involve a reprimand. It was a straight \$250 administrative fine.

Mr. Byers stated that it is critical for the Board to realize that this is not a standard-of-care case, which is what it looks like when you cut to the chase and look at the Board Order. It is not that kind of a case; there is no evidence of minimal standards of care violations. It's an incorporation of statements that the Nevada Board made, based on something, when denying a Nevada license. The matter before this Board is purely a reciprocal action because of another state's adverse action.

Mr. Byers stated that if the Board is concerned about Dr. Coniglio's present standard of care and the standard of care he's practiced with and through for the last six years in New York, there's evidence in the record, via Respondent's exhibits (B), (C) and (D) from practitioners who work side-by-side with him every day, and they have no concerns about his history. He has not tried to deceive anybody at any point in time. There are no (B)(5) allegations here. This is just straight and simple reciprocity, based upon Nevada's denial, and what is appropriate for Ohio to do.

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Dr. Coniglio thanked the Board members for allowing him to address them today. He stated that he believes this matter started in the early 1990s when he was practicing medicine and orthopedic surgery in North Carolina. At that time he became convinced that spine fusions were often overdone and didn't help patients. He'd seen a lot of failed spine surgeries in his practice by a lot of practitioners, and he'd studied the issue for a long time and done fellowship training. He determined in his own mind and in his own opinion that spine fusion is not a good thing to commonly do. Dr. Coniglio stated that he took that practice tack and incorporated it into his overall medical and orthopedic philosophy, in which he always tries to do the least he can do to help the patient the most. He stated that he's always been a conservative, thoughtful, studious practitioner of orthopedic surgery. However, his opinion unfortunately engendered some conflict within the orthopedic community in which he practiced. Subsequent to that he got recruited to take another position in Michigan. He went back to Michigan because he'd done his residency there. After he got back to Michigan, he was sued in North Carolina by one attorney on one day, representing several persons, all of whom were doing fine when he left. The cases went through the discovery procedures for the next three or four years. His counsel had several witnesses lined up to support him, but the malpractice insurance carrier decided that it wanted to settle cases after he had obtained a personal attorney. The malpractice insurance carrier took them out to lunch and actually apologized to him and his attorney about the matter but said that it was expedient to settle the cases. They were able to do that without his consent and with no admission of guilt.

Dr. Coniglio stated that he thought that the matter was pretty much over with at that time. Subsequent to that, in 2000, he went back to New York State to take care of an elderly mother, and at that time he got recruited by the hospital in which he works at this time. Since then he seems to have done fine. He has no issues whatsoever. He's never lost staff privileges anywhere. He's never had a restriction of medical staff privileges. He was elected chief of surgery in January 2006 at the institution in which he currently practices. He's considered a good practitioner. Dr. Coniglio stated that recently, however, his wife told him that she would like to go out west after retirement, and so he applied for a license in Nevada. Nevada denied him a license. He stated that he assumes that the denial was based on the number of malpractice settlements. Dr. Coniglio stated that these cases have also been reviewed by independent practitioners, and no violations of standard of care were found. Dr. Coniglio commented that this was a matter that he thought had been put to rest several years ago.

Dr. Coniglio continued that, after Nevada denied his licensure application, the Ohio administrative action arose. He stated that he is very sorry about it, and added that all he can ask the Board for is a fair, reasonable and objective analysis of the situation and a reasonable conclusion. He again thanked the Board for allowing him to speak.

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

Mr. Clifford stated that Mr. Byers is correct in his analysis that this is a (B)(22) action rather than a (B)(6), but he thinks that the focus needs to be on the reason there was a denial by the Nevada Board, that it was due to the excessive number of malpractice claims, and a continued pattern of receiving adverse reports from nearly every facility in which Dr. Coniglio practiced. There were 14 malpractice cases. Ten by an attorney in North Carolina, and three others in other states in which Dr. Coniglio practiced. It is a

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bootstrap, and the focus is that there was a denial of a license. Mr. Clifford stressed, however, that the reason there was a denial of a license in Nevada was because of the malpractice cases and because of interpersonal issues. Mr. Clifford stated that the Board has the ability to impose the restriction proposed by the Hearing Examiner. He stated that he thinks that the proposed order is valid, if Dr. Coniglio wants to come to Ohio and practice, that the Board makes sure that the public in the State of Ohio is protected.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF GERALD ANTHONY CONIGLIO, M.D. DR. KUMAR SECONDED THE MOTION.

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

Dr. Kumar stated that he thinks that the case has been presented very well in the sense that it is a bootstrap action, but the Board still has to realistically protect the citizens of the State of Ohio to make certain that, whatever the reason for the malpractice cases, there was some problem. Beyond that, there were three other cases in a short period of time. They were all settled. Dr. Kumar stated that he has a problem with taking no action against Dr. Coniglio; however, the way this Report and Recommendation is written, the Proposed Order does limit the license and requires Dr. Coniglio to develop a practice plan. The Proposed Order is missing one important component in that it does not in any way take into account Dr. Coniglio's malpractice cases. Dr. Kumar stated that he's asked staff to draft a small amendment to the existing Report and Recommendation.

DR. KUMAR MOVED TO MODIFY THE PROPOSED ORDER AS FOLLOWS: TO AMEND PARAGRAPH A.2.b. TO READ AS FOLLOWS:

- b. **Notify Board in Writing:** Dr. Coniglio shall notify the Board in writing that he intends to commence practice in Ohio. At the time that Dr. Coniglio provides such notification, he shall also notify the Board in writing of any written claims that have been filed against him with any entity providing professional liability insurance or indemnification or that have been resolved since June 4, 2005.

DR. KUMAR FURTHER MOVED TO AMEND PARAGRAPH B.2. TO READ AS FOLLOWS:

2. **Declarations of Compliance:** Dr. Coniglio 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. Dr. Coniglio shall also include in each declaration a statement as to whether any written claims have been filed against him with any entity providing professional liability insurance or indemnification or whether any claims have been resolved since the last such declaration. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Coniglio commences practice in Ohio. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

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DR. BUCHAN SECONDED THE MOTION.

Dr. Kumar stated that the Board does need to protect the citizens of Ohio. There may or may not be a problem, but there does appear to be a pattern in the number of malpractice cases, during a period of time, whether they were handled by one attorney or multiple attorneys. He noted that one attorney handled ten cases, but there were three other cases, as well. There was a significant amount in settlements, and the Board needs to continue to monitor that.

Dr. Steinbergh disagreed with Dr. Kumar. She stated that she recognizes the malpractice suits, but she gets the sense that something's not quite right here. She referred to page 8 of the Report and Recommendation, noting a letter sent by Charles Riggio, M.D., the past Medical Director of Wyoming County Community Hospital in support of Dr. Coniglio. Dr. Steinbergh stated that the writer of that letter says that the malpractice history is inconsistent with the practice that Dr. Coniglio demonstrates at this time. She added that Dr. Riggio wrote that he considers Dr. Coniglio's malpractice history "an aberration, having arisen because Dr. Coniglio was intellectually honest and motivated to treat surgical back pain conservatively, honestly, and in the best interest of his patients and the public." From his own observations, Dr. Riggio indicated that Dr. Coniglio is an "excellent physician with very high ethical standards and technical capabilities as good as any." Dr. Steinbergh stated that she has a problem with the proposed amendment. She stated that she understands the Report and she understands the Recommendation, but she doesn't agree with it. If it were up to her, she would issue a reprimand, and that would be it.

Dr. Steinbergh continued that, serving on credentialing committees, she understands the concerns the Board would have, but she's not really influenced by it. Dr. Steinbergh stated that the Board doesn't really have any hard documentation about the concerns that the Nevada Board has, nor does it know the comments made by that Board. Dr. Steinbergh stated that she doesn't have the evidence to demonstrate to her that this is a bad physician.

Dr. Egner stated that Dr. Coniglio has the red flags of a disruptive physician. From early in his career, he did multiple different residencies; he's had six different jobs in diverse locations. Dr. Coniglio has a very unorthodox view of managing this kind of patient. None of those things, in and of themselves, gets one before the Medical Board. But it's a red flag to her when she sees all of these things put together. The Nevada Board looked at the specifics of what happened to Dr. Coniglio and came to the conclusion to deny him a license. Dr. Egner stated that she's wary to just say that "it was a fluke, let's just give him a reprimand." Dr. Egner stated that the Board knows a lot of unorthodox physicians who look at illness and disease process and treatment in a different way. That alone doesn't get them denied licensure. Dr. Egner stated that she's not sure that that alone gets a physician eleven malpractice suits. That's the part that says that there's an unstable baseline somewhere, and puts up the red flag of the disruptive physician. He has a job and it's a problem every time.

Dr. Steinbergh asked whether the record reflects the numbers of malpractice cases that an orthopedic surgeon could expect in one's professional lifetime. She noted that orthopedics is certainly a high-risk practice that will stimulate a lot of suits. She stated that she would like to know whether this is a physician practicing outside the norm in terms of the number of malpractice claims. She stated that she doesn't know

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statistically what that might be.

Dr. Kumar stated that, even if he dismisses those ten cases by one attorney, those three cases in a span of time, those broken ankles, and somebody has to go back and do it, and, yes, one case where he was sued when he was covering somebody else and whether the other physician started to create the issue and take over the case, that he could understand. Still there are three or four cases. He added that he agrees with Dr. Steinbergh in some aspects, maybe there's not a whole lot there. Maybe he's a person caught in circumstances; but, certainly, there's a history of malpractice claims, and if Dr. Coniglio wants to practice in Ohio, Dr. Kumar needs to know of any further malpractice actions taken against Dr. Coniglio. Even if the Board reprimands him, Dr. Kumar wants extra quarterly information coming in, if there are any cases filed.

Dr. Buchan stated that he was unsettled by the North Carolina process and whether this attorney solicited patient information. He felt that something didn't sound right about that situation. Dr. Buchan stated that he was feeling more lenient and more sensitive to the situation; however, he can't ignore the three additional malpractice cases that came within six years in Michigan, which involved a couple of ankles and a femur. This really doesn't add up. Based upon the malpractice history and the additional malpractice cases in Michigan, he would like to see a little monitoring. Dr. Buchan stated that he doesn't think it's unreasonable to grant Dr. Coniglio a license; he would just feel more comfortable if the Board would monitor him for a bit. If this is an aberration or the North Carolina situation shouldn't have happened, the Board just needs to monitor for a few years and then he can move on. Dr. Buchan stated that he's in favor of the amendment.

A roll call vote was taken on the 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. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

DR. BUCHAN MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF GERALD ANTHONY CONIGLIO, M.D. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

SOUHAIL A. EL-ASFOURI, M.D.

Dr. Robbins directed the Board's attention to the matter of Souhail A. El-Asfour, 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. Asfour. Five minutes would be allowed for that address.

Dr. Asfour was accompanied by his attorney, Patrick F. Smith.

Mr. Smith stated that he appreciates the opportunity to appear before the Board. He advised that he would address his brief comments to the fact that when Dr. Asfour came up from Austin, Texas for the hearing in July, they were treated exceedingly well. Mr. Smith stated that the Attorney General was professional and courteous throughout the entire hearing. The Hearing Examiner gave them a full and fair hearing. Mr. Smith stated that he thought that the Findings of Fact that were registered by Hearing Examiner Davidson were thorough. They have very little to object to, except as it relates to the penalty itself. Mr. Smith asked that no action be taken against Dr. Asfour. Mr. Smith advised that Dr. Asfour would address the Board in terms of the specifics. Mr. Smith remarked that some of Hearing Examiner Davidson's comments in her Report suggested that the Board may wish to conclude that no further action is warranted in this case.

Dr. Asfour thanked the Board for allowing him to appear in person. He stated that he appreciates the opportunity for the July hearing before Hearing Examiner Davidson and Assistant Attorney General Pfeiffer. Dr. Asfour stated that he feels that it was a very fair hearing.

Dr. Asfour stated that he would like to briefly present his case and ask the Board for a resolution. He stated that he realizes that he signed a settlement agreement with the New Hampshire Board of Medical Examiners that involved a typed history and physical that was signed but not dated. Dr. Asfour stated that

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he had a handwritten history and physical that was signed and dated and presented to the hospital before the surgery on that patient. That was accepted and everything was fine. At the time that he signed the agreement, he was practicing in the State of Texas. He thinks he had the opportunity for a hearing, but he didn't go on the recommendation of his counsel in New Hampshire. Now he wishes that he did request a hearing there. Since he signed the settlement agreement, he has complied with it. They issued a reprimand with no other remedial work, restrictions or fines. He had to report this agreement to the hospitals where he practiced, to medical insurers, to liability insurers and to licensing boards. He has complied with that requirement.

Dr. Asfoury stated that he presented his case to the Texas Board of Medical Examiners, just as he has done here, and they realize that he recognizes the mistake of not dating a history and physical. The Texas Board decided not to take any further action and dismissed the case. Dr. Asfoury stated that he does recognize what happened in New Hampshire. He will never repeat that again. He hopes that he will never forget to date a history and physical again. Dr. Asfoury stated that he has never been in any trouble with any State Medical Board, except for those that the Board knows about, and he thinks that he has learned from his mistake. Dr. Asfoury asked that the Board not take any further action.

Mr. Smith added that, when Dr. Asfoury was leaving New Hampshire and going to move his practice out of state, he was clearing up his files to make sure that they were all in order for somebody else coming to take over, and that's when he noticed that on his computer he had the "Dragon Speak" attempt to dictate this history and physical. It was gibberish, so he tried to clarify that, or retype it in a manner that would make sense. That's what he did. And he placed that in the patient's chart as he was leaving the State of New Hampshire. Mr. Smith stated that at one point in the hearing, they all sort of chuckled at one time because they were going around the table talking about "Dragon Speak." Mr. Smith stated that he thinks that many had the experience that it is not as good as billed. That was the problem, and he thinks that Hearing Examiner Davidson recognized that and addressed that in her report in a quite good manner.

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

Ms. Pfeiffer stated that she would like to address one point regarding the merits of this case, and she believes that the Hearing Examiner summarized it when she states:

The extent to which Dr. Asfoury, when finalizing the document, did more than merely correct mistranslations of his dictation, is unknown. He admitted that the final, dictated version of his notes included more details than his longhand notes had set forth, and it must be recognized that there is a chance that Dr. Asfoury, aware that the surgery had been problematic, consciously or unconsciously recast the notes in a manner that may have improved or sanitized their content.

Ms. Pfeiffer stated that, in Dr. Asfoury's testimony, he basically testified that there really was no substantive difference in the content between the two versions of the patient notes. She stated that it would have been helpful had he produced the two, so that the Board could see them. Ms. Pfeiffer stated that the patient had already come back to Dr. Asfoury, complaining of a problem. Ultimately it was determined that

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there was a suture left in the ureter. That was not Dr. Asfour's problem because a different surgeon performed the procedure and ultimately caused the problem, although Dr. Asfour was in the room for the hysterectomy. Ms. Pfeiffer stated that it is possible that the notes may have come out a little bit better once he was aware that there was a problem with the patient, but the Board doesn't know that definitely.

Ms. Pfeiffer stated that discipline is the Board's domain. The Board could adopt the Findings of Fact and Conclusions of Law that Dr. Asfour was disciplined in the State of New Hampshire, and the Board can then take action based upon that. The Board could choose to not issue any discipline or to reprimand. That decision is the Board's. Ms. Pfeiffer stated that she doesn't think that it is disputed that the State has proven that there is a basis, that the Findings of Fact and Conclusions of Law support a basis to take disciplinary action.

DR. KUMAR MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF SOUHAIL A. EL-ASFOURI, M.D. MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh stated that, as she listened to Dr. Asfour, she's still uncertain. She asked whether the Board is talking, exclusively, about the history and physical that was done pre-surgically, or is it talking about notes that were done at the time, or postoperative notes, or progress notes.

Dr. Kumar and Dr. Egner indicated that the Board is talking about a history and physical.

Dr. Steinbergh stated that, for her, the history and physical had nothing to do with the ultimate outcome of the case, but she would have been a bit more concerned had it been the postoperative notes, which she didn't think was there.

Dr. Egner stated that she looks at this case in a much more cynical way. She believes that a three-page written history and physical is, generally speaking, a pretty thorough history and physical, and that gets sent to the hospital. Dr. Asfour dictated, using the "Dragon Speak" program, and it comes out in gibberish. Dr. Asfour never uses it. He does a surgical case, has a post-op complication and he gets sued for it. She believes that Dr. Asfour said that when he went back to change that computer-generated history and physical, he had not been sued at the time. Dr. Egner stated that she would bet that Dr. Asfour knew that he was going to be sued, and he wanted something better in his chart. It just doesn't make any sense to her that a physician would leave practice and move someplace else, and so, in doing that, he's going to clean up records. He has a history and physical that doesn't make any sense on a computer, that he didn't use – it's not even the one he sent and it's not in the patient's chart. Instead of deleting the record, he made it sound right and put it in the patient's chart, and he doesn't date it. Dr. Egner stated that she does not buy this at all. Dr. Egner stated that a reprimand is certainly in order.

Dr. Kumar stated that he has used "Dragon Naturally Speaking," and he would like to explain how this particular program works. You are essentially speaking into a microphone, which has to build your speech

files based on your accent and so forth is, and then it types it. It's a lot more labor-intensive thing than it appears to be on the surface. One of things the person who trained him on the system told him to do was run parallel programs. In other words, they were asked to continue to do their written program and at the same time keep working on doing the written version on the computer and keep changing that. It's a long process. It takes about three to six months for the computer to figure out what your actual language, etc., really is. Not only that, every quarter or so they were asked to take their most difficult case and go back on the computer and speak into that so that the speech files, which are corrupted all the time, get uncorrupted again and again as it recognizes your voice. Dr. Kumar stated that one mistake Dr. Asfourri made was that he didn't date the chart when he did the second computerized version.

Dr. Kumar continued that, regarding Dr. Egner's comments, that Dr. Asfourri probably knew that he was going to be sued and tried to make changes in the record to make it look better, does make sense if that was the only one he did. But he also did more than that particular history and physical before he left. He started to clean all of that stuff out. Dr. Kumar stated that he's not 100% sure that the motivation was simply the suit.

Dr. Kumar stated that, as for a new history and physical detailing more in this version, the nature of word-processing programs is that, when you dictate something, you use macros, which becomes more detailed than what you have in your handwriting.. When you're handwriting, you might say, "I've explained the patient risk, options and benefits of the procedure, including so on and so forth." By using the word macro "risk option benefits," the computer will type up a whole paragraph that contains a lot more detailed information. That's the nature of trying to use this particular program.

Dr. Kumar stated that he doesn't believe that there was any intent to mislead because Dr. Asfourri worked on other charts as well. He stated that he thinks that Dr. Asfourri had tried to use a program that was cumbersome. Dr. Kumar stated that he personally no longer uses that program for patient records. Dr. Kumar stated that he would be in favor of dismissing this case.

Dr. Davidson agreed with Dr. Kumar. She stated that she was unsure when she read this case, noting that it was a unique set of circumstances that she has not come across. Dr. Davidson stated that she feels that Dr. Asfourri presented himself well today. In the grand scheme of things, this was a bad thing to a very small degree, and she would be willing to dismiss it.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF DISMISSAL. DR. DAVIDSON SECONDED THE MOTION.

Dr. Kumar again stated that Dr. Asfourri changed the chart in his office. He never sent that anyplace else.

Dr. Egner stated that he put it in his chart, and he knew that the chart would be looked at if a case came about. The chart became much more detailed in terms of the informed consent. That's a problem. Another reason why she felt this way is that Dr. Asfourri is still making a distinction as to who stood on the right and who stood on the left at the time of the surgery. Dr. Asfourri put the blame of tying off the ureter on the assistant. Dr. Egner stated that any surgeon knows that he or she is responsible for the hands of the

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assistant. It's just not proper to not take responsibility when you're the surgeon.

Dr. Steinbergh commented that it would have been Dr. Asfour's responsibility to check that ureter prior to closing.

Dr. Kumar stated that the Board's not taking action because of the malpractice case.

Dr. Egner stated that she knows that. She added that it's a factor that influences her as to the scenario of the case.

Dr. Steinbergh stated that it's in the record.

Dr. Kumar added that the reason why the New Hampshire Board took an action does not relate to the malpractice issue. They took an action primarily because there were two different histories and physicals in the record. Dr. Kumar stated that he believes that there's a very reasonable explanation why there is. He stated that he himself has had parallel programs himself, although they were dated.

Dr. Steinbergh stated that she does feel that, regardless of the motive, she doesn't think that Dr. Asfour is going to do this again. She added that a physician's conscience would have to drive him forward with that. The physician would be the only one who knew the motive for the history and physical.

Dr. Buchan stated that he is also familiar with "DragonSpeak", and some of these voice-activated EMRs, but he doesn't buy into the fact that Dr. Asfour should, in any way, hold it as the only reason why he doctored the records. Dr. Buchan stated that he thinks the case went south and Dr. Asfour knew it and he went back and made some clarifications for the record. Anybody who spends any time in the operating room understands that process. Dr. Buchan stated that he's not for simply letting Dr. Asfour off the hook. He agrees with Dr. Egner's position on this, and he came to this meeting being in favor of the Report and Recommendation. Dr. Buchan added, however, that his notes on this case also indicate that a dismissal is not out of the question either. The damage has been done and Dr. Asfour knows the Board's position now; and if the Board does dismiss this case, Dr. Asfour has learned a lesson and is not likely to repeat his mistake. Dr. Buchan stated that he's not opposed to dismissal, but he doesn't think that this is anything other than a physician that did go back and try to clarify, sanitize or doctor the record. Dr. Buchan stated that New Hampshire spoke to the question, and this Board should dismiss.

Dr. Madia stated that it looks like, in the operating room, things didn't go well so Dr. Asfour tried to fix things.

Dr. Robbins stated that he personally thinks that it is very clear that Dr. Asfour was scared. He was the surgeon of record, this happened, and he was responsible. Dr. Robbins stated that, even the record discusses risk, benefit of surgery. All of those things come up because there was a complication and a suit. It's clear that that was on Dr. Asfour's mind. Anybody who has been in surgery who has had something like this happen can understand why Dr. Asfour would feel that he would want to clarify the record. Unfortunately, he shouldn't have done it.

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Dr. Varyani asked for clarification on the amendment.

Dr. Kumar stated that the motion was, basically, to dismiss the case. Dr. Kumar stated that there was unrefuted evidence that this record was not the only record he worked on. He worked on several other records he was trying to clean up. Dr. Kumar stated that he would grant that there is a possibility that Dr. Asfourri cleaned up the record because of the bad outcome, but he did clean up other records at the same time.

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

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

The motion carried.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF SOUHAIL A. EL-ASFOURI, 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	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

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SUZANNE A. HARITATOS, D.P.M.

Dr. Robbins directed the Board's attention to the matter of Suzanne A. Haritatos, D.P.M. He advised that no objections were filed to Hearing Examiner McNeil's Report and Recommendation.

DR. MADIA MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF SUZANNE A. HARITATOS, D.P.M. DR. BUCHAN SECONDED THE MOTION.

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

Dr. Buchan stated that he thinks that this Board has gone on record as being a Board of reasonableness, leniency when necessary, and compassion. He added, however, that there is a point when the Board loses trust with an individual who makes this process more difficult. Dr. Buchan stated that, to allow someone who is unlicensed to perform a procedure, as Indiana found in Dr. Haritatos' case, is unconscionable. Dr. Buchan stated that the Indiana Board and other states have spoken to the matter, but that issue on its own persuaded him to move forward with the Proposed Order and, in fact, recommend its adoption. Dr. Buchan stated that he would agree with the Order, as written, and added that he doesn't find any credibility to the argument that the physician's husband didn't really do what it's suggested that he did.

Dr. Egner stated that she would like to note that in the Proposed Order, the word "revoked" is misspelled. Dr. Egner stated that this is a very sloppy thing to happen, and should not occur in Reports and Recommendations that come before the Board. That needs to be corrected.

Dr. Kumar stated that various courts of jurisdiction have extensively looked at this case, and they have already ruled, going into a lot more detail on the case. Dr. Kumar also spoke in support of permanent revocation.

A vote was taken on Dr. Madia'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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

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The motion carried.

RANDALL DON LEUVOY, D.O.

Dr. Robbins directed the Board's attention to the matter of Randall Don LeuVoy, D.O. He advised that objections were filed to Hearing Examiner McNeil'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. LeuVoy. Five minutes would be allowed for that address.

Dr. LeuVoy thanked the Board for allowing him to make an address today. He stated that he respects the duty and responsibility this Board has to discipline physicians in the State of Ohio. He understands that, unfortunately, there are doctors who deserve to be disciplined, and there are usually a few bad apples in every barrel. Dr. LeuVoy stated that he's never considered himself one of those. He's always considered himself one of the good guys, but the Board doesn't know that and it doesn't know him. Dr. LeuVoy stated that he doesn't know when the Board plans on voting on these matters, but he asked Board members to call a number of physicians, including: general surgeon, Scott Johnson, M.D.; gynecologist, Paul Detty, M.D.; emergency physicians John Hazlip, M.D. and Robert Dominguez, M.D.; or pain specialist, Robert Masone, M.D. He stated that these are physicians who know him and who, he feels confident, will attest to their respect for him as a good and honorable physician in their community.

Dr. LeuVoy stated that this year marks the eighth Thanksgiving dinner that he, his family and staff will have provided for anyone in the community who has no place to go for Thanksgiving. They have fed people by the hundreds. He stated that that doesn't make him a good physician, but it does tell the Board something about his character. Dr. LeuVoy stated that he is one of the good guys who has always tried to do what is right.

Dr. LeuVoy stated that he started his current practice in Lancaster in 1995. While most doctors in the community either refuse to accept Medicaid patients, or take very few, it has always been his policy to not turn anyone away, regardless of insurance. As a result, his practice has grown to have about 80% Medicaid patients. Dr. LeuVoy commented that he probably has more Medicaid patients than any other doctor in Fairfield County. He continued that, because these patients are apparently considered to be undesirable by most doctors in the community, he felt obligated to continue to do what he could for them, even while incarcerated. Dr. LeuVoy stated that he thinks it is obvious that all he and his staff were trying to do was to reschedule their appointments and assure that they had medication to cover them for that period. Dr. LeuVoy stated that, in his opinion, he acted within the standards of care. That's what these cases are about.

Dr. LeuVoy commented that it's easy to say that something is above or below a standard of care but, without supporting documentation to back it up, it is nothing more than one person's unsubstantiated opinion. The State's expert witness admitted that there was no "one big book" establishing standards of care. The expert witness did mention the Diagnostic and Statistic Manual IV (DSM), but that does not

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support the expert witness' claim that it was below the standards of care to diagnose ADHD without using a Connor's Scale. Dr. LeuVoy stated that the DSM does not even mention the use of the Connor's Scale in its diagnostic criteria. He added that, over the years, he's become quite familiar with the use of the Connor's Scale. He noted that it even says on the Connor's Scale that it is a useful screening tool that may be helpful in the identification of people who have a high risk for ADHD. It is not a diagnostic requirement.

Dr. LeuVoy stated that, although documentation may be lacking, it has never been shown that he's ever erred in the diagnosis or treatment of ADHD. Many of his patients are now on the honor roll because they were correctly diagnosed and treated. They are now getting A's and B's in school instead of getting D's and F's.

Dr. LeuVoy advised that Mr. McNeil, in his report, said that he put his medical assistants in an untenable position by asking them to fill out prescriptions. He stated that this is not documented. He has documentation of the duties medical assistants may perform from the American Association of Medical Assistants (AAMA). This includes authorizing refills of medications, as directed. It is part of their job description.

Dr. LeuVoy stated that Mr. McNeil's report apparently indicates that the pre-signing of prescriptions is part of his normal practice. He stated that he wants to make it clear that pre-signing prescriptions is not representative of his prescribing practices. It did occur one time, for the reasons that have already been explained, while he was incarcerated. The handling of these prescriptions was done through an attorney. Everything was on the up and up, and everything was legal. Dr. LeuVoy stated that the Board doesn't need to take his word for it. These exact cases have already been tried in a court of law. It is a matter of public record. He has the documentation of a judge's decision that says that he did nothing wrong. There were big headlines in the newspaper the next day that said "LeuVoy Acquitted." That should have been the end of it, but for some reason beyond his knowledge, and which he really doesn't feel was justified, the Medical Board decided to conduct a confidential investigation, which led to him being before the Board today.

Dr. LeuVoy stated that, for those who feel that a physician prescribing controlled substances to persons without seeing those persons is below the standards of care, he would refer to the State Medical Board's Administrative Rule 4731-11-09 *Prescribing to persons not seen by the physician*, which states the following is not prohibited: "The provision of controlled substances or dangerous drugs by a physician to a person who the physician has accepted as a patient, if the physician has scheduled or is in the process of scheduling an appointment to examine the patient and the drugs are intended to be used pending that appointment." Dr. LeuVoy stated that every case meets those requirements. Dr. LeuVoy stated that all of this is documented in his written objections, which the Board has already read.

Dr. LeuVoy stated that the question is whether or not the State's evidence holds water. Is it backed by sufficient documentation? Or is it based on unsubstantiated opinions, assumptions and speculation. Dr. LeuVoy stated that his cases are backed by indisputable documentation, including the DSM, the listing of medical assistants' duties by the AAMA, a judge's decision in a court of law, and the Administrative Rules

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of the State Medical Board. Dr. LeuVoy stated that, while the burden of proof is not his to meet, he has provided sufficient evidence to show that those representing the State have not met the burden of proof. Dr. LeuVoy urged the Board to vote for a dismissal of these charges so that he will be allowed to continue to do what he does best, which is to take good care of his patients.

In response to questions asked by Dr. Steinbergh, Dr. LeuVoy stated that, during the time period 1995 and 2002, he doesn't see more than about 50 patients a day.

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

Mr. Clifford stated that, at first blush, this may seem as though it's just a simple document or drug prescription issue. In reality, this is someone who has flawed medical judgment. Mr. Clifford referred to Dr. LeuVoy's objections which indicate that Dr. LeuVoy signed blank prescription pads and allowed his staff to use to refill Schedules II, III and IV narcotics. He noted that Dr. LeuVoy writes in his objections:

But on this exceptional occasion, being presented with the challenge of meeting the needs of our patients while I was detained from the office, pre-signing prescriptions not only was not a departure from minimal standards of care, it became the necessary means to maintain minimal standards of care....Therefore, the delegating of duties the (sic) medical assistants of filling out prescriptions for controlled substances is not proven to be a departure from minimal standards of care.

Mr. Clifford continued, referring to Patient 8, a patient who previously tested positive for cocaine use. Mr. Clifford stated that Dr. LeuVoy basically says that it's all right to give this patient more drugs. In his objections, Dr. LeuVoy writes:

The patient's chronic pain conditions legitimized the refill of his pain medication, as did the desire to avoid complications of abrupt opioid withdrawal. The fact that I prescribed a controlled substance to a patient who was later found to be a substance abuser dos (sic) not constitute a departure from the minimal standards of care.

Mr. Clifford stated that, as the Board previously heard, Dr. LeuVoy believes that he's following Board rules by pre-signing the prescription pads. He then tops his testimony off with the advice that the Connor's Scale is not accepted as a diagnostic gold standard.

Mr. Clifford stated that, when confronted about the Connor's Scale, and the fact that in the records, in the year 2000, pediatricians and others had used the Connor's Scale previously, Dr. LeuVoy stated, to demonstrate his medical knowledge, that it would have meant nothing to him. Mr. Clifford stated that Dr. LeuVoy doesn't get it. He said that the State thought after hearing Dr. LeuVoy testify on the first day of hearing that they didn't need to present expert testimony because his medical knowledge was so wacky. He doesn't get it.

Mr. Clifford reviewed the following which he felt indicates that Dr. LeuVoy's medical knowledge is

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lacking:

- A child who had used marijuana – no referral for counseling
- Patient 5 – A six-year old patient – Dr. Ebel found that there was no Connor’s Scale or even a report from the child’s previous pediatrician. There were no pediatrician records. There was no communication with the child’s psychiatrist. Dr. LeuVoy continued to prescribe Ritalin, even though there was indication of drug diversion as follows: A 30-day supply of Ritalin on November 14, 2001; a refill on November 28, 2001; and another on December 17, 2001; a 30-day prescription for Ritalin on February 26, 2002; and another on March 20, 2002.

Mr. Clifford stated that, in Dr. LeuVoy’s mind, nothing comes up to say “hey, there’s a problem here.”

- Prescriptions were written for Patient 8 by his medical staff. Mr. Clifford stated that Dr. LeuVoy believes that, since he was incarcerated, there’s no problem with having his staff refill scheduled narcotics, even though he should know that those are not refillable drugs.
- Patient 12 – Dr. LeuVoy put the patient on a lipid-lowering agent and doesn’t test for elevated liver enzymes. Mr. Clifford stated that, as most physicians will know, liver function tests must occur within the first month and then be followed up every three to six months to ensure that there’s no problem with the liver as a result of the drug.
- Patient 9 is an 8-year-old who was diagnosed as having insomnia.
- Patient 12 is put on Zyprexa, a bipolar medication, with no record and no indication to say why this person may or may not have bipolar disorder.
- Patient 15, a person with diabetes for whom he has no referral to treat the diabetes. He didn’t perform a hemoglobin H-1-C test. When the patient had chest pains, he didn’t refer the patient to a cardiologist. There are also cholesterol issues and, again, Dr. LeuVoy doesn’t check the liver function.
- Patient 20, a 76-year old female with a history of hypertension and hyperlipidemia. Mr. Clifford stated that Dr. LeuVoy performed a test in 1997 regarding the elevated cholesterol laboratory tests, but he doesn’t repeat those tests for another six years. On top of that, he ordered a decongestant antihistamine that raises blood pressure.

Mr. Clifford stated that Dr. LeuVoy has no clue as to what is going on. He added that, even though the Report and Recommendation recommends simple revocation, he doesn’t think that there’s any way to remedy this individual. Mr. Clifford stated that he feels this is more of a permanent revocation type of case. This is not even talking about all of the narcotics that were filled by his staff while he was

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incarcerated. Dr. LeuVoy had a contempt proceeding, the judge ordered him to show cause to the contempt proceeding, and he had to go to jail. Mr. Clifford commented that Dr. LeuVoy advised that he didn't think contempt was a possibility, but it was a contempt proceeding. What other possibility is there?

Mr. Clifford again advised that permanent revocation is appropriate in this case. This physician hasn't a clue on how to practice medicine, and he's a poor example of what physicians should be doing in the State of Ohio.

DR. EGNER MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF RANDALL DON LEUVOY, 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 found the Report and Recommendation a little bit difficult to read in getting the story. She spent a great amount of time going through the testimony, and she wants to go through some of that today. Dr. Egner stated that there are a few things in the Report and Recommendation that need to be noted.

Dr. Egner referred to page 3 of the Report, noting that it indicates that Dr. LeuVoy practiced in Columbus from 1988 until 1995 when, in fact, he practiced in Columbus from 1988 to 1990 in Dr. Masters' Clinic, and then practiced in Cincinnati in Dr. Masters' Clinic from 1990 to 1995. He then relocated to Lancaster. Dr. Egner stated that she thinks that the Board should be accurate. Also, if Dr. LeuVoy's defense was that Lancaster is a small town and he really didn't get the more recent medical knowledge, the facts show that he was in two major medical cities in Ohio for a significant part of his career and still didn't pick up on some of the things in those areas either. Dr. Egner stated that Dr. LeuVoy has advised that he maintained his medical education by serving as a speaker for pharmaceutical companies. Dr. Egner stated that that is not a way to maintain one's medical education.

Dr. Egner noted a typographical error on the last page of the Report and Recommendation, where the Proposed Order indicates that Dr. LeuVoy is an M.D., when, in fact, he is a D.O.

Dr. Egner stated that when she looks at this case, it is not a recordkeeping problem, although that is one aspect of it. It is a true minimal standards case. Dr. LeuVoy has five major areas where he falls short. Dr. Egner stated that the State has proven that Dr. LeuVoy's practice does fall below minimal standards. The first area involves his providing his office with pre-signed prescriptions while he was incarcerated. Dr. Egner stated that that is well documented in the Report and Recommendation, and she doesn't feel that she needs to go through much of the detail of that, except to say that it is totally inappropriate. It is the practice of very bad medicine. There is no way that a medical assistant has the knowledge or the judgment to know if a prescription should be refilled, and many of these are Schedule II prescriptions. That being said, that was very, very poor judgment.

Dr. Egner stated that she also believes that he practiced below minimal standards in diagnosing ADD and

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ADHD. It's documented that he didn't use the Connor's Scale when it is a standard of care and should have been used. He should have known about it and he did have other records showing that it had been used. Dr. Egner stated that Dr. LeuVoy didn't elicit any additional information from the schools, counselors or people who were more insightful into the behaviors of these children. Dr. Egner continued that Dr. LeuVoy's pediatric care of these children disturbs her the most. The consequences to his pediatric patients could be devastating.

Dr. Egner stated that the third issue is that Dr. LeuVoy has extremely poor recordkeeping. There is no way when you look at those records that you can tell at all what went on with those patients. Dr. Egner added that, in fact, during the hearing, when he looked at his own records, Dr. LeuVoy couldn't tell what went on with those patients, why he made a diagnosis, why he changed a medication.

Dr. Egner remarked that, not only did he practice below minimal standards in diagnosing ADHD, he also practiced below minimal standards in his treatment. He used adult drugs in children at dosages far beyond what was recommended. He would switch drugs for unknown reasons. He had patients on Zoloft and just discontinued it with no taper. He overprescribed Ritalin to both a six-year old and a 13-year old in dosages far beyond the recommended levels. Dr. Egner commented that she believes one prescription was three times above the recommended levels.

Dr. Egner stated that Dr. LeuVoy failed to utilize mental health services for patients who were acutely in need of mental health services. He practiced below minimal standards for other medical conditions. He gave Demerol without any kind of pain workup to a patient who subsequently tested positive for illegal substances. She commented that he never followed up with liver function tests on patients who were prescribed statins. He had a pediatric patient that he treated with Remeron, Zyprexa and Seroquel, without any evaluation for bipolar disorder. Neither Zyprexa nor Seroquel are FDA-approved for children.

Dr. Egner stated that she brought along some of the testimony that Dr. LeuVoy gave at hearing. She stated that she won't belabor the point, but she does feel his testimony gives some insight into what she thinks happened at the hearing. Dr. LeuVoy was asked if he had training in psychiatry in terms of evaluating patients with psychiatric conditions, and Dr. LeuVoy responded that he did. When asked what kind of training he had, he responded, "Well, I think there is an element of psychiatry that is within the realm of family practice, and we've been trained to diagnose and treat psychiatric disorders." When asked if he learned that in medical school, Dr. LeuVoy stated that he did, as well as through additional continuing education. Dr. Egner stated that Dr. LeuVoy acknowledged that he didn't hold a certificate in psychiatry. Dr. Egner noted that when Dr. LeuVoy was asked whether he would consider referring a patient whom he felt to be depressed at a young age to a psychiatrist, Dr. LeuVoy responded that he would sometimes. When asked whether he did that for a particular child who had significant psychiatric issues, Dr. LeuVoy responded that he did not. Dr. Egner stated that that answer discounts the previous questions he was asked.

Dr. Egner continued that Dr. LeuVoy was asked at one point what the symptoms of depression were in a particular patient. His response was that she was not doing what she was told, tearing things up and fighting. Dr. Egner stated anyone who has children know that they tear things up, they don't do what they're told and they fight. Dr. Egner added that children who are depressed may do that too, to a larger

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degree, but those are not the classic symptoms of depression.

Dr. Egner stated that one of the most disturbing cases was the patient who came to him with cut wrists. Dr. LeuVoy wouldn't even take the time to ask the patient what happened. He was asked what the record said about cutting his wrists, and advised that all the record says is, "cut his wrist on 6/18/99." When asked whether he knew whether that was a depression-related issue or an accident, Dr. LeuVoy stated that he didn't know. Dr. Egner stated that Dr. LeuVoy then began to address the patient's migraines, although there was no workup there.

Dr. Egner commented that she had more to say, but she won't. Dr. Egner stated that there are many times a physician presents himself to the Board and it really does influence her. When she read this record, she was really not sure if Dr. LeuVoy was a greedy person who just wanted to see a lot of patients a day and make money, or if his medical knowledge lacked so much that he couldn't take good care of patients. Dr. Egner stated that she believes that Dr. LeuVoy's medical knowledge is so poor that there is no way that he can take care of patients.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF PERMANENT REVOCATION IN THE MATTER OF RANDALL DON LEUVOY, M.D. DR. MADIA SECONDED THE MOTION.

Dr. Steinbergh stated that she concurs with everything Dr. Egner said, but she does want to note that, in the record and in his objections Dr. LeuVoy has been concerned that the Board's expert was not a solo practitioner and did not work in a similar community and did not take care of children with ADHD to the numbers that Dr. LeuVoy did. Dr. Steinbergh stated that she wants to assure Dr. LeuVoy that his records have been addressed by one of his peers, and that would be herself. She stated that she and Dr. LeuVoy graduated within two years of one another from different medical schools. She added that she doesn't know Dr. LeuVoy personally and has never worked with him. Dr. Steinbergh stated that she took a number of the medical records that she thought exemplified the kind of care that was provided to Dr. LeuVoy's patients. She added that the reason that she asked about the number of patients that Dr. LeuVoy saw per day is that she had the sense, which has been confirmed for her, that he sees entirely too many people a day and doesn't have the time to provide what this Board considers to be appropriate care for the patients in Ohio.

Dr. Steinbergh noted that Dr. Egner has reviewed the record thoroughly. She agreed that the Report and Recommendation was very difficult to get through, but added that the elements were there. The Hearing Examiner recommends revocation in this case. Dr. Steinbergh stated that she does want to discuss one pediatric case that was particularly offensive, and she will point out some of the elements and some concerns that Dr. LeuVoy should have about his medical record and why it's not acceptable to the Board. There are certain elements of the medical record that are appropriate, and that were done by the medical assistant in the office. It's clear that the medical assistant is taking the vital signs, doing the measurements, taking the patient's history.

Dr. Steinbergh stated that the record for Patient 5, a six-year-old female, lists her vital statistics. The

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record indicates that her mother advised that the patient is hyperactive; her kindergarten teacher thought she had a behavioral problem; and the aunt advises, "Patient has lately become violent." The record indicates that there's a history of this in the family, with genetic disorders and a family history of ADHD. Dr. Steinbergh stated that Dr. LeuVoy wrote in the record, "Patient's hyperactive, can't sit still." Dr. Steinbergh stated that she will assume that Dr. LeuVoy assessed the child at that point and then went on to prescribe Ritalin to the child. The record does talk about doing chromosome analysis on peripheral blood to rule out Klinefelter's Syndrome, perhaps because during history taking there was this history, and he prescribed Ritalin. Dr. Steinbergh stated that the one piece she found missing throughout the medical records is that the Board doesn't know what the doctor is thinking. You can't judge the thought process of the physician that's so important in the medical record. Dr. Steinbergh stated that she finds that, as a practitioner, there is never a time that she doesn't comment on a patient she sees. She'll note how they're responding to the medication, questions asked, etc.

Dr. Steinbergh at this time reviewed Patient 5's record from June. It indicates that the patient was taking Ritalin 10 mg twice a day, at 7:30 a.m. and at noon. Dr. Steinbergh noted that Dr. LeuVoy did see everyone on a monthly basis. One month later, Patient 5's weight, temperature, other vitals are in the record. The record indicates that he was following up for her ADHD and that she was complaining of right ear pain. He evaluated the child and the current medications. Dr. Steinbergh stated that the record indicates that the eardrums are okay and the PE tubes are in place. Dr. Steinbergh stated that she gets the sense that Dr. LeuVoy did, in fact, see this child for otitis or for ear pain and felt that things were okay there. He renewed her prescription. The next time he saw the child was September 7, although there was documentation on August 25, 2000 that a prescription was given. Dr. Steinbergh indicated that how that was accomplished is not in the record. In September, he followed up on the ADHD. At that time, the mother advised that the patient was not doing well in school, having been out of sorts, acting like she's not happy, and she writes backwards. There was also a little injury. What he did at that time was add a third dose of Ritalin at 4:00 p.m. Dr. Steinbergh stated that it is very difficult for children to take Ritalin late in the day, causing sleeping problems.

Dr. Steinbergh stated that her point is that, thus far in the record, there is no documentation that this child has ADHD except for his diagnosis. Dr. Steinbergh added that she won't focus on the Connor's Scale because she's not a big believer in any particular test. Her point is not on the Connor's Scale. Her point is that there's never, throughout the record, any discussion about diagnosis of the child or of the adult for this particular problem. He continues to give the prescriptions, but there's no discussion whatsoever about why he thinks the child needs the third dose, what his thought process is, in case somebody wants to know – nothing to indicate what he was thinking. Dr. LeuVoy continues to prescribe for the child and she stays on this medication. Further on in the record, in February, there's still no mental health evaluation, no psychiatric evaluation, no pediatric evaluation by someone who is more expert than he. There is no documentation – no psychological, no psychometric testing. Dr. LeuVoy doesn't know if this is a frontal lobe disorder or ADHD. There's no documentation in the record that he or anyone else has diagnosed it.

Dr. Steinbergh continues that in February 2001, the child comes in and she is now seven years old. She came to see him for congestion and other issues. The aunt advises that the child has been very violent with others. She doesn't want to take her medications, she puts herself down, and she hits herself. To Dr.

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LeuVoy's credit, he does refer the child to New Horizons for evaluation of her violent behavior. Never again does she see any documentation that the evaluation was done, that he ever thought about it, that he ever considered that the violence could be a result of Ritalin use in itself, which it can be. In May 2001, there is another follow-up for ADHD, with a notation that the school doesn't feel that the medications are working. Again, there is no diagnosis or anything. Dr. LeuVoy continued the same medication with no change whatsoever. There's no discussion of this with the parent, there's no sense in the record that he did anything different.

Dr. Steinbergh stated that years ago the Board took a look at a physician who had been advised to improve his medical records, and he then went to an electronic medical record. But the electronic medical records were no different, and the reason was that there was still no physician assessment. That piece was missing.

Dr. Steinbergh continued that, in assessing Dr. LeuVoy's records, all the documentation of vitals was there, but the thought process that goes into diagnosing ADHD, or diabetes, or hyperlipidemia, and results of testing aren't in the record.

Dr. Steinbergh stated that, regarding hyperlipidemia and the use of statins, there are well documented studies that for the first nine months on this medication, liver tests can become abnormal. There's no documentation whatsoever as to whether or not the patient was having any myalgia, any pain. There's no documentation that Dr. LeuVoy has effectively advised patients about the side effects of these medications.

Dr. Steinbergh commented that there's no question that bipolar disorder can look very much like ADHD. The real issue is that Dr. LeuVoy would make that decision, put a child on those antipsychotic medications without appropriate diagnosis. Dr. Steinbergh added that all of the records she has reviewed are replete with that problem.

Dr. Steinbergh at this time disagreed with Dr. Egner's motion to permanently revoke Dr. LeuVoy's license; she believes he is redeemable. Dr. Steinbergh stated that, when she thinks about how Dr. LeuVoy practices and where he practiced, she's torn about what the real issue is. She thinks that he probably had appropriate medical school education, but he was not residency-trained. He had no postgraduate training. She stated that she thinks he missed the boat in terms of mentoring and appropriate modeling, which is what happens in postgraduate programs. Residents have the knowledge, and they see how other doctors apply that knowledge, and how they practice. Dr. Steinbergh stated that she thinks that that is what is missing from Dr. LeuVoy's professional life. Dr. Steinbergh stated that she would prefer to revoke Dr. LeuVoy's license, as recommended by the Hearing Examiner. That means that Dr. LeuVoy can't practice. It will be up to him to make a decision as to how he wants to get his license back, if he can. Her feeling is that there are educational programs and that Dr. LeuVoy would have to make a decision about more education and do it on his own. She suggested that he might apply for a family practice residency, adding that that would be her first choice. Should he successfully complete such a residency and get board certified, that would correct the piece of his education that is missing.

Dr. Steinbergh continued that another option that might do well for Dr. LeuVoy is CPEP (Colorado's Center for Personalized Education for Physicians), which provides personalized assessment and education

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for physicians. They would assess him and see where he is in the practice of medicine.

Dr. LeuVoy asked whether he could ask a question.

Dr. Robbins stated that he could not.

Dr. Steinbergh stated that she thinks that lack of postgraduate training or mentoring is the piece that is missing for Dr. LeuVoy. She can't say that his knowledge base is totally bad; she just thinks that it is misapplied.

Ms. Sloan advised that she agrees with Dr. Egner and Dr. Steinbergh in reviewing the cases. She added that she agrees with Dr. Egner that permanent revocation is in order. Ms. Sloan commented that, if she had gone through the hearing process and subsequently came before the Board, she would have admitted that she was wrong and that education might help to completely change what she was doing. That is not what she heard from Dr. LeuVoy today. She also heard Dr. LeuVoy say that he saw 50 patients a day, which is much too much. One reason that he doesn't know his patients is because he would not have the time to know them and know what's going on with them. For that reason, she would vote for permanent revocation.

Dr. Kumar stated that he agrees with Dr. Steinbergh and Dr. Egner. In addition, he advised that , concerning the Connor's Scale issue, he disagrees with the State's expert that the Connor's Scale is a minimal standard requirement for documentation of ADHD. He stated that the Connor's Scale is a tool to be used by the schools, parents and teachers. Nowhere in the APA guidelines is the Connor's Scale a requirement for the diagnosis of ADHD. Many times it's a matter of making observations, which Dr. LeuVoy did not document effectively. Dr. Kumar stated that whatever decision is made, he will not consider the State expert's opinion that the Connor's Scale is necessary for diagnosing ADHD.

Dr. Kumar stated that he could go with either permanent or non-permanent revocation. He added that he leans more toward a non-permanent revocation and requiring Dr. LeuVoy to do some sort of remedial training. He indicated that the Board could simply revoke and make Dr. LeuVoy prove he has had appropriate training to address his deficiencies, or it could send Dr. LeuVoy to CPEP or something like that.

Dr. Varyani stated that he would agree to revocation versus permanent revocation. Dr. Varyani stated that at this time he knows that Dr. LeuVoy is not doing justice to his patients. He doesn't want that state to continue. He won't object to either revocation or permanent revocation, and will go along with what the majority of the Board wants. Dr. Varyani added that Dr. LeuVoy needs to learn how to give more care, and to document the care that he has done. Dr. Varyani stated that he doesn't know how Dr. LeuVoy is justifying the narcotics he is giving. He can't understand how that's happened. He also expressed concern about Dr. LeuVoy's signing prescriptions to be used by non-medical people in his absence from the practice.

Dr. Davidson stated that she agrees with what has been said by Board members. She added that she was

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also on the fence coming into this meeting. She totally agrees with Ms. Sloan that Dr. LeuVoy just doesn't get this. He came here with the attitude that the Board was wrong and he was right on specific points. Dr. Davidson stated that, just because the medical assistant association writes a job description, that doesn't make it law. She commented that that would be the easiest way for a group to expand its scope of practice – have their association expand it by writing a job description.

Dr. Davidson stated that, when the Board is left with Dr. LeuVoy's pre-signing prescriptions to be used by his office staff to write for controlled substances, she had to read the record a couple of times to see whether he was actually conferring on each patient or just delegated. Either Dr. LeuVoy was letting them refill controlled substances by protocol which is against the Board's rules, or he had just delegated the practice of medicine to his medical assistants and was letting them prescribe narcotics. Both are very wrong. Either way, it's heinous to her.

Dr. Davidson continued that, as a board certified pediatrician, she found the comments Dr. LeuVoy made on the record about off-label use of drugs pretty shocking. She stated that most of those drugs have black-box warnings for use in children. By virtue of research, experience or training, you have to justify your off-label use. Obviously, Dr. LeuVoy's chart doesn't do that. She added that she supposes that he could argue that he has experience, but she totally does not consider his making extra money by being a speaker for a pharmaceutical company to be extra training.

Dr. Davidson stated that another point she would like to make concerns Dr. LeuVoy's statement that he was not found guilty by a criminal court. She stated that this is a different court. The Board members are Dr. LeuVoy's peers, and there is a different standard here. The Board members are asking different questions and examining different issues than the court of law would. Dr. Davidson stated that that is a whole different question and it is not on point in this case.

Dr. Davidson stated that she is undecided as to whether revocation or permanent revocation is appropriate in this case. This is certainly a physician who, as the Hearing Examiner said, just doesn't get it. He's not kept up, whether he was ever "up."

Dr. Buchan stated that he would like to note one typographical error in the Report and Recommendation on page 30, paragraph 4.k. The last word in the paragraph should be "problems," and not "programs."

Dr. Buchan stated that he doesn't criticize Dr. LeuVoy's heart on the matter; he thinks that Dr. LeuVoy practices in the spirit of helping his patients; but his practice knowledge base is just deplorable. Dr. Buchan stated that he would be in favor of revocation. If, some day, Dr. LeuVoy comes back with a three-year family practice residency behind him, and his heart matches his knowledge base, therein may lie an answer for him. Dr. Buchan stated that that is where the standard needs to be for him.

Dr. Kumar asked whether, if Dr. LeuVoy applies for residency training, he would be eligible for a training certificate.

Dr. Steinbergh stated that he would, adding that he needs the education. She stated that she feels that Dr.

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LeuVoy has simply not been mentored or modeled. There's no reason for her to believe by his degree and where he was educated that he didn't have the appropriate basic medical education, but he didn't go much beyond that. He did do an internship, but what he has given is not appropriate care.

Dr. Steinbergh stated that she would like to comment on the off-label usage of drugs such as Adderall, where she does have some experience. Dr. Steinbergh stated that, if you do want to prescribe Adderall XR 60 mg, most insurance companies will approve it, if you have an appropriate specialist who has evaluated the child and says that this child, at this age and at this weight, needs this medication. She stated that what surprised her was that these medications were, in fact, being filled. Dr. Steinbergh commented that one of the good things that has come from managed care is that there are cross-checks on prescribing. If you're prescribing in a way that isn't appropriate, someone is going to call the physician to discuss whether or not the prescription is appropriate and whether the physician has appropriate documentation, etc.

Dr. Steinbergh again stated that she thinks that education is the answer for Dr. LeuVoy. She would recommend either CPEP or a residency program. Dr. Steinbergh commented that CPEP has an excellent reputation for assessing a physician's practice, and they would tell him where he needs to go to get that education, if he's not accepted in a family practice residency. Clearly, a residency would be the best situation.

Dr. Kumar agreed.

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	- nay
	Dr. Madia	- aye
	Dr. Steinbergh	- nay

The motion failed.

Dr. Steinbergh asked whether another amendment to the revocation order is necessary or whether the record will be clear as to the Board's recommendations.

Dr. Kumar stated that that's one of his concerns. He questioned whether a simple revocation is an incomplete order.

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

The motion carried.

TERRI LYNNE SAVAGE, M.D.

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

Dr. Robbins continued that a request to address the Board has been made on behalf of Dr. Savage, but it was not made in a timely manner. Dr. Robbins asked whether the Assistant Attorney General objected to the Board's allowing Dr. Savage to make her address.

Ms. Pfeiffer stated that she did not object.

Dr. Robbins advised Dr. Savage that five minutes would be allowed for her address.

Dr. Savage was accompanied by her attorney, Scott T. Greenwood.

Dr. Savage thanked the Board for allowing her to speak. She stated that she knows that it seems that she's been non-compliant with the Board's request for drug rehabilitation, but she wants the Board to know that she does want to comply. There's a good reason that she hasn't. Dr. Savage stated that there are criminal charges pending against her. Mr. McGlaun of the Medical Board staff has been the source of these charges. She was unable to testify at the Board hearing because of the criminal case. This is making the situation very difficult.

Dr. Savage stated that she had actually driven from Dayton to Cleveland to go to a rehabilitation program, although she does not abuse drugs. It was then that she learned that she was going to be charged. She wanted to comply with the Board; but it wasn't possible because of the charges hanging over her head.

Dr. Savage stated that because of prior experience that she had with Mr. McGlaun, and when she voluntarily admitted herself at Shepherd Hill, she believes that she has been targeted. Dr. Savage stated that she doesn't want to offend the Board, but she really thinks that some things are happening out in the field of which the Board is not aware. She stated that she believes that the Board would be shocked were it

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to hear the truth. Dr. Savage stated that she's not at liberty to reveal what happened because she has to go to court first and tell the criminal court what has happened. Once she proves her innocence in the criminal court, she will be able to tell the Board all the details. The only thing she can say right now is that she didn't use drugs, she's not a drug addict. Dr. Savage stated that a person doesn't strive her whole entire life to do the right thing and become a doctor and then at 50 years old suddenly become a drug abuser.

Dr. Savage continued that there have been many lies told to the Board and to the prosecutor in Dayton. She stated that there are some people who benefit greatly by having her out of practice. She stated that she knows that that sounds as though she's trying to shift blame or wiggle out of trouble, but she's not. She's written two letters to the Board about this situation in the last three years. Dr. Savage stated that Agent McGlaun told her that the Board would help her, but then he ended up turning things that are not criminal into criminal charges by lying and exaggerating the truth. She commented that this is not the first time that Agent McGlaun has destroyed every aspect of an innocent doctor's life, not to mention costing the Board probably hundreds of thousands of dollars in legal and other fees. She doesn't know why he does it; she can think of several reasons, none of them ethical, and some of them downright illegal. She doesn't know what happened to the letters she wrote to the Board; she doesn't know whether they ever got to any Board members. She never got a response.

Dr. Savage stated that she has had all kinds of trouble from her competitors. Very unethical and unbelievable things have been done to her. Dr. Savage stated that she would like to tell the Board all those things, but she can't today, and she couldn't at her hearing a couple of months ago. Dr. Savage stated that she is here today to ask the Board to please let her come back after her criminal trial so that she can tell the Board the real story. She stated that she's already lost everything she's worked for for 20 years. She added that being a doctor has been her love and her life, and she's given it everything. She's never abused drugs in exchange for her profession or for her patients. She will not be practicing medicine until she proves her innocence in a criminal court, and if the Board will allow her to come back and tell the truth of what happened.

Dr. Savage stated that she doesn't want to offend the Board in any way. She added that the timing of the Board hearing was just too soon. The court system does not work as fast; and, therefore, her hands have been tied as far as testifying to the Board. She just wants a chance for the Board to know the truth and to make an informed and fair judgment. She assured the Board that, whatever it asks of her, she will do. She planned on doing it last June, and she'd even driven up to Cleveland and was just hours from admitting herself into a 28-day treatment program when she was informed that criminal charges were going to be filed and that it was in her best interest to not go to a program at that time. That did not mean that she will never comply with that request; it just means that at that time she could not do it to protect herself. Dr. Savage commented that she's not an attorney, but she will have to assume that what she was told is correct. She would not refuse to go to a 28-day program when she spent 20 years trying to fulfill all of the requirements so that she would have the privilege of doing what she loves to do. She drove to Cleveland with every intention of doing that.

Dr. Savage stated that, no matter how unfair it feels to her, to be labeled as a "drug addict" or a "drug abuser," she still has, and has had, no intention of defying the Board on that issue. She has every intention

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of doing whatever the Board will require of her. She stated that she hopes that when the Board hears the whole story, that won't be necessary. She again stated that there is so much of which she wants to inform the Board, and she hopes and prays every day that the Board will allow her to come back after her trial and tell the Board all of the details. She asked that the Board keep an open mind, let the criminal process take its course, and not take the drastic step of permanent revocation.

Dr. Savage again thanked the Board for allowing her to talk today.

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

Ms. Pfeiffer stated that there's an adage that a picture's worth a thousand words. In this case there are a couple of pictures that are worth a thousand words; however the quality is not ideal. They were pictures that were taken with the cell phone camera of the Pharmacy Board investigator. The first picture is State's Exhibit 7. These are the exhibits from the actual record that were submitted at hearing. This picture appears to be an ordinary candy glass jar with a glass lid. It's filled with a number of things, but not candy. These are drugs, and one of the drugs is half of an OxyContin 80mg. This glass jar was on Dr. Savage's night stand, along with a white bulk bottle of OxyContin 80 mg. There were 59½ in that bottle.

Ms. Pfeiffer stated that how this picture came about is that the Pharmacy Board investigator and the Medical Board investigator went to Dr. Savage's office to examine her dispensing logs for the OxyContin 40 mg and the OxyContin 80 mg that Dr. Savage purchased in bulk from the local pharmacy. While they were at the office, interviewing Dr. Savage, the Pharmacy Board investigator was looking for the dispensing logs for the OxyContin 40 mg and the OxyContin 80 mg, and there were none. In the course of their discussion with Dr. Savage she was asked about the logs. In particular she was asked about a purchase that she made of OxyContin 40 mg in February 2005. Ms. Pfeiffer referred to State's Exhibit 3, which includes a purchase order on a DEA form for 100 tablets of OxyContin 40 mg. The form was signed by Dr. Savage. Ms. Pfeiffer advised that, when asked about these tablets and what had happened to them, she told the investigators that she's probably taken between 30 and 40. She advised that she was between doctors and needed medication. Ms. Pfeiffer stated that she believes that the evidence indicates that, up to that point, there were no prescriptions for OxyContin written for Dr. Savage for her own pain issues. On her own, through her office, she ordered the OxyContin 40 mg.

Ms. Pfeiffer continued that, later, in January 2006, after she'd seen Mervet K. Saleh, M.D., a pain specialist, for her pain disorder, who also issued prescriptions for OxyContin, she made another bulk order from the local pharmacy. This time it was for 100 tablets of OxyContin 80 mg.

Ms. Pfeiffer stated that in the course of interviewing Dr. Savage, the Medical Board investigator asked her whether she had any medication on her. Ms. Pfeiffer referred to State's Exhibit 5, a picture that reflects what appears to be a red cosmetic bag. Dr. Savage dumped out medication contained in this bag in her purse. An inventory was taken of that. In the bag, per the Pharmacy Board investigator, were OxyContin 80 mg tablets, two partially bitten tablets of OxyContin. There were 10 tablets of OxyContin 10 mg, ten tablets of OxyContin 20 mg, 22 tablets of OxyContin 40 mg, 40 tablets of Norco in unknown strength, 5

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tablets of Zoloft 25 mg, 3 tablets of Zoloft 50 mg, and 17 tablets of Flexoril 10 mg.

Ms. Pfeiffer stated that what the investigators were really focusing on in this case were the OxyContin 80 mg. When asked about the balance of the OxyContin 80 mg purchased in January 2006, Dr. Savage volunteered that she kept them at home because she had an issue with employee theft. Everything else was okay, though, in the office, including morphine and whatever else she had. The OxyContin 80 mg had to be protected at home, next to the candy jar on the nightstand. Ms. Pfeiffer stated that Dr. Savage cooperated with the agents, went to her home, and this is where they found the balance of the drugs.

Ms. Pfeiffer stated that Dr. Savage was asked to produce the patient logs that reflected the dispensing of the OxyContin 80 mg and the OxyContin 40 mg that were purchased by her, and she failed to produce any. She was given a written form from the Pharmacy Board investigator and was told to produce them within 72 hours. As of the day of the hearing, she had produced nothing.

Ms. Pfeiffer stated that she's troubled by Dr. Savage's several statements that she did not abuse drugs. Ms. Pfeiffer stated that she doesn't know what you'd call ordering 50 OxyContin 40 mg because you're in between pain doctors, and taking them, admitting that to the Board, but when evaluated at Shepherd Hill, insisting that they were for patient use. Ms. Pfeiffer referred to the testimony of Richard N. Whitney, M.D., Medical Director of Shepherd Hill, who went into some detail about the danger that would be posed to non-opioid dependent patients in a cosmetic surgery practice if they were to ingest OxyContin 40 mg or OxyContin 80 mg. It could slow down respiration to the point where the patient could vomit and actually even die from it.

Ms. Pfeiffer stated that with absolutely no evidence, no indication or no record supporting dispensing of the OxyContin 40 mg and the OxyContin 80 mg to any of Dr. Savage's patients, her admissions to the Board investigator in April that she was taking this medication and that she ordered it because she needed it, combined with carrying bitten OxyContin 80 mg with her, indications are that she's abusing. When Dr. Savage submitted these documents to the pharmacy and signed off on it, she was representing that they were for office use, and they weren't for office use. They were for self-consumption.

Ms. Pfeiffer stated that she would like to highlight a couple sections of Dr. Whitney's report. She read as follows:

The results of extensive evaluation of Dr. Savage's history indicate a firm diagnosis of Opiate Dependence. She has, of course, been prescribed opiates, including OxyContin and Norco by her current physician, Dr. Mervet K. Saleh, and Ultram by her previous physician, Dr. Robert A. Hawkins. However, it should be noted that Dr. Saleh has dismissed Dr. Savage from her Pain Management practice....

During repeated interviews by myself and other members of the staff of Shepherd Hill, Dr. Savage provided explanations for her having ordered OxyContin for her office use, having had OxyContin stolen from her office, and her having taken OxyContin to her home and carrying some in her purse should a patient need them. These explanations

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varied in details depending upon with whom she was speaking, and were not credible.

Ms. Pfeiffer stated that although Dr. Whitney does acknowledge that he believes that Dr. Savage does have a valid pain disorder, he writes:

...I believe that she has developed addiction to the prescribed opiate medications, separate from simple physical dependence, and now requires treatment for chemical dependency.

Ms. Pfeiffer stated that she thinks that the evidence is clear that Dr. Savage is impaired. She stated that what she wants the Board to focus on is that this is not solely an impairment case. She referred to the Board's notice of suspension and opportunity for hearing in this case, which, after making the factual allegations regarding her obtaining the OxyContin, the Board states:

...your acts, conduct, and/or omissions as alleged in paragraphs (1) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2925.22, Ohio Revised Code, Deception to Obtain a Dangerous Drug, and/or Section 2925.23, Ohio Revised Code, Illegal Processing of Drug Documents.

Ms. Pfeiffer stated that Dr. Savage got her DEA registration with her medical license, she ordered the OxyContin, supposedly for her practice, but she uses them for self-ingestion. She engaged in acts constituting a felony. Ms. Pfeiffer urged the Board to keep that in mind because the Board's minimum disciplinary guideline for a licensee who commits acts constituting a felony in the course of practice is permanent revocation.

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

Dr. Robbins directed the Board's attention to a motion filed by Assistant Attorneys General Pfeiffer and Clifford. They have requested that the Board ratify the determination of the Secretary and Supervising Member that there was clear and convincing evidence that a violation of R.C. Section 4731.22(B) had occurred and that Dr. Savage's continued practice of medicine constituted a danger of immediate and serious harm to the public. This motion was previously mailed to Board members.

MR. BROWNING MOVED TO AMEND THE FINDINGS OF FACT BY ADDING FINDINGS THAT THE SECRETARY AND SUPERVISING MEMBER, AT THE TIME THEY MADE THE RECOMMENDATION TO SUMMARILY SUSPEND THE LICENSE OF DR. SAVAGE, HAD CLEAR AND CONVINCING EVIDENCE THAT DR. SAVAGE'S CONTINUED PRACTICE OF MEDICINE CONSTITUTED A DANGER OF IMMEDIATE AND SERIOUS HARM TO THE PUBLIC. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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

Dr. Egner stated for her, the purpose of the hearing was to hear the facts of the case, but she needed to hear from Dr. Savage. Dr. Egner noted that Dr. Savage did not participate in the hearing process, and stated that it's very difficult for her to reach a decision. She does not like revocations, as she has said many times. It's not a good solution for the Board; but in this case, she must make a decision. Dr. Egner stated that, based on Dr. Savage's appearance today, she's not favorably impressed. Dr. Savage needs to participate in the Board's process, and she should have participated in the Board's process. Dr. Egner stated that she doesn't accept Dr. Savage's excuse for not participating. Dr. Egner stated that she would go with the proposed revocation, and perhaps, at some point in time, the Board will hear her story.

Dr. Steinbergh stated that Dr. Savage is either impaired or she's not impaired. Dr. Savage has indicated that she's not impaired. Dr. Steinbergh commented that she thinks that Dr. Savage has some problems with the truth. She's been taking controlled substances. Dr. Steinbergh stated that the Attorney General's office has outlined everything perfectly. Dr. Steinbergh stated that the Report and Recommendation indicates that Dr. Savage is demonstrating paranoid behavior. Dr. Savage had told Dr. Whitney that she believed that an employee had been placed in her office by a group of plastic surgeons for the purpose of destroying Dr. Savage. Dr. Steinbergh stated that there are so many issues here that she doesn't disagree with permanent revocation. Dr. Steinbergh stated that she has to believe that Dr. Savage is an ill person who can't quite come to terms with it. In that case, revocation would be appropriate so that the Board could assess her when she comes to terms with her illness. Dr. Steinbergh stated that she believes that Board members are convinced that Dr. Savage is chemically dependent, but she denies it and doesn't seem to be amenable to getting treatment. Dr. Steinbergh stated that she's not sure what to do: Either permanently revoke the license, or just revoke the license.

Dr. Kumar asked Ms. Pfeiffer whether Dr. Savage has been indicted or convicted of committing felonious acts.

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Ms. Pfeiffer spoke briefly with Mr. Greenwood who acquiesced to Ms. Pfeiffer's answering that Dr. Savage is currently only under indictment. She has not been tried, she has not been convicted.

Dr. Kumar stated that he needed that clarification. Had Dr. Savage been convicted, permanent revocation would be appropriate. At this time, with the process still going on, a revocation is in order.

Mr. Browning agreed with Dr. Kumar, adding that he doesn't think anyone here would be surprised should Dr. Savage ask for treatment in lieu of conviction.

Mr. Albert left the room during the previous discussion.

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

Vote:	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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

The Board took a brief break at 3:09 p.m. It reconvened at 3:28 p.m. with the following members absent: Dr. Egner, Dr. Talmage, Mr. Browning and Dr. Steinbergh.

PROPOSED FINDINGS AND PROPOSED ORDER

SEVERINO PEREZ ZAMBRANO, M.D.

Dr. Robbins directed the Board's attention to the matter of Severino Perez Zambrano, M.D. She advised that by letter of February 8, 2006, the Board notified Dr. Zambrano that it proposed to take disciplinary action with respect to his certificate to practice medicine and surgery in Ohio, based on allegations contained in the letter. The notice was mailed to Dr. Zambrano's address of record and proper service was documented. No hearing request has been received from Dr. Zambrano and more than thirty days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner McNeil, 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

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SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS AS SET FORTH IN THE FEBRUARY 6, 2006 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF SEVERINO PEREZ ZAMBRANO, M.D., AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. MADIA SECONDED THE MOTION.

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

Dr. Buchan stated that he feels the record in this case is fairly straightforward. He added that he agrees with the Proposed Findings and Conclusions, and he suggested that the Board adopt the Proposed Order, as written.

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

Vote:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Kumar	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Robbins	- aye

The motion carried.

FINDINGS, ORDERS AND JOURNAL ENTRIES

CHARLIE DESHAZER, M.D.

Dr. Robbins advised that the Board issued its Notice of Opportunity for Hearing to Charlie Deshazer, M.D. on August 1, 2006. Acknowledgment of receipt was received on August 14, 2006. Dr. Deshazer did not request a hearing and more than 30 days have elapsed since the mailing of the notice. The matter is therefore before the Board for final disposition.

DR. KUMAR MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE AUGUST 1, 2006 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. DESHAZER'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO HIS PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF AUGUST 1, 2006. DR. BUCHAN SECONDED THE MOTION.

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

Dr. Kumar stated that the record is clear. Dr. Deshazer has not been engaged in the active practice of

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medicine for more than two years. He should be required to pass the SPEX or the Board recertification examination for licensure.

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

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

The motion carried.

SETH A. ONINKU, M.D.

Dr. Robbins noted that, by letter of June 14, 2006, the Board issued a Notice of Opportunity for Hearing to Seth A. Oninku, M.D., based upon allegations contained in the letter. The Notice was mailed via certified mail, return receipt requested, to Dr. Oninku'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. Oninku 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 ENTER AN ORDER OF PERMANENT REVOCATION, EFFECTIVE IMMEDIATELY, IN THE MATTER OF SETH A. ONINKU, M.D. DR. MADIA SECONDED THE MOTION.

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

Dr. Buchan stated that this is a case involving the conviction on one felony count of the Sale of Dangerous Drugs and one felony count of Possession for Sale of Dangerous Drugs. He noted that a permanent revocation is appropriate.

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

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

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Dr. Madia - aye
Dr. Robbins - aye

The motion carried.

ZAHIRUL H. TALUKDER, M.D.

Dr. Robbins noted that, by letter of August 1, 2006, the Board issued a Notice of Opportunity for Hearing to Zahirul H. Talukder, M.D., based upon allegations that he had not completed an examination sequence acceptable to the Board. The Notice was mailed via certified mail, return receipt requested, to Dr. Talukder'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. Talukder and more than thirty days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

DR. KUMAR MOVED TO ENTER AN ORDER DENYING DR. TALUKDER'S APPLICATION FOR ENDORSEMENT LICENSURE. DR. BUCHAN SECONDED THE MOTION.

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

Dr. Buchan stated that Dr. Talukder did not pass an acceptable examination sequence, nor did he present evidence of good cause for his failure to do so. The Proposed Order denying licensure is appropriate.

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

Vote:

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

The motion carried.

TIMELESS SKIN SOLUTIONS

Dr. Robbins noted that, by letter of August 1, 2006, the Board issued a Notice of Opportunity for Hearing to Timeless Skin Solutions, proposing to deny its application for a supplemental physician assistant utilization plan based upon the Board's consideration that authorization of the requested functions, permitting a physician assistant to utilize a light-based medical device for the treatment of acne and deep tissue heating, removal of unwanted hyperpigmentation and vascularity, and vein removal, would be in violation of Medical Board rules. Notice was mailed via certified mail, return receipt requested, to

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Timeless Skin Solutions' 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 Timeless Skin Solutions and more than thirty days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

DR. VARYANI MOVED TO DENY TIMELESS SKIN SOLUTIONS' APPLICATION FOR A SUPPLEMENTAL PHYSICIAN ASSISTANT UTILIZATION PLAN BASED UPON THE BOARD'S CONSIDERATION THAT AUTHORIZATION OF THE REQUESTED FUNCTIONS, PERMITTING A PHYSICIAN ASSISTANT TO UTILIZE A LIGHT-BASED MEDICAL DEVICE FOR THE TREATMENT OF ACNE AND DEEP TISSUE HEATING, REMOVAL OF UNWANTED HYPERPIGMENTATION AND VASCULARITY, AND VEIN REMOVAL WOULD BE IN VIOLATION OF RULES 4731-18-02 AND 4731-18-03, OHIO ADMINISTRATIVE CODE DR. BUCHAN SECONDED THE MOTION.

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

Dr. Kumar stated that, basically, the requested function is not in the purview of a physician assistant.

A vote was taken:

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

The motion carried.

Dr. Egner, Dr. Talmage, Mr. Browning, and Dr. Steinbergh returned to the meeting at this time.

PERSONAL APPEARANCES

MARK S. FLEMING, M.D.

Dr. Fleming appeared before the Board pursuant to his request for release from the terms of his September 12, 2001 Consent Agreement, which was based on his admission that he has been diagnosed as alcohol dependent and has sought treatment through a Board-approved provider.

In response to Board members' questions, Dr. Fleming thanked the Board. He stated that the process let him see where he was as a human, where he was as a physician and what he needed to do to take care of

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that. He's been working to maintain that. Dr. Fleming stated that he's regained a sense of balance in his life and a sense of perspective that he didn't have before. For that he is very grateful. Dr. Fleming stated that he's grateful to the Board and each and every member he's worked with.

Dr. Fleming stated that he recognizes that he has a genetic disease that he is tasked to take care of in order to function. He commented that his head has been snapped back all too hard by some of the things he's heard here today. They reminded him of his own position a number of years ago, and the events in his own life. Dr. Fleming stated that he is the middle of three sons, and is now the only surviving member, the other two having succumbed to the direct effects of this disease.

Dr. Fleming stated that it's pretty clear what he needs to do. He accepts that, embraces it and enjoys it. He's glad to be alive and a more whole human being. He thinks he's a better person and a better physician in that regard. Dr. Fleming stated that he's had some struggles with practice. He lost his practice, understandably, struggled to get back into practice. Now he's as busy as he wants to be and he thinks that he practices a much higher quality of medicine and is a better rounded person than he was before. Dr. Fleming stated that he lives in Baltimore, Ohio. He practices at Fairfield Hospital in Lancaster, and at Mt. Carmel West, here in Columbus.

In response to further questions, Dr. Fleming stated that he's doing all neurosurgical procedures. Everything is apparently doing well. He stated that it's good to be in the saddle again. He advised that key to his maintenance of sobriety will be personal honesty, recognizing that he has this problem, and not losing track of that. He added that it's up to him to shoulder the responsibility; it's not the Board's job. The Board helped him to recognize that, and it gave him the tools and the privilege to practice medicine again. To maintain that he will have to stay involved in A.A. He stated that this goes beyond him as a physician; it's him as a person. As soon as he thinks that he has control of this, he doesn't. That's his warning sign. Dr. Fleming stated that he's seen all too often those who "had" it, but didn't. At least for today he understands what he needs to do.

Mr. Albert stated that Dr. Fleming has been an excellent probationer, and he now considers him a good friend. He stated that if he ever needed a neurosurgeon, he would call Dr. Fleming.

DR. KUMAR MOVED TO RELEASE DR. FLEMING FROM THE TERMS OF HIS SEPTEMBER 12, 2001 CONSENT AGREEMENT. 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

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

The motion carried.

Dr. Fleming stated that he would like very much to thank Ms. Bickers and Mr. Albert for their kindness, humanity and professionalism. He also expressed his gratitude to Dr. Sateran and O.P.E.P.

JOSEPH A. TORE, M.D.

Dr. Tore appeared before the Board pursuant to his request for release from the terms of the Board's Order of August 8, 2001, which was based on his plea of guilty to one felony count of Illegal Processing of Drug Documents, for which he was found eligible for intervention in lieu of conviction; acts underlying doctor's guilty plea, which include his issuing and filling a prescription for Ambien, a Schedule IV controlled substance, under a false patient name for his own use; and his admission during a court-ordered assessment that he had abused Ambien.

In response to Board members' questions, Dr. Tore stated that he's better than he was five years ago. He stated that he told his lawyer that he feels that he turned his life around 360 degrees. Dr. Tore stated that he is currently under a Federal exclusion from Medicare and Medicaid, which means that he can't participate in residency for at least another year. He stated that he had a long meeting with the Chair of his department, trying to decide where he is going to from here. Dr. Tore stated that he doesn't think that medicine is in the cards for him.

Dr. Tore stated that five times today he has been able to say to someone that he is doing much better more recently. Every time he's asked the question as to what he attributes that, and he's been in psychiatric counseling for a long time. There were very difficult issues that he hadn't been able to address. Even when he came to the realization of what they were, he kept in the back of his mind that it can't be, that it had to be something else, that doesn't make sense, that's not what happens to people like him. Recently his psychiatrist painted him into a corner where he had to admit that that just doesn't wash. The things he knows, he knows, and he's stopped saying that they didn't happen.

Dr. Tore stated that those things are still very difficult for him – things that happened many years ago, and he would prefer not to talk about it at this time. One of the things he told his wife on the way down here, every time this comes up, he can't talk about it without breaking down. Dr. Tore added that there must be some reason for that. Dr. Tore stated that he still has not buried that issue, but he has made enormous progress. The over-arching symptom that he had was that he couldn't sleep. Not one night in nearly fifteen years could he just lay his head down and go to sleep. He stated that this was absolutely torture for him, but he did survive it. He has a great family. His wife still speaks of him as a doctor every chance he gets, and he loves her for that. He has great kids, who are healthy and happy.

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Mr. Albert stated that Dr. Tore has advised that medicine isn't in his future, but they have had a lot of discussions on this and he's advised Dr. Tore to keep those options open. Some day, he will return to medicine.

Dr. Tore stated that he greatly appreciates that sentiment. He stated that it's a great privilege to be a doctor, or to be a member of any community in good standing. That has become more of a theme and more important to him recently. Dr. Tore stated that that morning he had an hour and a half meeting with Dr. Marko, and he had some discussions with a board member at the company for which he's working. What keeps going through his mind is that he wants to make a difference. He wants to be a leader of some sort. He wants to do something to make the world a better place. He doesn't know exactly what form that will take.

In response to further questions by Board members, Dr. Tore stated that he's currently working for a small company that makes plastic parts for the automotive industry. He commented that it's a boring job. He advised that he is sleeping now. He stated that he is healthy. Dr. Tore explained that medicine might not be in his future because of the practicalities, as much as anything else. He's used up two years of federal funding. Dr. Tore stated that he did discuss this with Dr. Marko at length, and he didn't paint a black picture, and he didn't paint a rosy picture. The fact is that there will be issues with funding, and there will be people in institutions who make a judgment about him that may not be accurate. There's a certain stigma that will always follow him around, and that bothers him. Dr. Tore stated that he is 44 years old.

Dr. Egner advised Dr. Tore that there are supportive places out there. If he wants to be a physician, there are ways to do it, and not under such adverse circumstances. Dr. Egner stated that she truly believes that. She added that Dr. Tore has to decide. If he doesn't feel that medicine is in the cards for him because it's not his passion, or because he doesn't see himself in that role and he wants to find something else to support his family, that's one thing. But if medicine is still his passion, there is an avenue for him. The Board has seen it many times.

Dr. Steinbergh agreed with Dr. Egner.

Dr. Kumar commented that there are a whole host of things besides patient care involved in medicine. There's research, public health programs.

Dr. Tore stated that the family and board members of the company for which he is working are very supportive, and he thinks that they're going to send him for an executive MBA, which will open up doors in hospital administration and that kind of thing. They know they won't be keeping him if they send him to that program. Dr. Tore stated that he thinks that this is very gracious and generous of them. Dr. Tore stated that he told Dr. Marko that the ball hasn't landed. It's still up in the air. Dr. Tore commented that he still has a year before he can even petition the federal government for the right to go back to a residency.

Dr. Steinbergh urged Dr. Tore to look past this concept of a stigma. It is what it is, but the Board members are all in hospitals where they support physicians who have been impaired, chemically dependent or other issues. She commented that many recovering physicians become very successful.

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Dr. Tore stated that he has not felt that it went smoothly with him with the Board because of where he was mentally. Part of that is years and years of not respecting himself. He added that, fortunately, he has a wife who doesn't let him get away with that easily. He stated that he's not where he needs to be yet, but he's a lot healthier than he was five years ago. He still has a way to go, but he's making good progress, and he's here because he doesn't want to close doors. Dr. Tore stated that he has another year before he has to decide, although he could start knuckling down and studying anesthesia if he knew for sure.

Dr. Tore stated that he has to feel that he is very well grounded. He commented that he believes that all of the Board members are very well grounded. Dr. Tore advised that he's read the Board discussions on the internet, and added that part of that was because he felt that he had an adversarial relationship with the Board. He was very dismayed to realize that the Board members sound like very reasonable and honorable people.

Dr. Tore stated that the last thing he wants to do is paint himself as someone the Board doesn't want to release because he still has issues. He commented that that's going through his mind right now. He added that he's had a large burden to carry, although a lot of it is gone. Dr. Tore stated that he wants to be solid, grounded, and he wants his family to know that he's there for them. Dr. Tore stated that being a physician is a privilege. He added that it's a great feeling going in and talking to a patient and knowing that they trust. Feeling that he has to live up to that is an incredible feeling. Dr. Tore commented that he gets that with his family all of the time.

In response to further questions, Dr. Tore stated that he sees his psychiatrist every two weeks or every week, depending upon when his psychiatrist is available. He's not taking any medication at this time. He previously held a training certificate. Dr. Tore stated that he made it through his internship and ran into problems about a month into his residency. He completed 11 months of PGY2, which don't count. He would want to redo those months anyway.

MR. ALBERT MOVED TO RELEASE DR. TORE FROM THE TERMS OF THE BOARD'S ORDER OF AUGUST 8, 2001. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

ROBERT L. BELLUSO, D.O.

Dr. Belluso made his initial appearance before the Board, pursuant to the terms of his June 14, 2006 Consent Agreement based on a Board-ordered evaluation that: (1) determined the doctor to have a history of severe mood disorder, possibly Bipolar II Disorder, currently in full remission, but no psychiatric conditions that prevent him from being able to complete training and practice medicine within the confines of training; and (2) recommended that the doctor continue treatment with a psychologist for depression and anxiety.

In response to Board members questions, Dr. Belluso stated that he is a second-year family practice resident at Akron General Medical Center. He sees his counselor every three weeks. He was evaluated by a psychiatrist, but is not required to see a psychiatrist. He does not take any medications. Dr. Belluso stated that he thinks he's doing very well. He feels like he's got good balance. He stated that he's working on some anxiety issues with his counselor, and he feels that he's able to recognize his anxiety and handle it better than he has in the past. Dr. Belluso stated that he actually looks forward to his meetings with his counselor, whom he feels is a great psychologist and a great friend. Dr. Belluso stated that he is doing well in his residency program, and he's happy.

When asked what brought him before the Board.

Dr. Belluso stated that he answered, "no," to questions in the training application to which he should have answered, "yes." They were questions regarding whether he had been treated for bipolar. Dr. Belluso stated that that was his official diagnosis, but he felt more like he had depression/anxiety. He didn't use the label of "bipolar," even though that was the official diagnosis. The Board found out because of psychiatric records that were requested. Dr. Belluso stated that there was a family history of bipolar, but he didn't think that his psychiatrist at the time was really convinced that that was the true diagnosis. He believes that after his psychiatrist got to know him better, she also thought it was more depression than bipolar. That's why he answered, "no," to the question. Also, he was terminated from a residency program. Dr. Belluso stated that he also answered, "no," to a question concerning medical conditions. He stated that he separated psychiatric from medical in his mind, and he thought that medical meant something like diabetes or hypertension.

Dr. Belluso advised that he has read his Consent Agreement very carefully, and he understands the terms. He has a monitoring physician and a counselor he sees every three weeks.

Dr. Kumar noted that the Board has confidence that Dr. Belluso will continue with his psychotherapy and recovery to become a productive physician.

Dr. Belluso stated that all that he wants is to be on the right path and in complete compliance.

DR. KUMAR MOVED TO CONTINUE DR. BELLUSO UNDER THE TERMS OF HIS JUNE 14,

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2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

KEVIN W. BOWERS, D.O.

Dr. Bowers made his initial appearance before the Board, pursuant to the terms of his May 10, 2006 Consent Agreement based on his admitted chemical dependency and relapse, for which he has sought treatment through a Board-approved provider, and on his illegal possession of Dilaudid and Fentanyl.

In response to Board members' questions, Dr. Bowers stated that he is not practicing medicine at this time. He advised that, during his suspension, he's been "Mr. Mom," taking care of his children, a 12-year-old daughter and a 7-year-old son, until they went back to school. Now he drives them to the bus, picks them up from the bus, and takes them to baseball practice. He has begun driving as a courier for a supply chain management company. That's what he'll be doing to pay the bills until things work out.

Dr. Bowers advised that he attends three to four meetings a week in Grove City. He also attends one Caduceus meeting and a continuing care meeting at Parkside each week. As far as what he does outside of the meetings to maintain his sobriety, he gets up and prays every morning, he talks to his sponsor, he's on the 10th step, which is where he was when the incident happened. Dr. Bowers stated that his problem is that he doesn't have boundaries with people. He hates to say, "no," and then he ends up putting himself in a hole; then he makes excuses for this kind of behavior. Dr. Bowers stated that that is how both incidents happened. He derives his self-worth out of what other people think of him, and he doesn't say, "no," when he should. He would take calls, even when he wasn't on call because everyone knew that he would take them. Dr. Bowers stated that part of what he likes in being a doctor is to be there when people need him, but that's where he got into problems with both incidents. He would feel that, because he was such a nice guy, helping people whenever they needed help, he could break a rule here or there. That's exactly where he was.

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Dr. Steinbergh asked how that made him want to use drugs.

Dr. Bowers stated chemical dependency is what makes him want the drugs. He commented that when his wife gets upset, she makes excuses for doing bad things. She might eat a whole birthday cake. He goes and gets drugs when he's upset. Those are two different things. His feeling that he is a nice guy lets him feel that it's all right for him to break rules. His chemical dependence is what makes him choose drugs.

In response to questions about what he is doing to address his boundary issues, he stated that it is a very slow process. He is not getting counseling for the problem.

Dr. Steinbergh stated that Dr. Bowers should be getting help with the boundary issues.

Dr. Bowers stated that he's working on them in continuing care and with his sponsor in A.A. meetings, but he doesn't see anyone professionally for those problems.

Dr. Steinbergh suggested that he help himself and get some psychiatric care.

Dr. Bowers stated that he did see someone in 2003, and he did take the MMPI at that point, but that's been it. Dr. Bowers stated that he was starting to see a counselor who sees residents at Riverside when this happened. He stated that, too late, he recognized that he was not in a good place.

In response to further questions, Dr. Bowers stated that he isn't sure that he will return to his emergency room residency when his license is reinstated. He added that he hadn't thought about what he would do.

Dr. Davidson noted that Dr. Bowers has been in both emergency medicine and anesthesia residencies, and she has some concerns about his returning to either of those. She noted that he ended up abusing IV injectable drugs in both residencies. Those are both stressful places, and there are a lot safer places in medicine for an impaired practitioner.

Dr. Bowers stated that he will consider changing specialties. He added that there's also a long-action monthly injection, Naltrexone, which might help. He stated that this was recommended by Dr. Edna Jones; he has not yet discussed the matter with the new Medical Director there. Dr. Bowers stated that, to be honest, when something like this happens, the first thought is the question of whether or not he should be in medicine at all. Right now he believes that he should, but he doesn't know how. He stated that he needs to work on other things first.

Dr. Steinbergh again recommended that Dr. Bowers seek counseling, noting that he has identified a significant underlying problem that may not be addressed in the 12-step program or by a sponsor.

Dr. Buchan asked whether there is any way the Board can help Dr. Bowers.

Dr. Bowers stated that he's a little erratic with his paperwork, and he asked that the Board be patient. He commented that Ms. Bickers has been very helpful with that. Dr. Bowers stated that he came to this

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meeting early to see how things work, and he's seen how the Board has dealt with other physicians, especially the first two personal appearances. It sounds like they've gotten advice from various means through the Board. Dr. Bowers stated that he doesn't know how that happened.

Board members advised him that he'll learn.

Dr. Buchan stated that Dr. Bowers has self-identified an issue, and he agreed with Dr. Steinbergh that professional assistance is necessary. He stated that the Board is in the business of trying to help physicians get through their problems. He commented that not everybody succeeds, but it's a joy when they do. Dr. Buchan stated that the Board is here to assist Dr. Bowers, but it will also come down hard when things don't go well.

Dr. Bowers stated that the Board is here to protect the public, and he has two children and a wife, and he wants them protected. Dr. Bowers stated that he doesn't see the Board as an adversary now.

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

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

The motion carried.

NATHAN THOMAS PENNEY, D.P.M.

Dr. Penney made his initial appearance before the Board, pursuant to the terms of his June 14, 2006 Consent Agreement, which was based on his diagnosis, pursuant to a Board-ordered evaluation, of alcohol dependence, for which he sought treatment through a Board-approved provider, and his diagnosis of chemical depression.

In response to Board members' questions, Dr. Penney stated that he is doing pretty well. He also is spending his suspension playing "Mr. Mom." His son is almost nine months old, and his wife has taken a

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job to make ends meet at home since he's not working. He meets with his psychiatrist once monthly and with his psychologist on weeks he doesn't meet with his psychiatrist. Every week he gets some type of psychotherapy. He's in continuing care for his alcoholism, attending three to four meetings a week. Dr. Penney stated that he's really just working on himself as a human being every day. In retrospect he doesn't see himself as a good husband or father. He was off in his own world.

Dr. Penney stated that he's thankful that he's alive today. He added that, after his suicide attempt, he really should have been dead. It was a serious attempt, and he thanks his Higher Power that he is alive today. After that, he decided that alcohol wasn't for him and he swore off it, thinking he was going to do it on willpower. Two days after he got out of Riverside for his treatment for depression, he got a letter from the Medical Board, ordering him to Glenbeigh for an evaluation, based upon the information that he had given in his application for a training certificate. Dr. Penney stated that he wouldn't have gotten into A.A. on his own. He thinks that that letter is what got him in. Dr. Penney advised that he did see the Board as being adversarial at first, and he was very angry with the Board; but he now sees this as his Higher Power working through the Board and getting him into those rooms.

Dr. Kumar noted that there is also a history of criminal damaging and criminal trespassing.

Dr. Penney stated that it involved his suicide attempt, which included ingesting wine, some Ambien and sitting in a parked car in a locked garage. It was not his garage, and therefore it was criminal trespassing. Dr. Penney stated that those charges have been dropped, as has the DUI.

In response to further questions, Dr. Penney stated that the only drug he takes is Wellbutrin. He stated that his alcoholism came before his depression. When he got his second DUI in 1999, he swore off alcohol. He didn't think he was an alcoholic, but he realized that it was getting him in trouble. He made a deal with himself not to drink for a year. He figured that if he could go a year without drinking, he wasn't an alcoholic. On day 366 he went back to drinking, but he didn't drink the way he did before. It was very controlled, very sporadic. Once or twice a month he had a drink or two at a time. He thinks that his depression was a result of his feeling abnormal. His friends were out, doing the same things they used to do, and he wasn't able to do that anymore. Dr. Penney stated that he would take his depression back about six years to that DUI. Dr. Penney stated that now he doesn't think that either one was caused by the other. He went through a divorce that was very hard on him, and that kicked his depression up another notch. He was also having some marital problems with his current wife that led to his actual suicide attempt. They are two different issues, definitely intertwined. Dr. Penney stated that he feels that he's working on them both.

In response to questions about medical school, Dr. Penney stated that he graduated from podiatric medical school in 2005. The depression and so on happened before podiatry school. He agreed that he was actively in his alcoholism at the time he began podiatry school. Dr. Penney stated that his drinking was very sporadic after his second DUI. It was very social, very controlled, not to the level of intoxication that he was before. A lot of that was due to his being in school. He knew that he had to study, and studying and alcohol didn't mix. Dr. Penney stated that he was that way as an undergrad, as well. His drinking was weekend drinking, on Friday and Saturday nights. But he was drinking to excess on those days.

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Dr. Penney stated that he was able to separate his school from his drinking, but he doesn't think he was able to separate his depression. That was with him at all times. He stated that he doesn't know that it necessarily affected the way he trained or the way he practiced or treated patients, but it did affect some of his interpersonal relationships, especially when he got into residency. Because of his depression and low self-esteem he was very grandiose and projected a person he really didn't feel that he was.

Dr. Penney advised that he has attempted suicide once, last year, when he was 28 years old.

Concerning his residency training, Dr. Penney stated that he was at the end of his first year at Grant Medical Center. He does anticipate returning to that program. The program has assured him that they want him back as soon as possible, and they hope that he will soon be able to get his training certificate reinstated so that he can return to work. Dr. Penney stated that he did receive very good evaluations in all of his evaluations. The program is aware of some of the conflicts he had with other co-residents, and that's something he will have to work with. Dr. Penney stated that he is a little afraid that he is going into a situation where he's been away for four months, and they've had to pick up slack for him. They've had to take call for him and cover surgical cases for him. He knows he's going into a situation where he's not the most popular person there, but he hopes that they will be able to see the change he's made over the past four months.

Dr. Buchan commented that humility will help.

DR. KUMAR MOVED TO CONTINUE DR. PENNEY UNDER THE TERMS OF HIS JUNE 14, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. 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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

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CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSIONMERCER TRUETT BRIDGES, JR., M.D. – CITATION LETTER

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

DR. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. BRIDGES. DR. BUCHAN 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. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

RALPH WILLIAM COLLA, M.D. – CITATION LETTER

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

DR. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. COLLA. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

MARK ALLEN DAVIS, 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. STEINBERGH MOVED TO SEND THE CITATION LETTER TO MR. DAVIS. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

The motion carried.

EILEEN C. GOLDEN, M.D. – CITATION LETTER

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

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

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

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Dr. Steinbergh - aye

The motion carried.

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

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

DR. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. KATA. DR. BUCHAN 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. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

JAMES L. KEGLER, 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. KEGLER. DR. BUCHAN 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

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Dr. Madia - aye
Dr. Steinbergh - aye

The motion carried.

FRED ROBERT MOSS, M.D. – CITATION LETTER

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

DR. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. MOSS. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:

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

The motion carried.

LOVSHO PHEN, M.D. – CITATION LETTER

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

DR. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. PHEN. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:

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

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

The motion carried.

DAVID HERBERT PROCTER, M.D., AKA DAVID HERBERT PROCTOR, M.D. – CITATION LETTER

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

DR. BUCHAN MOVED TO SEND THE CITATION LETTER TO DR. PROCTER. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:

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

The motion carried.

ARTHUR RICHARD SCHRAMM, M.D. – CITATION LETTER

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

DR. KUMAR MOVED TO SEND THE CITATION LETTER TO DR. SCHRAMM. DR. MADIA 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

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

The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

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

ADAM P. HALL, D.O. – CONSENT AGREEMENT

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

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

The motion carried.

M. HUSAIN JAWADI, M.D. – CONSENT AGREEMENT

DR. KUMAR MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. JAAWADI. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

JOSEPH F. PLOUFFE, M.D. – VOLUNTARY RETIREMENT

DR. STEINBERGH MOVED TO RATIFY DR. PLOUFFE'S VOLUNTARY RETIREMENT. DR. MADIA 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. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

JOSEPH GREGORY WERNER, M.D. – CONSENT AGREEMENT

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

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

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

The motion carried.

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

DR. KUMAR MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. DOOLEY. 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. Madia - aye
Dr. Steinbergh - aye

The motion carried.

ANTHONY GRAY, M.D. – CONSENT AGREEMENT

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. GRAY. DR. EGNER SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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JOHN PATTON, P.A. – CONSENT AGREEMENT

DR. BUCHAN MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MR. PATTON. 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. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

JORDAN BEN STERNS, M.D. – SURRENDER OF LICENSE

MR. BROWNING MOVED TO RATIFY THE SURRENDER OF DR. STERNS' LICENSE 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. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

MICHAEL J. VJECHA, M.D. – CONSENT AGREEMENT

MR. BROWNING MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH

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DR. VJECHA. DR. BUCHAN 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. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

CHRISTOPHER LEWIS GONZALEZ, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

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

DR. DAVIDSON MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. HOPPE. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

DAROLD R. LANCE, JR., D.O. – CONSENT AGREEMENT

DR. KUMAR MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. LANCE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DAVID C. BLOCKER, M.D. – CONSENT AGREEMENT

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

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

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

The motion carried.

ROBERT L. HUBLEY, D.O. – CONSENT AGREEMENT

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

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

The motion carried.

TODD S. CARRAN, M.D. – CONSENT AGREEMENT

DR. VARYANI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. CARRAN. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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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. Steinbergh asked that the Board remove the probationary requests of Jason V. Church, M.D., Mounir Basheer El-Badewi, M.D., Mark E. Goldsmith, M.D., and Mark Allen Renz, M.D., and the reinstatement request of Kyle Howard, M.D., from the consent agenda.

Dr. Davidson asked to remove the probationary reports for the following individuals from the consent agenda: Victor Bykov, M.D., and Miles E. Drake, Jr., M.D.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON AUGUST 7-8, 2006 WITH: MICHAEL TODD ADAMS, M.D.; MARK A. BANKS, M.D.; PATRICK BRIAN CESTONE, JR., M.D.; PAUL CLAASSEN, D.O.; L. JEAN COOPER, M.D.; STEVEN W. CRAWFORD, M.D.; RICHARD R. DELAFLOR, M.D.; LESLIE R. (WOLF) DYE, M.D.; MARY JO FOOTE, P.A.; PETER FRAGATOS, M.D.; STEVEN F. GREER, M.D.; GEORGE V. HASSINK, M.D.; RALPH ARDEN HUGUNIN, M.D.; KANDHASAMY KANNAPIRAN, M.D.; ADAM S. MARTIN, M.D.; KEVIN DALE MCKEE, D.O.; BRUCE JEFFREY MERKIN, M.D.; LOUISE DELYTE MORRIS, P.A.; PAUL E. PANCOAST, M.D.; MICHAEL PAUL PARKER, M.D.; DALE PRATT-HARRINGTON, D.O.; AKI S. PURYEAR, M.D.; JOHN H. ROCKWOOD, P.A.; JOSEPH S. SCHEIDLER, D.O.; JAMES E. STURMI, M.D.; TOBY JAMES TIPPIE, P.A.; JOHN R. TRUMBO, M.D.; AND MICHAEL CRAIG WARREN, D.O.; 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 CHARLES B. BERTANI, D.O.'S REQUEST TO CHANGE HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS, AND TO DENY HIS REQUEST TO ELIMINATE THE CHART REVIEW REQUIREMENT;**
- **TO APPROVE ROBERT E. LUBOW, M.D., TO SERVE AS TRACIE L. BOLDEN, M.D.'S TREATING PSYCHIATRIST;**
- **TO APPROVE ROBERT R. BRIGHTWELL, D.O.'S REQUEST TO CHANGE HIS MONITORING PHYSICIAN FROM FRANCIS V. DONO, D.O., TO DEAN L. COLWELL, D.O.;**
- **TO APPROVE JORDAN E. HOPKINS, M.D.'S REQUEST TO CHANGE HIS MONITORING PHYSICIAN FROM NATHAN J. O'DORISIO, M.D., TO JAMIE B. CONTI, M.D.;**

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- **TO APPROVE MELANIE LYNNE LEU, M.D.'S REQUEST FOR A REDUCTION IN HER PSYCHIATRIC SESSIONS TO EVERY FOUR TO SIX WEEKS;**
- **TO GRANT JEFFREY VAUGHN MEYER, M.D.'S REQUEST TO APPROVE BRADLEY J. LEWIS, M.D. TO SERVE AS THE MONITORING PHYSICIAN, WITH 10 CHARTS REVIEWED PER MONTH; AND HIS REQUEST TO APPROVE DOUGLAS L. BLAIR, LICDC, TO SERVE AS HIS LICENSED MENTAL HEALTH PROFESSIONAL;**
- **TO GRANT THOMAS A. RANIERI, M.D.'S REQUEST FOR A REDUCTION IN ALCOHOL AND REHABILITATION MEETINGS TO 2 PER WEEK WITH A MINIMUM OF 10 PER MONTH;**
- **TO GRANT CHARLES CHRISTIAN RICKEY, P.A.'S REQUEST FOR APPROVAL OF AN ETHICS COURSE TAILORED BY DONNA F. HOMENKO, PH.D., TO FULFILL BOTH THE PERSONAL AND PROFESSIONAL ETHICS COURSE REQUIREMENT OF THE BOARD'S ORDER OF DECEMBER 14, 2005;**
- **TO APPROVE GREGORY B. COLLINS, M.D., TO SERVE AS JOHN W. SHAW, M.D.'S TREATING PSYCHIATRIST;**
- **TO GRANT GREGORY S. ZINNI, M.D.'S REQUESTS FOR: A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS; A REDUCTION IN SCREENS TO TWICE PER MONTH; AND A REDUCTION IN ALCOHOL AND DRUG REHABILITATION MEETINGS TO TWICE PER WEEK WITH A MINIMUM OF 10 PER MONTH.**

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 ACUPUNCTURIST APPLICANTS LISTED IN EXHIBIT "C", AND THE ANESTHESIOLOGIST ASSISTANT APPLICANTS LISTED IN EXHIBIT "D."

DR. MADIA SECONDED THE MOTION. A vote was taken:

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

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Dr. Madia - aye
Dr. Steinbergh - aye

The motion carried.

VICTOR BYKOV, M.D.

Dr. Davidson noted that the materials in the agenda package indicate that Dr. Bykov is taking a drug called "Zorgan." She stated that she has not heard of that drug, and asked that that information be checked.

Ms. Bickers advised that Dr. Bykov has recently been diagnosed with ADDHD. She stated that she will check the recording of the conference to make sure that the correct drug name is in the record.

DR. VARYANI MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORT OF CONFERENCE ON AUGUST 7, 2006 WITH VICTOR BYKOV, M.D., SUBJECT TO THE CORRECTED DRUG NAME BEING INCLUDED ON THE REPORT. DR. EGNER SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Kumar	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Talmage returned to the meeting at this time.

MILES E. DRAKE, JR., M.D.

Dr. Davidson expressed confusion over the work description given in the report on Dr. Drake. It indicates that that Dr. Drake "is pursuing an employment opportunity to work for Sentient Medical Systems, performing intraoperative procedures, working approximately 40 hours a week from home."

Dr. Kumar stated that he believes that this is one of those robotic things, where they essentially work from a computer, guiding people in the operating room via internet connection.

Mr. Browning returned to the meeting at this time.

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Ms. Bickers advised that Dr. Drake is actually not practicing at all. This information was provided to the Board by e-mail. She stated that she will obtain clarification from Dr. Drake and include the corrected report in the October 2006 agenda materials.

Dr. Kumar noted that the information from Dr. Drake indicates that he is “pursuing” employment.

Ms. Bickers stated that she will clarify the matter and include the corrected report in the October consent agenda.

JASON V. CHURCH, M.D. – PROBATIONARY REQUEST

Dr. Steinbergh noted that Dr. Church has requested approval of John D. Mahan, M.D., his residency director, to serve as his supervising physician. She stated that Dr. Mahan is already serving as Dr. Church’s monitoring physician.

Ms. Bickers advised that this type of request has been approved many times in the past.

Dr. Talmage stated that it was his decision to put this request before the Board. He noted that Dr. Mahan is in the best position to supervise and monitor Dr. Church. He has absolute control over Dr. Church’s schedule and training.

DR. STEINBERGH MOVED TO APPROVE JASON V. CHURCH, M.D.’S REQUEST TO CHANGE THE SUPERVISING PHYSICIAN FROM RALPH D. WADE, D.O., TO JOHN D. MAHAN, M.D. DR. VARYANI 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	- abstain
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

MOUNIR BASHEER EL-BADEWI, M.D. – PROBATIONARY REQUEST

Dr. Steinbergh noted that the Board’s October 10, 2001 Order required Dr. El-Badewi to successfully

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complete a course on Personal Ethics. Dr. El-Badewi has requested approval of Case Western Reserve University's *Intensive Course in Medical Ethics, Boundaries and Professionalism*, as fulfilling that requirement. Dr. Steinbergh stated that the Board has approved this course in the past, but she's not certain that it meets the requirement in this Order.

Mr. Albert stated that this is a 17-hour course that really covers the waterfront.

Ms. Bickers advised that Stephen B. Levine, M.D., of the Center for Marital and Sexual Health, Inc., Program for Professionals, has agreed to follow up the Case Western course with a one-on-one tutorial with Dr. El-Badewi to address his particular problem. She explained that that is part of the reason Dr. Talmage was in favor of that. She stated that she will be clear in her letter what the Board is looking for.

Dr. Steinbergh stated that she will support the request as long as there is some one-on-one and some discussion about Dr. El-Badewi's decision making. She noted he was cited for soliciting a prostitute. Dr. Steinbergh stated that she remembers Dr. El-Badewi quite well, and the Board's action didn't make sense to him. She stated that she wants it to make sense to him.

Dr. Talmage asked whether Dr. Steinbergh's problem is that Dr. El-Badewi's problem was boundary issues outside the practice of medicine.

Dr. Steinbergh stated that it is. She stated that she thinks that the program is a good educational experience, but she does think that the one-on-one tutorial needs to address the reason for his citation, to make sure that he understands. She stated that when the Board requires the physician to get a personal ethics course, there's a reason why the Board asks for it. Sometimes the Board asks for both professional and personal ethics courses. In this case the Board asked for a personal ethics course. She stated that some ethicists have developed very nice personal programs for these physicians, and she feels comfortable knowing that the problem is addressed.

Ms. Bickers stated that that is a question that comes up quite frequently during reinstatement and during the probationary period. What is the Board looking for when they say personal ethics or professional ethics? Is there a difference? What are they looking for?

Dr. Steinbergh stated that Dr. Levine does address the fact that he's recommended this course and that he's giving a lecture in that course. She stated that she would like Dr. El-Badewi to get the additional one-on-one tutorial.

DR. STEINBERGH MOVED TO GRANT MOUNIR BASHEER EL-BADEWI, M.D.'S REQUEST FOR APPROVAL OF THE INTENSIVE COURSE IN MEDICAL ETHICS, BOUNDARIES AND PROFESSIONALISM, OFFERED BY CASE WESTERN RESERVE UNIVERSITY, WITH AN ADDITIONAL ONE-ON-ONE TUTORIAL CONDUCTED BY STEPHEN B. LEVINE, M.D., AS FULFILLING PARAGRAPH B.4. OF THE BOARD'S ORDER OF OCTOBER 10, 2001. DR. MADIA SECONDED THE MOTION. A vote was taken:

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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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

MARK E. GOLDSMITH, M.D. – PROBATIONARY REQUEST

Dr. Steinbergh advised that Dr. Goldsmith has asked for approval of a professional ethics course tailored for him by Donna F. Homenko, Ph.D. She noted that Dr. Homenko's CV was not contained in the agenda materials, and asked whether the Board has approved courses by her before.

Ms. Bickers stated that the Board has approved Dr. Homenko's courses in the past.

DR. STEINBERGH MOVED TO GRANT MARK E. GOLDSMITH, M.D.'S REQUEST FOR APPROVAL OF TWO PERSONAL AND PROFESSIONAL ETHICS COURSES, TAILORED SPECIFICALLY FOR THE DOCTOR BY DONNA F. HOMENKO, PH.D. AS PARTIAL FULFILLMENT OF PARAGRAPH 15 OF HIS SEPTEMBER 10, 2003 CONSENT AGREEMENT. DR. MADIA 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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

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MARK ALLEN RENZ, M.D. – PROBATIONARY REQUEST

Dr. Steinbergh stated that Dr. Renz' letter of July 25, 2006 has requests that are not addressed in this month's report.

Ms. Bickers stated that the other requests were considered by the Board at an earlier meeting. All that is before the Board this month is Dr. Renz' request for approval of a monitoring physician.

DR. STEINBERGH MOVED TO APPROVE DANILO POLONIA, M.D., TO SERVE AS MARK ALLEN RENZ, M.D.'S MONITORING PHYSICIAN, WITH ALL CHARTS REVIEWED DURING HIS RESIDENCY. DR. VARYANI 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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

KYLE HOWARD, M.D. – REINSTATEMENT REQUEST

Dr. Steinbergh advised that Dr. Howard has submitted a request for approval of: a course in billing offered by the Bureau of Workers Compensation (BWC), an on-line course offered by the Centers for Medicare & Medicaid Services, and an on-line course offered by the American Academy of Family Physicians, to fulfill the requirements of Paragraph C (4) of the Board's Order of August 10, 2005. Dr. Steinbergh asked what assurance the Board has that Dr. Howard has satisfactorily completed the courses.

Ms. Jacobs stated that she believes that the BWC course is actually a seat-time course in part. They do get a certificate of completion when they finish that course.

Dr. Steinbergh stated that the certificate indicate that he was there, but when the Board says "successful completion," it means that he has ingested the knowledge. Does the Board know that the person who signed in for the course actually gets it?

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Mr. Albert suggested that the Board might ask the probationers, asking for a detailed letter telling the Board what they got out of the course.

Ms. Jacobs stated that Dr. Howard actually has that requirement. He has to submit “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.” She stated that the Board will see Dr. Howard’s written report as part of his reinstatement application.

DR. STEINBERGH MOVED TO GRANT DR. HOWARD’S REQUEST FOR APPROVAL OF THE FOLLOWING COURSES, IN FULFILLMENT OF PARAGRAPH C (4) OF THE BOARD’S ORDER OF AUGUST 10, 2005: A COURSE IN BILLING OFFERED BY THE BUREAU OF WORKERS COMPENSATION, AN ON-LINE COURSE OFFERED BY THE CENTERS FOR MEDICARE & MEDICAID SERVICES, AND AN ON-LINE COURSE OFFERED BY THE AMERICAN ACADEMY OF FAMILY PHYSICIANS. DR. VARYANI 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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

REINSTATEMENT REQUESTS

THOMAS ANH NGUYEN, M.D.

At this time the Board considered Dr. Nguyen’s request for reinstatement of his license to practice medicine and surgery in Ohio, which was suspended by Board Order of September 10, 2003. By memorandum to the Board, Ms. Jacobs advised that Dr. Nguyen has fulfilled all requirements for reinstatement.

DR. STEINBERGH MOVED TO APPROVE DR. NGUYEN’S REQUEST FOR REINSTATEMENT OF HIS LICENSE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED IN THE BOARD’S

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ORDER OF SEPTEMBER 10, 2003. 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. Madia	- abstain
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

Dr. Madia explained that he abstained from voting, as Dr. Nguyen is employed by the Smith Clinic, where Dr. Madia is Medical Director.

LICENSURE

CHRISTOPHER LEWIS GONZALEZ, M.D.

Dr. Gonzalez' application for endorsement of his National Boards was presented to the Board for consideration at this time. It was noted that the Board earlier ratified a Consent Agreement with Dr. Gonzalez.

DR. BUCHAN MOVED TO GRANT DR. GONZALEZ A LICENSE TO PRACTICE MEDICINE AND SURGERY, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS. DR. KUMAR SECONDED THE MOTION. A vote was taken:

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

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Dr. Madia - aye
Dr. Steinbergh - aye

The motion carried.

FINDINGS AND ORDER IN THE MATTER OF ADOPTION OF RULES 4731-27-01, 4731-22-03, 4731-22-04, AND 4731-22-06, OHIO ADMINISTRATIVE CODE

Dr. Robbins referred the Board to the Ms. Debolt's memorandum of August 30, 2006, which reports that on June 19, 2006, a public hearing was conducted on the above-referenced proposed rule 4731-27-01, entitled "Termination of Physician-Patient Relationship." The jurisdiction of the Joint Committee on Agency Rule Review (JCARR) over the above-referenced proposed rule expired on August 13, 2006. Accordingly, the Board may officially adopt the proposed rule.

Following the required five-year review, Rules 4731-22-03, 4731-22-04, and 4731-22-06, Ohio Administrative Code, were filed on May 18, 2006 as "no change" rules. The next review date pursuant to the required five-year review is automatically generated when a "no change" rule is filed. The jurisdiction of JCARR over the "no change" rules expired on August 16, 2006. Although the "no change" rules will continue in effect without Board action, the Board has historically reaffirmed "no change" rules in a Findings and Order.

At this time Dr. Robbins asked for a motion to adopt the above-captioned Findings and Order.

DR. STEINBERGH MOVED THAT THE FINDINGS AND ORDER "IN THE MATTER OF ADOPTION OF RULES 4731-27-01, 4731-22-03, 4731-22-04, AND 4731-22-06, OF THE OHIO ADMINISTRATIVE CODE," AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 13TH DAY OF SEPTEMBER 2006, BE ADOPTED AS THE FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE RULES CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULE 4731-27-01 IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER WITH AN EFFECTIVE DATE OF SEPTEMBER 30,2006. DR. EGNER 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. Madia	- aye

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Dr. Steinbergh - aye
 Dr. Robbins - aye

The motion carried.

REPORTS OF ASSIGNED COMMITTEES

LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Browning advised that the Committee reviewed a revision to Rule 4731-14-01, *Pronouncement of Death* to make it consistent with the passage of recent legislation. The amendment adds coroner's investigators to the list of individuals who are competent observers to recite facts of a deceased's present medical condition to a physician.

DR. BUCHAN MOVED TO INSTRUCT STAFF TO FILE THE PROPOSED RULE AND TO PROCEED TO RULES HEARING ON PROPOSED RULE 4731-14-01. DR. VARYANI 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. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

Mr. Browning continued that the Committee also reviewed a copy of a notice that will appear in licensure renewal packets to provide notice to physicians of their requirement to submit an *Individual Abortion Report* and/or a *Post-Abortion Complication Report* to the Ohio Department of Health in accordance with provisions of House Bill 530. He stated that this was just informational and requires no motion by the Board.

Mr. Browning advised that the Committee also reviewed S.B. 362 that would require licensure of Radiologist Assistants by the Department of Health. A radiologist assistant would be permitted to do the following under the direct supervision of a Radiologist: (1) Perform fluoroscopic procedures; (2) assess and evaluate the physiologic and psychological responsiveness of patients undergoing radiologic procedures;

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

The motion carried.

TERESA J. PFAFF-AMESSE, M.D.

Dr. Robbins advised that the Committee reviewed Dr. Pfaff-Amesse's licensure application. Dr. Pfaff-Amesse is a graduate of the University of Washington School of Medicine, which is accredited by the Liaison Committee on Medical Education. She is requesting endorsement of her National Board of Medical Examiner Diplomate status. Dr. Pfaff-Amesse completed: a PGY 1 in Obstetrics/Gynecology at SUNY@Buffalo in Buffalo, New York, from July of 1987 through June of 1988; training in Pathology at SUNY from July of 1988 until June of 1989; Pathology residency (PGY3-5) at University of Maryland from July of 1989 through June of 1992; and a fellowship in the Pathology department at Yale-New Haven hospital, where she was also an instructor. Since June of 1998, she has worked at various institutions and hospitals doing research. She is currently an Assistant Professor in the Department of Pathology at Wright State University. The Committee reviewed a letter in which Dr. Pfaff-Amesse outlined her duties as an Assistant Professor. Dr. Pfaff-Amesse holds Board certification by the American Board of Pathology since 1995.

Dr. Robbins stated that the Committee recommends requiring Dr. Pfaff-Amesse to take the SPEX or recertification examination.

DR. ROBBINS MOVED TO APPROVE DR. PFAFF-AMESSE'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS, AND SUBJECT TO HER PASSING THE SPEX OR THE PATHOLOGY BOARD RECERTIFICATION EXAMINATION. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

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Dr. Davidson	- aye
Dr. Steinbergh	- aye
Dr. Robbins	- aye

The motion carried.

TERESA M. TRYGSTAD, D.O.

Dr. Trygstad's application for licensure in Ohio was reviewed by the Committee. Dr. Trygstad indicated on her application that she has not actively practiced clinical medicine since June 1999. Dr. Trygstad is a graduate of the Kirksville College of Osteopathic Medicine, which is accredited by the American Osteopathic Association. She is requesting endorsement of her National Board of Osteopathic Medical Examiner Diplomate status. Dr. Trygstad completed a rotating internship at Doctors Hospital in Columbus from July of 1981 through June of 1982. Dr. Trygstad worked in private practice as a family physician from July of 1981 until June of 1999. Dr. Trygstad has stayed at home with her family since June of 1999. She does not hold Board certification in any specialty. Dr. Robbins advised that the Committee recommends requiring the SPEX for licensure.

DR. ROBBINS MOVED TO APPROVE DR. TRYGSTAD'S REQUEST FOR OHIO LICENSURE CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCEPTANCE WITH LICENSURE PROTOCOLS AND SUBJECT TO HER SUCCESSFUL COMPLETION OF THE SPEX EXAM. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	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

The motion carried.

ROBERT M. LOWE, M.D., PH.D.

Dr. Robbins advised that the Committee reviewed Dr. Lowe's request for a waiver of the U.S.M.L.E. seven-year rule on the basis of the "good cause" exception in Rule 4731-6-14 (C)(3), Ohio Administrative Code, and to allow him to sit for Step III of the U.S.M.L.E. The rule permits the Board to grant an exception for an M.D., Ph.D. applicant who can show good cause as to why all three Steps of the

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USMLE have not been completed within ten years.

Dr. Lowe submitted a letter indicating that he entered the Medical Scientist Training Program at the University of Washington in June 1993. He then began his Ph.D. thesis work in cellular and molecular biology, but discontinued his lab work at the end of each summer to attend medical school from June 1993 to August 1993, and from June 1994 to August 1994. In June 1995, after completing his second year of medical school, he passed Step I on his first attempt. He then resumed his research project on autoimmune diabetes, which consumed his time until August 2001, when he began his third year rotations. Although Dr. Lowe completed his Ph.D. dissertation in December 2002 and received his Ph.D. diploma in March 2003, he was six weeks short of credits to graduate from medical school in June 2003. Dr. Lowe chose to continue taking extra clinical electives, passed Step II in September 2003 on his first attempt, and received his M.D. diploma in June 2004. He began his residency in pediatrics at the Rainbow Babies and Children's Hospital at University Hospitals in Cleveland in June 2004. He is scheduled to complete his residency in 2007 and has been offered, and has accepted, a fellowship at Rainbow Babies and Children's Hospital in pediatric rheumatology. From June 1993 until present, Dr. Lowe has continuously been involved in the field of medicine.

Dr. Robbins stated that the Committee recommends allowing Dr. Lowe to sit for Step III of the U.S.M.L.E. for Ohio licensure, with the requirement that he do so within one year.

MR. BROWNING MOVED TO GRANT DR. LOWE'S REQUEST FOR A WAIVER OF THE SEVEN-YEAR RULE, WITH THE PROVISIO THAT HE PASS STEP III WITHIN ONE YEAR TO BE ELIGIBLE FOR OHIO LICENSURE. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	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

The motion carried.

LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan stated that the Committee reviewed applications for certificates of good standing for three schools, and recommends approval of all three.

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DR. DAVIDSON MOVED TO GRANT CERTIFICATES OF GOOD STANDING TO: AMERICAN CERTIFIED MASSAGE SCHOOL, INC., ANN ARBOR INSTITUTE OF MASSAGE THERAPY, AND OAKES SCHOOL OF MASSAGE THERAPY. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	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

The motion carried.

Dr. Buchan stated that the Committee also reviewed a request from the Cosmetic Therapy Training Center for permission to add Roger Garcia, D.O., to their staff for purposes of teaching a course in laser hair removal, and recommends approval.

DR. KUMAR MOVED TO APPROVE ROGER GARCIA, D.O. TO TEACH LASER HAIR REMOVAL CLASSES AT THE COSMETIC THERAPY TRAINING CENTER. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

Vote:	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

The motion carried.

MINIMAL STANDARDS OF CARE COMMITTEE

Dr. Kumar advised that the American College of Emergency Physicians, Ohio Chapter [ACEP], has registered dissatisfaction with the language of proposed rule 4731-26-01(B)(3), the definition of "patient."

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The Committee was advised that ACEP asserts that the language of 4731-26-01(B)(3), the definition section of the sexual misconduct rules, provides that the person seen in the ER remains a patient for 7 days after care is rendered in the emergency setting or on an episodic basis. ACEP contends that the language is ripe for application to ER physician liability in circumstances far beyond the sexual misconduct scenario and treats the ER physician differently than other physicians.

In addition, ACEP believes that ER patients are no longer patients once they are admitted to the hospital or their care is referred to their primary care physician. ACEP argues that, if the language of 4731-26-01(B)(3) is deleted, sexual misconduct between an ER physician and a patient could lead to discipline under the "former patient" provision in 4731-26-02(B).

Medical Board staff has advised that ACEP's assertion that proposed rule 4731-26-02(B), which prohibits sexual misconduct between a physician and a former patient, would apply to any prohibited activity between the ER physician and an individual the physician treated in an ER setting, is valid. Staff prepared an amended proposed rule 4731-26-01 for the Committee's consideration. The rule was amended by: Adding the words, "For purposes of Chapter 4731-26 of the Administrative Code" at the beginning of the rule; by deleting paragraph (B)(3); and by amending the definition of "former patient" in 4731-26-01(E) to clarify that individuals who were seen in an emergency setting or on an episodic basis are former patients.

Dr. Kumar asked for a motion to approve the amended proposed rule for filing.

MR. BROWNING MOVED TO APPROVE AMENDED PROPOSED RULE 4731-26-01 FOR FILING. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

Vote:	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

The motion carried.

P.A. COMMITTEE

Dr. Talmage stated that the Committee reviewed the draft rules contained in the agenda materials. He advised that these rules are presently before the Physician Assistant Policy Committee (PAPC), who will make its recommendations to the Board through the P.A. Committee. He asked that the Board members review these rules and contact Ms. Debolt with any proposed revisions they want to make. He advised that

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the Committee plans to bring the rules to the Board for a vote to proceed to hearing after the final drafts are recommended by the PAPC and the Board's P.A. Committee.

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

Thereupon at 6:16 p.m. the September 13, 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 September 13, 2006, as approved on October 11, 2006.



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



Lance A. Talmage, M.D., Secretary

(SEAL)

