

July 11, 2007

MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Deepak Kumar, M.D., President, called the meeting to order at 1:08 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Carol L. Egner, M.D.; David S. Buchan, D.P.M.; Dalsukh Madia, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; and Anita M. Steinbergh, D.O. The following arrived later in the meeting: Nandlal Varyani, M.D., Vice-President. The following did not attend the meeting: Andrew F. Robbins, Jr., M.D.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, 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, Daniel S. Zinsmaster, and Lynn Zondorak, Enforcement Attorneys; Barbara J. Pfeiffer, Kyle C. Wilcox and Karen Unver, 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 JUNE 13 -14, 2007. DR. EGNER SECONDED THE MOTION. A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

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EXECUTIVE SESSION

MR. BROWNING MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONFER WITH THE ATTORNEY GENERAL'S REPRESENTATIVES ON MATTERS OF PENDING OR IMMINENT COURT ACTION, AND TO DISCUSS THE EMPLOYMENT OF PUBLIC EMPLOYEES. DR. MADIA SECONDED THE MOTION. A vote was taken

VOTE:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion carried.

Pursuant to Section 121.22(G)(1) and (3), Revised Code, the Board went into executive session.

Dr. Varyani arrived during the executive session.

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

REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its 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: Jabir Kamal Akhtar, M.D.; Robert Gross, D.O.; and Hans Hofhan Truong, 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. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- aye
Dr. Steinbergh	- aye

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Dr. Kumar - aye

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

Dr. Kumar noted that, in accordance with the provision in Section 473 1.22(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.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal. Dr. Talmage left the meeting at this time.

JABIR KAMAL AKHTAR, M.D.

Dr. Kumar directed the Board's attention to the matter of Jabir Kamal Akhtar, M.D. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

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

Dr. Akhtar was accompanied by his attorney, Robert C. Angell. Mr. Angell stated that Dr. Akhtar appeared before the Board 16 months ago to answer allegations regarding his character and his honesty in connection with his application for a license. He answered the allegations to the Board's satisfaction. Mr. Angell advised that, once again, the State seeks to convince the Board that Dr. Akhtar should not be given a license because he's misled the Board and he's failed to demonstrate that he has the moral character required of a physician in this state.

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Mr. Angell stated that Dr. Akhtar is here this time, however, because of a simple mistake. The March 8, 2006 Board Order granted Dr. Akhtar's application, provided that he otherwise meets all statutory and regulatory requirements, and subject to a suspension for a definite term of 90 days. On March 21, 2006, the Board's Compliance Officer, Ms. Bickers, mailed to Dr. Akhtar a letter containing incorrect information. Mr. Angell stated that everybody, including Ms. Bickers, agrees that that took place. That letter advised Dr. Akhtar that he would be required to submit quarterly declarations, beginning in September 2006, and that he would also be required to appear before the Board beginning in September 2006. The letter also discussed the ethics courses that Dr. Akhtar would be required to take before completion of the first year of probation. Mr. Angell stated that Ms. Bickers testified that she assumed that Dr. Akhtar's license had been issued and she would not have sent that letter had she been aware of the actual situation with his license.

Mr. Angell stated that this case comes down to the things that flowed from that mistake. Dr. Akhtar told his prospective employers at Holier Medical Center in Ashtabula County that he had legal problems in the past, and that he had a Board Order as a result, and he explained the nature of the legal problems. Most importantly, Dr. Akhtar told them, based on his understanding of the Order and on the letter from Ms. Bickers, and his conversation with Ms. Bickers, that his license application had been granted, that he was serving a 90-day suspension, he would be available to work in June 2006, and that he would then have probation and be required to take ethics classes. The hospital personnel who testified in the hearing confirmed that.

Mr. Angell advised that when Dr. Akhtar testified at a deposition before the Board's enforcement attorney in September 2006, he stated truthfully that he informed prospective employers of his situation with his license, as he understood it. The statements that his license had been issued, he'd be available to work in June 2006, and that thereafter he would have probationary conditions were inaccurate, but they were made in reliance on the inaccurate information in Ms. Bickers' letter. He did not testify falsely in his deposition when he told Mr. Katko that this is what he told the employer.

Mr. Angell noted that the Hearing Examiner herself stated that Dr. Akhtar's belief as to the status of his license was reasonable, based on the Order, the letter and his conversation with Ms. Bickers. The Hearing Examiner conceded that Dr. Akhtar technically met the requirements of submitting information to prospective employers. The employers themselves testified that he had given them information on the problems he had in the past.

Mr. Angell stated that the statements he made to employers were not the only actions Dr. Akhtar took in reliance on that letter. He advised that Dr. Akhtar made plans to borrow his brother's SUV and drive across country to Ashtabula to start his job there, find a place to live, get his belongings out of storage and establish his home. He also made plans to start his own family. His wife gave birth to a daughter in March of this year, nine months after the time that he believed his suspension would end and he would be able to provide a stable income for a family.

Mr. Angell stated that the inaccuracy of the information he gave to potential employers should not be confused with a failure to give them any information, especially in this case when that inaccurate

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information flowed from inaccurate information he received from the Board staff.

Mr. Angell stated that the statements in the letter are incorrect. Everybody agrees on that, including the author of the letter; and they're not transformed into deliberate falsehoods or proof of any lack of moral character, simply because he repeated those things to employers.

Mr. Angell stated that he found it inexplicable that the Hearing Examiner found that his deposition testimony on this point was intended to demonstrate that he had complied with the Board Order and was intended to deceive the Board. He advised that the evidence shows that at the time he was contacting employers, he reasonably believed that he was in compliance with the Board's Order. He had no reason to think otherwise. The Hearing Examiner recognized exactly that in footnote 4 on page 26 of the Report and Recommendation.

Mr. Angell stated that the State seeks to convince the Board that Dr. Akhtar has misled the Board and failed to demonstrate good moral character. Once again, the State's proof fails. Mr. Angell advised that Dr. Akhtar has the greatest respect for this Board. He has no reason to hide from it, no reason to deceive it, no reason to mislead it, and he has not done so. Mr. Angell stated that they simply ask that the Board not take the action of denying this man his livelihood on the basis of a simple mistake.

Dr. Akhtar stated that it's been two years and almost one month. He stated that this is very important to him and to his family. Dr. Akhtar stated that, if the Board wants to increase his probation term, just to see if he's compliant with it, that would be okay with him.

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

Mr. Wilcox advised that Mr. Clifford represented the Board at hearing in this case, but he has reviewed the Report and Recommendation and will respond to Mr. Angell's and Dr. Akhtar's comments.

Mr. Wilcox stated that he feels it is very important from the outset to note, first of all, that this Board has already taken action against Dr. Akhtar for committing a crime of moral turpitude that involved a serious act of dishonesty. This should have put Dr. Akhtar, or any reasonable person in Dr. Akhtar's position, on notice to be very precise and forthcoming in dealing with the Board, and to be ultra-sensitive to the application process in providing any information that the Board requested, including in the deposition.

Mr. Wilcox stated that the Board needs to take a look at the surrounding circumstances in this case and make a decision as to whether Dr. Akhtar was being intentionally deceptive. While the Hearing Examiner only found one of the allegations to be intentionally misleading, the State believes that the intent can be inferred from the surrounding facts and many other circumstances in this case. To help the Board determine intent, it must look at the context of the statements and the potential motives behind those statements.

Mr. Wilcox stated that, from his reading of the Report and Recommendation, Dr. Akhtar's tortured attempts to answer basic questions about where he lives, what state he's licensed in, what information he

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provided to employers, shows either that he is a serial liar or obstructionist, or that he is incompetent. Mr. Wilcox stated that, to him, it's pretty simple: You have a disciplinary history with the Board, they ask you for information, you give it to them promptly and unequivocally. You don't play word games. You don't go to depositions and play word games there.

Mr. Wilcox stated that, given these facts, he agrees with the Hearing Examiner that the result should be permanent denial. He also thinks that the Board should make additional findings that the surrounding facts in this case support the allegations contained in the December 14, 2006 notice letter.

DR STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JABIR KAMAL AKHTAR, M.D. DR VARYANI SECONDED THE MOTION.

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

Dr. Egner stated that this is a very difficult case, and she found the Report and Recommendation really difficult to follow. She added that she does have some opinions and she wants to make some statements, and maybe someone can clarify things for her if she's misinformed.

Dr. Egner stated that it looks to her that there were six allegations brought against Dr. Akhtar. The Hearing Examiner, at the end of the Report and Recommendation, in her Conclusions of Law, finds that five of them do not rise to the level of deception; just one does. She then asks for permanent denial. Just the overall look at this case says to her that that doesn't make sense. She went back and looked at the case again. He was found to have failed to provide his place of residence. Dr. Egner stated that, as far as she could tell, he was living in different places, but his permanent residence did remain Copley, Ohio. If it didn't, she wants someone to tell her that. His failure to disclose that he went to Pakistan. That chronology of activity list was very confusing at that time. It's even stated in the record that they had to reword the instructions asking for the chronology of activity. There were instructions that did say "vacation," there was no instruction, though, that required the time of that vacation, although it says by a month-by-month basis. Dr. Egner stated that she would assume that if you took a less than one-month vacation, you wouldn't have to put that down, but if you were gone for more than a month, since you were putting month by month, you would. But it doesn't really say that. There's a heading at the top of it that says "professional/employment." He gives the answer that, if you're unemployed, there's nothing to write. Dr. Egner stated that the Board members know that that's not the purpose of that. He could be in jail, he'd be unemployed, and the Board would want to know that.

Dr. Egner stated that it is incumbent upon the Board to convey the right information, and she doesn't know whether the Board did or didn't. Generally, she thinks that the Board does. It sees those activity lists all the time. Other people do seem to be able to follow it. Dr. Egner agreed that one would think that somebody who's already been before the Board would be more persistent about doing it correctly.

Dr. Egner stated that Dr. Akhtar lied that he was instructed to use the California address so he could be paid. Dr. Akhtar didn't use that address so he could be paid. Dr. Egner stated that, as far as the allegation

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of informing potential employers, she went back to the original Board Order and it says that Dr. Akhtar has to inform any employer with which he has a contract within thirty days of the Board Order. It also says that he needs to inform the C.E.O. of all hospitals where he's applying for privileges. It doesn't give a time-line for that, and it doesn't say at what point along the line he has to. If you had to disclose all of the details of your Board Order prior to even getting an interview, you'd be cut down on the number of interviews you'll get. Dr. Egner stated that she can see where someone would want to give that explanation in person. Dr. Egner stated that she thinks that Dr. Akhtar did that. She commented that he doesn't give a full, detailed account; but he did give them the Board Order and tell them about it.

Dr. Egner stated that his last thing is his failure to disclose to the Illinois Board about his Ohio training certificate. Dr. Egner stated that she believes that that is a lie. He was asked five or six more times to disclose that information, and, yet, the Hearing Examiner doesn't find that to be a violation. Dr. Egner stated that she's not sure that she understands why that is not deceptive.

Dr. Egner stated that she's in a quandary about what to do with Dr. Akhtar. She really doesn't know, and she'd like to hear what other Board members have to say.

Dr. Egner added that, as she was reading this case, she was trying to figure out what Dr. Akhtar has. Does he have a certificate? Does he have a license? She stated that he has nothing. His training certificate has expired and he really didn't have a license yet. He was supposed to go through the application process. But when he got that letter from the Board, how was he to know that that wasn't true? She stated that the Board must look at his actions with the impression that he felt that he had a license, and that the Board gave him that impression.

Dr. Buchan stated that this is a very confusing Order. He stated that he went through each of the allegations and he did try to boil it down. He's not sure that he has as clear an understanding as he would like, but allegation number four perplexes him. Dr. Buchan stated that he read the transcript, and all he could remark at the end of that conversation is that it was an absolutely pathetic response by this physician to simple questions. Dr. Buchan stated that, at the end of the day, he wonders whether this is a physician he can trust to practice in the State of Ohio. Dr. Buchan stated that he's not sure he has the answer to that question yet, but he leans toward the simple answer of, "no."

Dr. Steinbergh stated that she also felt that the reading of this case was very cumbersome, lengthy and difficult to get through. However, she did look back at the past Board Order for Dr. Akhtar, and she looked back at the minutes of the Board's conversation. Dr. Steinbergh stated that she remembered this case, and she remembers the Board's concerns at the time, and how the Board struggled with whether it not it felt that this person would be appropriate for licensure in Ohio.

Dr. Steinbergh stated that Dr. Akhtar had a misdemeanor conviction in Federal Court in 2001. He was dishonest in his applications in 1996. He continues to be dishonest. He's circuitous, he's never to point. Dr. Steinbergh stated that if you come before this Board or any licensing authority, one time should be all that it would take to stimulate you to be certain that every answer that you answer to this Board or any other licensing board would be complete. He wasn't complete in his application to the Illinois Medical

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Board. In 2005 he failed to list his Ohio training certificate. He said that they'll have to check the Federation verification service and it will come up then. Dr. Steinbergh commented that that's not the point. She stated that Illinois asked Dr. Akhtar multiple times to answer simple questions, so why wouldn't he reveal that? Dr. Steinbergh stated that Dr. Akhtar had problems with his Ohio certificate.

Dr. Steinbergh stated that there were so many instances here where failure to answer the question was, in her mind, dishonest, because he didn't know where the Board was going with this. He's always trying to save himself. Concerning Dr. Egner's comment about Dr. Akhtar applying for positions and not giving them the Board Order ahead of time, Dr. Steinbergh stated that she feels that this is fudging. The Board told him to give the information up front, and he doesn't give it up front. Dr. Steinbergh added that, on the other hand, she agrees with Dr. Egner's concern about who would want to hire someone under the Board Order, but added that it is what it is.

Dr. Steinbergh again stated that he wasn't forthcoming to this Board and he wasn't forthcoming to the Illinois Board. She has grave concern that this is a dishonest or less than honest person here, and she doesn't have the confidence that this man would make intellectually honest decisions about patient care. Would he fudge on his reports? Would he fudge on his assessments of patients? The Board is here for patient protection, and she doesn't feel comfortable giving this person a certificate that allows him to practice medicine in Ohio. He's been continually dishonest, and giving him a license sends the wrong signal, not only to Dr. Akhtar, but to other people who have to make these choices in how they apply for licensure. Dr. Steinbergh added that licensure is a privilege, not a right just because you have a medical degree.

Dr. Steinbergh stated that she's in favor of the proposal to permanently deny Dr. Akhtar's request for an Ohio license. She does disagree with certain of the findings of fact because she does believe that Dr. Akhtar has been dishonest and that the Board could find that he has been guilty of other things. She added that it does only take one finding for the Board to permanently deny.

Dr. Varyani stated that he concurs with Dr. Steinbergh's assessment. He stated that he remembers this case from a while ago, and he read the hearing materials very deliberately. Dr. Varyani stated that the questions asked Dr. Akhtar were very simple, but the answers given were avoidance and dishonesty. That seems to be Dr. Akhtar's pattern. Dr. Varyani asked how he can say that Dr. Akhtar will be honest concerning patient safety in the future.

Dr. Madia agreed with Dr. Varyani and Dr. Steinbergh. Dr. Akhtar has repeatedly been dishonest. He agrees that the Board can't trust him to take care of patients in this state.

Dr. Kumar asked whether the Board needs to table this to rewrite the Findings of Fact.

Dr. Egner stated that, from what she can hear people say, the Board needs to look at every one of the allegations. She feels that they need to be better addressed in the discussion. Then the Findings of Fact need to be changed. Does the Board agree or disagree with the Hearing Examiner as to allegation 1, as to his failure to disclose place of residence. Was Dr. Akhtar lying? Was he holding his place of residence

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from the Board, making it difficult for the Board to get in touch with him? From the discussion, she would say that most feel that he was. Dr. Egner stated that that needs to be said and the Finding of Fact needs to be changed. Dr. Egner stated that there is no way that the Board is going to fix this Report and Recommendation here and now. It needs a lot of changing. Before the Board does that, there needs to be more discussion, instead of just expressing a feeling that he is a dishonest person. Each of the allegations needs to be discussed as to why Board members feel that his answers were dishonest.

Ms. Pfeiffer reminded the Board members of the requirements of Chapter 119. The law states, in part:

The recommendation of the referee or examiner may be approved, modified, or disapproved by the agency. The recommendation of the referee or examiner may be approved, modified, or disapproved by the agency....No such recommendation shall be final until confirmed and approved by the agency as indicated by the order entered on its record of proceedings, and if the agency modifies or disapproves the recommendations of the referee or examiner it shall include in the record of its proceedings the reasons for such modification or disapproval.

Ms. Pfeiffer stated that she wanted to remind the Board what its role is at this point in time. The Board can choose to modify the Report and Recommendation, but they need to make sure to indicate what the modifications are.

Mr. Whitehouse stated that he's been trying to think how the Board can work through that. He asked whether it would be sufficient for the Board to go through each of the Findings to determine where the Board is with regard to the Hearing Examiner's Conclusions of Law, to make determination on each one. The Board doesn't have to hear the case again. The Board just needs to voice whether it concurs or wants to modify the findings. He noted that the Board has enough information to act now, but there may be other reasons to modify in order to bolster the Board's decision.

Dr. Steinbergh stated that she's not sure that this can be done quickly. She feels as though this ought to be tabled and brought back at the end of the meeting to hold more discussion, so that the Board doesn't hold up the rest of the agenda, considering that this is a one-day meeting.

Dr. Buchan indicated that, short of hearing the case, he's comfortable moving forward. He's read enough, and allegation number 4, on its own, the truths or non-truths as described there are sufficient. He added that he does question number 6; but the fact is, he's seen enough. Dr. Buchan stated that the Board can go back and review allegation after allegation, but from his perspective, he would move the agenda.

Dr. Kumar stated that he understands that this was a very difficult case for everybody. If he takes just one allegation at a time, it appears that he didn't comply. But as he looks at the totality of the evidence, he would have to agree and concur with Dr. Steinbergh's comments. Dr. Akhtar fudges the details. He fudges the facts. Dr. Kumar stated that he doesn't think that he can trust Dr. Akhtar to not fudge things involving patient care. On that basis, alone, he would be in favor of permanently denying Dr. Akhtar's application.

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Dr. Egner commented that she doesn't know how to vote. She stated that she doesn't want Dr. Akhtar to have a license, but she doesn't agree with the state of the Report and Recommendation. She indicated that she would vote "nay" on the motion.

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

VOTE:	Mr. Albert	- abstain
	Dr. Egner	- nay
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- nay
	Ms. Sloan	- nay
	Dr. Amato	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

ROBERT GROSS, D.O.

Dr. Kumar directed the Board's attention to the matter of Robert Gross, D.O. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

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

Dr. Gross was accompanied by his attorney, Kevin P. Byers, Esq.

Mr. Byers noted that, of the three cases before the Board, Dr. Gross is the only one not charged under Section 4731.22(B)(5), involving fraud, deception, or misrepresentation. Dr. Gross did renew his Ohio license after the event in Colorado, so he apparently disclosed appropriately since there was no allegation from this Board about the character of his disclosure to the Ohio Board. Mr. Byers stated that he hopes that the Board members have had a chance to look at his objections, and that they can appreciate the distinctions between Dr. Gross' evidentiary record from the hearing and that of Dr. Salwitz, which the Hearing Examiner used as a model in crafting the terms, restrictions and conditions in the Proposed Order for Dr. Gross.

Mr. Byers stated that he thinks it is also important that Dr. Gross is presently under, essentially, a 100% peer review process at Pontiac Osteopathic Hospital. The letters entered into the record reference that, but he wanted to make sure that it was clear. If the Board is concerned about his current clinical standards and

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what kind of process he's going through, the Pontiac Osteopathic Hospital is looking at him closely because he fully disclosed to them his Colorado situation. There have been no troubles according to Respondent's Exhibits A & B.

Mr. Byers stated that the Board should be aware that Dr. Gross also holds active licenses in the states of Michigan and New Mexico. Neither state has initiated action there.

Dr. Gross thanked the Board for allowing him to address it. He stated that the Ohio process is very different from the process he experienced in Colorado. He added that the whole matter in Colorado came about because of some political infighting in the hospital in which he previously worked. It concerned a case in which he had become involved with a particular OB/GYN, who was a Medical Executive Committee Member and, later, the Chief of Staff. This other physician had some problems during a surgery, which Dr. Gross repaired. The other physician also did some things to the patient after the surgery that caused problems. Because of this, and with the other physician using his position at the hospital in Colorado, Dr. Gross contended that they were able to look at a lot of Dr. Gross' cases and eventually sent concerns to the Colorado State Board of Medical Examiners (Colorado Board). That board looked at the case and said that the Colorado hospital's Medical Executive Committee is an extension of the board, so they didn't know really who to believe. Dr. Gross stated that, now, the Colorado Board has taken action against this OB/GYN, and there's a 17-page document on their website that states specifically his misconduct in the case, which is in stark contrast to the stipulations to which he agreed.

Dr. Gross continued that, to this day, he still doesn't know what the Colorado Board considered to be unprofessional conduct. They never specifically spelled it out to him, and they don't spell it out in the stipulation. He expressly denied any wrongdoing. Dr. Gross added that he voluntarily inactivated his license; the Colorado Board didn't revoke it, suspend it or take it away.

Dr. Gross stated that he has to live with this for the rest of his career. He tries to be forthcoming and let people know that this Colorado action exists. The hospitals in which he is fortunate to currently have privileges are well aware of it, and they monitor what he does. Dr. Gross stated that he hopes that the Board will recognize that and see that he really hasn't done anything wrong and that patient safety is being addressed.

Dr. Gross again thanked the Board for allowing his appearance.

In response to Dr. Steinbergh's questions, Dr. Gross stated that he's currently Board eligible. He finished his residency in 1998. The American Board of Osteopathic Surgery sent representatives to observe a case that he had done. That was the final piece they had been wanting to do. His Board certification has been put on hold by all of this. He did not have a very busy practice. He did pass his written boards in 1998 or 1999. He passed his oral boards thereafter. Then he was selected for the Track 2, where they come out and do an on-site visit and chart reviews, etc.

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

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Mr. Wilcox noted that Dr. Gross appears to imply today, as he did at the hearing, that he has no idea why the Colorado Board took action against him, and that, since there are no details in the Colorado Board Order, somehow the Ohio Board has nothing to base its Order upon. Mr. Wilcox stated that he doesn't believe that this argument has any merit. The Colorado Board Order specifically states that the basis for its action was a review of seven surgical cases where the Colorado Board found that Dr. Gross failed to meet generally accepted standards of medical practice with regard to those cases.

Mr. Wilcox stated that he found it interesting that Dr. Gross claims to have somehow never been informed of the criticisms or facts surrounding the Colorado actions. Mr. Wilcox stated that he doesn't believe this statement, given the specific language in the Colorado Board Order itself. Mr. Wilcox referred to paragraph 5.c. of the Colorado Order, which states that, by entering into the Order, "Dr. Gross knowingly and voluntarily gave up the right to a hearing, agreed to the provisions contained in the Order and relieves the Panel of its burden of proving its case at hearing pursuant to the Colorado statutes." Mr. Wilcox continued, explaining that paragraph 5.d. states: "Dr. Gross knowingly and voluntarily gave up the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Panel."

Mr. Wilcox stated that if Dr. Gross has no clue as to why Colorado wanted him permanently out of their state, he should have requested a hearing. Mr. Wilcox stated that he believes that it is a bit disingenuous for Dr. Gross to sign an Order in Colorado in which he agreed to permanently inactivate his license and never practice in Colorado again, and then say that it was based on no evidence. In Mr. Wilcox's view, Dr. Gross obviously did not want the evidence surrounding the charges to be released, and that could be a reason why he entered into the settlement agreement. To enter into such a deal that prevented the public dissemination of the evidence and then come here and claim that there is no evidence to discipline him shows that, basically, he lacks credibility. Mr. Wilcox stated that it is also worth noting that, according to the documentation from Colorado, Dr. Gross was represented by an attorney, and therefore Dr. Gross' claims about being uninformed about the charges against him in Colorado lose even more credibility.

Mr. Wilcox stated that the Report and Recommendation in this case seems to back up what Dr. Gross is saying, that there's, somehow, a lack of information about the Colorado action in the record, but this case is not about what factually occurred in Colorado. It's about the Order itself. The Ohio Board is not in a position, and has no ability, to give Dr. Gross the hearing in Colorado that he declined to request. The Ohio Board is simply charged with determining whether Dr. Gross violated Section 4731.22 (B)(22). The Ohio Board has the ability, based on that finding, to assess any penalty from reprimand to permanent revocation of his license. Mr. Wilcox asked that the Ohio Board, when considering its penalty, ask itself these questions: If Dr. Gross is such a poor practitioner that the State of Colorado has permanently denied him a license to practice there, does the Ohio Board believe that he should remain licensed in Ohio? Is this the type of physician that the Board wants to practice in Ohio.

DR. MADIA MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF ROBERT GROSS, D.O. DR. STEINBERGH SECONDED THE MOTION.

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

Dr. Steinbergh stated that, in regards to Dr. Gross, clearly the State of Colorado placed Dr. Gross on a permanent inactive status. Dr. Gross agreed to this and agreed to not reapply to reactivate his license. She stated that for Ohio, that is, essentially, permanent revocation. Dr. Steinbergh stated that this was a bootstrap action and Ohio had no specific facts. Although the Hearing Examiner felt that this was similar to the Salwitz case, she agrees with Dr. Gross' objections. She doesn't believe that this is the same case. In the Salwitz case, the Board had some very specific concerns. Dr. Steinbergh stated that she doesn't take seriously Dr. Gross' comments today about the accusers in his Colorado case. She added that she rarely responds to the concept of political reasons for these types of accusations. However, the truth is that the Board doesn't know. It doesn't have any hearing material from Colorado. The Board does know, however, that his Colorado license has been made permanently inactive.

Dr. Steinbergh stated that she mostly agrees with the Proposed Order in regard to limitation and restriction of Dr. Gross' Ohio certificate. She referred to paragraph 2.c. of the Proposed Order, which requires a clinical education program, noting that it was derived from the Order in Salwitz, and that it is a bit nebulous for her. Dr. Steinbergh suggested deleting that requirement from the Proposed Order.

Referring to paragraph 2.d. entitled Additional Evidence of Fitness to Resume Practice, Dr. Steinbergh stated that she would require surgical board certification as the standard. She would not use the SPEX, but would simply require him to become board certified in surgery by either the A.O.A. or the A.B.M.S. He would then be required to submit a practice plan, and probationary conditions would be for at least three years. Dr. Steinbergh stated that she would also delete paragraph B.5., which requires additional education hours that she doesn't feel are necessary. Dr. Steinbergh stated that if this is a board-certified physician who is complying with an approved practice plan, which includes a monitoring physician, she would be satisfied.

Dr. Buchan stated that he would take a little bit different tack. He stated that this Colorado action was the equivalent of a permanent revocation in Ohio. He doesn't buy into Dr. Gross' comments today; in fact, they weighed against Dr. Gross in Dr. Buchan's view. He stated that he doesn't buy this concept of politically motivated action and Dr. Gross' suggestion that he didn't have any weaknesses but was simply a victim. Dr. Buchan stated that he looks at the Colorado Board as being like-minded individuals, looking at information and data and process. They reviewed seven charts and these like-minded individuals said that they were going to, essentially, revoke this individual's license. Dr. Buchan stated that that weighs heavily on him. Dr. Buchan stated that Dr. Gross' presentation today was weak, at best. He doesn't feel that Dr. Gross was at all forthcoming.

Dr. Buchan stated that he has tried to imagine why he would want this individual practicing in this state. He doesn't understand requiring Dr. Gross to complete a clinical education program. He's not even sure what they're trying to test there. Dr. Buchan stated that he would agree to the elimination of that requirement, but his reality is that he would move for revocation of Dr. Gross' license. If Dr. Gross gets board-certified and continues to progress more in the State of Michigan, he can reapply.

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Dr. Kumar stated that he understands and recognizes that there's not a lot of information provided by Colorado. However, the information that Dr. Gross has presented himself, and some of the comments he made, do give the Board a fair amount of information on some of his thinking and how he works.

Dr. Kumar stated that every time a surgeon has problems or some kind of complications, he or she tends to blame somebody else: "It's the assistant's fault;" "I was trying to improve the quality of surgical care in the hospital;" and they never say, "I want to take responsibility, I needed to do something different."

Dr. Kumar stated that the case Dr. Gross presents, where there was a colonic injury on a hysterectomy, was somewhat intriguing to him. Dr. Kumar stated that, as he looked at it, there was no indication that Dr. Gross questioned his own actions. He should have asked why he didn't do a protected division. If it was a big laceration, why didn't he consider doing a protected division? Dr. Kumar stated that, even if you're not doing a protected division, Dr. Gross should have taken charge of that patient and written in big bold letters: "no enemas or any other laxative without my permission." Dr. Kumar stated that allowing somebody else to follow up and write orders for enemas the next day, it's going to leak. There's no question about it. Dr. Kumar added that he does have a problem with Dr. Gross' thinking process and his blaming others for the rupture instead of saying, "Hey, I should have done this."

Dr. Kumar stated that he does agree with restrictions, however, he has drafted an amendment. He concurred with Dr. Steinbergh's comments about eliminating paragraph A.2.c. Dr. Kumar stated that there are only two or three other changes that he's recommending.

Dr. Kumar stated that, currently, there are two hospitals monitoring Dr. Gross' surgical practice. Dr. Kumar stated that he would like to have reports from those hospitals, as well, before the Board grants Dr. Gross a license.

DR. KUMAR MOVED TO AMEND MS. PETRUCCI'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER IN THE MATTER OF ROBERT GROSS, D.O. BY:

Eliminating paragraph A.2.c, and renumbering current paragraph A.2.d accordingly.

Amending new paragraph A.2.c to read as follows:

- 2.c **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Gross has not been engaged in the active practice of osteopathic medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

Inserting as new paragraph A.2.d the following:

- 2.d **Reports to be Submitted:** At the time he submits his notice of intent to commence practice in Ohio, Dr. Gross shall provide the Board with the names and addresses of all hospitals at which he has held privileges from the effective date of this Order

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

The motion carried.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF ROBERT GROSS, D.O. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Buchan	- nay
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.

Mr. Albert left the meeting at this time.

HANS HOFFMAN TRUONG, M.D.

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

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

Dr. Truong was represented at the meeting by his attorney, James M. McGovern. Mr. McGovern stated that Dr. Truong resides in Texas. He did travel to Ohio for the hearing, but after reviewing Ms. Davidson's

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Report and Recommendation, he elected not to file written objections, given his acceptance of the Proposed Order. Mr. McGovern stated that Dr. Truong did ask him to appear on his behalf to pass along his thanks to Ms. Davidson and to Mr. Clifford for their professionalism during the hearing process. Dr. Truong also wanted him to inform the Board that he has learned from this experience and that, in the future, he will be very careful and err on the side of being over-inclusive with respect to any questions he answers on renewal applications or initial applications for licensure in any states to which he applies. Mr. McGovern stated that Dr. Truong looks forward to proving himself worthy of an Ohio license.

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

Mr. Wilcox stated that he did not have the privilege of representing the Board at hearing in this matter, but he has had the chance to review the Report and Recommendation and the related materials, so he would like to make a few comments.

Mr. Wilcox stated that this case, to him, was a real head-scratcher, as far as the Conclusions regarding what he believes to be Dr. Truong's deception regarding the Iowa Board. Mr. Wilcox stated that the Hearing Examiner was seemingly not convinced that a licensed professional, faced with unambiguous questions about events that have clearly taken place, and who outright denies these events is, somehow, not attempting to be deceptive. Mr. Wilcox stated that if what Dr. Truong did is not being deceptive, he's not sure what is. Mr. Wilcox stated that this is pretty simple. He stated that, from his review of the record, Dr. Truong seems to have spent the entire hearing attempting to justify his answers by blaming it all on the alleged advice of others, including his assistant and members of other boards. None of these people testified at hearing or are here before the Board today. That is because Dr. Truong, alone, is responsible for the answers that he provides to licensing boards. Dr. Truong certified that those answers are true and accurate.

Mr. Wilcox stated that he doesn't know what is expected. Does the Board expect for a doctor to come in on one of these cases and say, "I intentionally lied," or "I intentionally misled this Board." He stated that that doesn't happen. The Board has to infer from the circumstances, and in this case it's pretty clear that Dr. Truong intentionally lied or misled both the Ohio and the Iowa Boards.

Mr. Wilcox stated that he believes that to grant a license and reprimand Dr. Truong is extremely questionable to say the least, especially when you consider that a day before the hearing he requested to withdraw his application before the Ohio Board. Mr. Wilcox stated that he doesn't know why the Board would want to give this man a license.

Mr. Wilcox stated that, because he believes that there was intentional deception in this case, there should also be an amendment by the board itself that there be a finding that he did not furnish satisfactory proof of good moral character, which was not one of the findings in the Report and Recommendation.

DR. MADIA MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF HANS HOFFMAN TRUONG, M.D. DR. STEINBERGH SECONDED THE MOTION.

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

Dr. Steinbergh stated that this is another dishonest applicant. She stated that she does not agree with this Report and Recommendation. Dr. Steinbergh stated that she does not believe that Dr. Truong needs to withdraw his application, and she does not believe that he should have a license. Dr. Steinbergh noted that Dr. Truong had his initial problem in Florida. He answered his questions wrong.

Dr. Kumar stated that in Florida he didn't have his C.M.E. They gave him a six-month extension and he still didn't do it.

Dr. Steinbergh stated that he then went to Iowa, where he received a letter of warning from the Iowa Board. He saw that letter of warning, but he didn't consider this a type of investigation, even though they used the words, "investigation" and "investigatory." The Iowa Medical Board told him that he answered the questions incorrectly. Dr. Steinbergh stated that she wondered why he would have an administrative assistant or a secretary call Florida to ask how he should answer those questions. Dr. Steinbergh stated that she thought that he used very poor judgment. He repeated his fraud on application. Dr. Steinbergh again stated that she couldn't find a reason why the Board would want to license Dr. Truong. She stated that she found Dr. Truong to be as dishonest as the first applicant the Board saw today. Dr. Steinbergh stated that it's time to clarify to Dr. Truong that he's been deceptive in his applications for licensure. Dr. Steinbergh stated that she doesn't feel that granting a license and reprimanding Dr. Truong is appropriate. She stated that it's time to tell Dr. Truong that he's been dishonest and doesn't meet Ohio's standards for licensure.

Dr. Buchan stated that he doesn't disagree with Dr. Steinbergh at all, but he puts C.M.E. violations in a different category than surgical care of patients, as the last case involved. Dr. Buchan stated that, that having been said, he thinks that Dr. Truong gets the point. It's a C.M.E. violation, and at the end of the day, he's reprimanded. Dr. Buchan stated that he's fine with that. He feels the Report and Recommendation is reasonable on its face.

Dr. Kumar stated that he looked at three things: a.) Does he qualify for a license? Yes. b.) Does he need to at least be reprimanded? Yes. c.) Is that enough? Dr. Kumar stated that he doesn't think it is. He doesn't think that Dr. Truong gets it. If the Board simply reprimands him, he's just going to go on with his routine stuff that he's been doing. The Board should at least require him to take a professional ethics course.

Dr. Kumar stated that he drafted three different alternative orders based on how he appears in person before the Board. The three alternatives were:

- a. Reprimand him and make him take a professional ethics course within six months;
- b. Put him on probation until he takes those courses.
- c. Put him on probation for a year, and a requirement to take the professional ethics

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course. In the probationary period, he will not be asked to do probationary appearances and all those other things.

Dr. Amato stated that he's somewhere between Dr. Steinbergh and Dr. Kumar.

Dr. Steinbergh commented that that's a good place to be if you don't want to deny Dr. Truong the right to practice in Ohio. She stated that, in her mind, this inability to complete an application accurately and honestly is key to her. She stated that it's true that the Board hasn't charged him with minimal standards violations. This is an applicant who can't define the word, "fine." He has to pay money, and how does he define that? He states that it was a violation. Dr. Steinbergh stated that he also doesn't understand the word, "restriction," on his license. He doesn't understand that he was investigated, even though they told him that he was investigated. Dr. Steinbergh indicated that Dr. Truong was unable to answer the questions because he was trying to be evasive, dishonest. He wasn't owning up to what really happened. That is the piece that bothers her. Dr. Steinbergh stated that if you do not have honesty in an application, she's concerned about patient care. Dr. Steinbergh again stated that the Board isn't charging Dr. Truong with minimal standards, but the Board looks at a physician, not only on his ability to perform a procedure or to practice medicine, but on honesty, morality and ethical standards. Dr. Truong is evasive; he doesn't want to admit that he was investigated or fined. Dr. Steinbergh stated that these are easy questions to answer.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER BY ADDING A ONE-YEAR PROBATION AND BY REQUIRING DR. TRUONG TO SUCCESSFULLY COMPLETE AN ETHICS COURSE WITHIN SIX MONTHS OF THE DATE OF THIS ORDER.

Dr. Egner stated that had Dr. Truong had told the truth, nothing ever would have happened. He didn't complete a particular C.M.E. course. Dr. Egner stated that the Board has seen that from other states. He had a minimal punishment for that, \$1,089.00.

Dr. Steinbergh commented that he then had six months to do the C.M.E. and he didn't do it.

Dr. Egner stated that Dr. Truong knows what a fine is, he knows what an investigation is, and he lied. Dr. Egner agreed with Dr. Steinbergh that lying makes one suspect of how he or she practices medicine.

Dr. Steinbergh commented on the importance of the ability to be honest both morally and intellectually, and how that impacts with others working with that individual. Dr. Steinbergh stated that he should also be required to appear before the Board. She stated that she thinks that a piece of paper doesn't send the same message as a Board appearance does. He should be required to appear at the beginning of his probation and then at the end.

DR. KUMAR ADDED THE REQUIREMENT TO APPEAR AT THE BEGINNING AND AT THE END OF HIS PROBATION TO HIS MOTION.

Dr. Kumar asked for a second to his motion.

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DR. STEINBERGH SECONDED THE MOTION.

Dr. Buchan spoke against the motion. He noted that Dr. Truong is licensed in 17 states. He doesn't feel that this case was significant. He stated that he doesn't think this rises to the level of putting him on probation and putting him through this. He commented that the original violation was a C.M.E. case.

Dr. Steinbergh stated that what is before the Board isn't a C.M.E. case. It's a case of dishonesty on his application, being deceptive.

Dr. Buchan stated that he understands, but he thinks that Dr. Truong gets the point. A reprimand serves the Board's purpose.

Ms. Sloan stated that she doesn't think that Dr. Truong gets the point. He's licensed in 17 states and he'll want to apply for many more states, based on his practice. He reads x-rays from all over the United States and he will continue to apply. He's not filling out the application because someone is doing it for him. The Board does need to get his attention to make sure that he fills out his applications correctly. Ms. Sloan commented that he has shown some deception, and she thinks that he has instructed people on how to answer the application because, basically, he's not going to do it. He's not paying attention to the applications that are being filled out. There are just numbers of them being sent out to different states. Ms. Sloan stated that she thinks that the Board needs to do something to get his attention. Ms. Sloan stated that she believes that the reprimand will definitely get his attention.

Mr. Browning stated that he concurs with Ms. Sloan.

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- nay
	Dr. Buchan	- nay
	Dr. Madia	- nay
	Mr. Browning	- nay
	Ms. Sloan	- nay
	Dr. Amato	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion failed.

A roll call vote was taken on the original motion to approve and confirm:

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye

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Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- nay
Dr. Steinbergh	- nay
Dr. Kumar	- nay

The motion carried.

FINDINGS, ORDERS & JOURNAL ENTRIES

MARILYN E. CRUMPTON, M.D.

Dr. Kumar advised that on May 8, 2007, the Board notified Dr. Crumpton that it proposed to approve her application for a certificate to practice medicine and surgery provided that she take and pass the Special Purpose Examination (SPEX) or specialty board recertification examination due to the fact that Dr. Crumpton has not engaged in the active practice of medicine for more than two years. Said notice was mailed via certified mail, return receipt requested, to Dr. Crumpton's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. Dr. Kumar advised that no hearing request has been received from Dr. Crumpton and more than 30 days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE MAY 8, 2007 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. CRUMPTON'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO HIS PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF MAY 8, 2007. DR. MADIA SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

MARK LEON GRAMS, M.D.

Dr. Kumar advised that on May 10, 2007, the Medical Board issued a Notice of Opportunity for Hearing to

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Mark Leon Grams, M.D., based upon disciplinary actions taken by the Arizona Medical Board against Dr. Grams' Arizona medical license in January 2005 and January 2007. The notice was mailed via certified mail, return receipt requested, to Dr. Grams' address of record in Sonoita, Arizona. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. Dr. Kumar advised that no hearing request has been received from Dr. Grams and more than 30 days have elapsed since the mailing of the notice. The matter was now before the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE MAY 10, 2007 NOTICE AND TO ENTER AN ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY. MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh stated that this is a bootstrap of an Arizona action, based on minimal standards. The Order will allow him to reapply for license and to request a hearing. She noted that the Arizona Board felt that Dr. Grams is a danger to the public.

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

KIMBERLY ANN VARKER, M.D.

Dr. Kumar advised that on May 8, 2007, the Board notified Dr. Varker that it proposed to approve her application for a certificate to practice medicine and surgery provided that she take and pass the SPEX or specialty board recertification examination due to the fact that Dr. Varker has not engaged in the active practice of medicine for more than two years. Said notice was mailed via certified mail, return receipt requested, to Dr. Varker's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. Dr. Kumar advised that no hearing request has been received from Dr. Varker and more than 30 days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

DR. VARYANI MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND

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SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE MAY 8, 2007 NOTICE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. VARKER'S REQUEST FOR ENDORSEMENT LICENSURE, SUBJECT TO HER PASSING THE SPEX OR BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF MAY 8, 2007. DR. MADIA SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

MATTHEW JAY WISE, M.D.

Dr. Kumar advised that on May 10, 2007, the Medical Board issued a Notice of Opportunity for Hearing to Matthew Jay Wise, M.D., based upon a disciplinary action taken by the Florida Board of Medicine against Dr. Wise's Florida medical license. The notice was mailed via certified mail, return receipt requested, to Dr. Wise's address of record in Gallup, New Mexico. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice. Dr. Kumar stated that no hearing request has been received from Dr. Wise and more than 30 days have elapsed since the mailing of the notice. The matter is now before the Board for final disposition.

DR. BUCHAN MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE MAY 8, 2007 NOTICE AND TO ENTER AN ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY. DR. MADIA SECONDED THE MOTION.

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

Dr. Steinbergh stated that Dr. Wise relinquished his Florida license, and he is not able to reapply there. Dr. Wise was charged with prescribing contraception in Florida for patients in Dayton, without doing an appropriate physical examination. Dr. Steinbergh stated that she thinks that permanent revocation is appropriate in this case.

Dr. Egner stated that she doesn't like to permanently revoke a license on the information the Board has. She added that she thinks that the proposed revocation is appropriate in this case. If Dr. Wise wants to come back to Ohio, he'll have to explain himself, and then the Board will have more information.

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

CITATIONS, PROPOSED DENIALS & ORDERS OF SUMMARY SUSPENSION

PAULA CLARK ADKINS, M.D. – CITATION LETTER

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

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

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

WILFRED LOUIS ANDERSON, M.D. - LETTER OF PROPOSED DENIAL

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

DR. VARYANI MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. ANDERSON. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Dr. Egner	- aye
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Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion carried.

MICHAEL BRUCE GANZ, 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. GANZ.
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

ALAN MARTIN GARDNER, M.D. - LETTER OF PROPOSED DENIAL

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

**DR. BUCHAN MOVED TO SEND THE LETTER OF PROPOSED DENIAL TO DR. GARDNER.
MR. BROWNING SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye

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Dr. Amato - aye
Dr. Steinbergh - aye

The motion carried.

MARC ANDRE LEDUC, 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. LEDUC.
DR. STEINBERGH SECONDED THE MOTION.** A vote was taken:

ROLL CALL:

Dr. Egner	- aye
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion carried.

Mr. Albert returned to the meeting at this time.

RATIFICATION OF SETTLEMENT AGREEMENTS

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

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

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

ROLL CALL:

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

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

The motion carried.

LEROY P. RISE, M.D. – CONSENT AGREEMENT

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

HEATHER LOUISE WHITTY, M.T. – CONSENT AGREEMENT

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

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RANDALL GREGORY WHITLOCK, JR., P.A. – CONSENT AGREEMENT

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

REGINALD O. WINDOM, M.D. – SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

DR. MADIA MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. WINDOM'S LICENSE TO PRACTICE MEDICINE AND SURGERY. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Steinbergh	- aye

The motion carried.

Dr. Buchan left the meeting at this time.

FLORENCE BETH MATYAS, M.D. – CONSENT AGREEMENT

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

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ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Varyani	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Talmage returned to the meeting at this time.

SCOTT ROBERT WELDEN, M.D. – CONSENT AGREEMENT

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Madia	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Amato	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Buchan returned to the meeting at this time.

ELIZABETH A. DORIOTT, D.O. – CONSENT AGREEMENT

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye

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Mr. Browning - aye
Ms. Sloan - aye
Dr. Amato - aye
Dr. Steinbergh - aye

The motion carried.

PERSONAL APPEARANCES

DAVID T. BROCK, D.O.

Dr. Brock appeared before the Board pursuant to his request for release from the terms of his May 9, 2001 Step II Consent Agreement.

In response to Board Members' questions, Dr. Brock stated that he is doing well. He's currently practicing and living in London, Ohio. He commented that he has been on probation a little longer because he spent about two years in Florida, finishing up his residency, and his probation was tolled.

Dr. Brock stated that the biggest thing he has learned from this period has been to value the privilege of holding a medical license. He stated that young physicians don't really thing about that. Dr. Brock advised that medical students are spoon-fed some things. You go through medical school, internship and residency, and someone says you have to fill out your license application, you're supposed to take your boards, and you just kind of do it. Dr. Brock stated that he doesn't think that he realized the gravity of having a license to practice medicine. He was still a resident and didn't realize the privilege of having a medical license. This has made him realize the value of his license, and that it is definitely a privilege.

Dr. Brock stated that he has also learned professionalism through his probation. He added that he doesn't think he was actually acting professionally in the beginning. He doesn't think he was upholding the professional nature of medicine. Dr. Brock stated that he thinks that the definition of being a professional is just upholding the standards of a worthy profession and calling.

Dr. Brock stated that he has had no further difficulties with DUI. He's not drinking now. Dr. Brock commented that the DUI occurred nearly nine years ago. He stated that it was almost enough of an aversive stimulus to him that he doesn't think that he would ever want to drink again, whether he was allowed to or not. When he thinks about it, it almost turns his stomach. He stated that he associates drinking with all the years of probation, and it makes it into such a negative thing that he doesn't think he drinking would be sociable anymore. He would just look at it as a negative. He has not had any further traffic violations as far as drinking.

DR. STEINBERGH MOVED TO RELEASE DR. BROCK FROM THE TERMS OF HIS MAY 9, 2001 STEP II CONSENT AGREEMENT. DR. MADIA SECONDED THE MOTION.

Dr. Buchan asked Dr. Brock whether he is an alcoholic.

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Dr. Brock replied that he doesn't believe he is. He stated that he's in a kind of a gray zone. The violation occurred when he was a resident and involved in the whole party scene. His life is just totally different now. Back then he was single, in the 25-30 age group, living in a one-bedroom apartment, going out with all the other single interns and residents. Now he's married and has a child who is 19 months old. His life is just totally different now. He has his own house, a job. Dr. Brock again stated that the incident occurred at a kind of gray time in his life. He's now in the bright, sunny time of life. He was in the partying mentality back then. He admitted that there was some dishonesty involved in his not reporting it on his license application. Dr. Brock stated that he's not trying to downplay that; but, concerning the drinking, he believes that he was just caught in the 25-30 year old binge drinking, celebrating mentality. Dr. Brock stated that a lot of things would have to take place for him to get back to that point.

Mr. Albert commented that Dr. Brock has been a great probationer and has worked hard on his recovery. He's in a good family practice now and is doing great.

Mr. Browning returned to the meeting during the previous discussion.

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye

The motion carried.

LEONARD K. SMITH, M.D.

Dr. Smith appeared before the Board pursuant to his request for release from the terms of Board's Order of June 9, 1999.

Mr. Albert advised that Dr. Smith has been a good probationer.

In response to Board members' questions, Dr. Smith advised that the primary event for him occurred in 1995 and had to do with the prescription written at a satellite clinic, where an employee used a pre-signed prescription to prescribe a scheduled drug in his absence. The other matters have to do with post-dating prescriptions clear back to the early 1990s and even back to the first Bush administration. Those are events

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that largely occurred a long time ago. The first thing he's learned from this experience is to not ever allow any pre-signed prescriptions to be used by anyone else. Dr. Smith stated that he certainly signs and writes all of his own prescriptions now. He stated that he's careful about whom he trusts, and he runs a very cautious practice. They're careful about patients coming into the practice that are seeking controlled substances, particularly pain medications. They screen patients very thoroughly. If there is a problem of that nature, the practice gets them to the point where they investigate the problem so that they can refer the patient to the appropriate individual so that they can come to a definitive point in this person's care. He added that he hasn't prescribed any anorectic drugs at all. Dr. Smith stated that it's a much more defined, careful, cautious practice about who comes in and how people are handled.

Dr. Steinbergh asked Dr. Smith how he handles prescribing for those individuals with a benign condition, whom he refers for pain management consultation and are subsequently returned to him with recommendations on prescribing.

Dr. Smith stated that, first of all, he's very careful about who gets into the practice. Secondly, if it's a chronic pain condition, they stay with the pain specialists. If it's a specific condition that requires surgical intervention, that's taken care of by the surgeon. Dr. Smith stated that part of the problem that he experienced in his practice from years ago is that he had difficult Workers Compensation cases, where people would go to see orthopedic individuals or other specialty problems, and everybody who was prescribed pain medication was given pain medication with the knowledge and authorization of that specialist; yet, that specialist did not want to prescribe that medication. They wanted the individual to go back to the family doctor. Dr. Smith stated that he found that to be an unacceptable burden to take on in his practice. That's part of the reason he wound up before the Board.

Dr. Smith continued that one of the things he did was eliminating Workers Compensation cases, particularly those that involve chronic pain management. They go elsewhere. There are Workers Compensation specialists and there are pain specialists, and there are places to get people to for whatever the specific problem is, as soon as you find out which direction they should go. Dr. Smith stated that he does have some patients that take some chronic pain medication, but, depending what the condition is, they very carefully limit the prescriptions to so many per month. It also says at the bottom of the prescription that it is to last one month or longer. That individual cannot get a refill any sooner than that one month.

Dr. Steinbergh stated that primary care physicians are obligated to manage chronic benign pain. She stated that she's assuming that Dr. Smith goes through the usual steps of getting assessments, and that he should feel comfortable in being able to make that decision. She expressed concern that someone who has faced discipline by the Board might get very frightened that they couldn't prescribe appropriately. Dr. Steinbergh stated that she was wondering whether Dr. Smith is denying pain medication to those who need it.

Dr. Smith stated that he prescribes pain medication carefully and, he believes, appropriately. He added that he rarely prescribes Oxycodone in his practice. He prescribes it in very rare circumstances. He prescribes hydrocodone or something similar to that. He stated that he's not afraid to prescribe pain medication.

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DR. STEINBERGH MOVED TO RELEASE DR. SMITH FROM THE TERMS OF THE BOARD'S ORDER OF JUNE 9, 1999. DR. MADIA SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye

The motion carried.

ROBERT JOHN VAN KIRK, JR., M.D.

Dr. Van Kirk appeared before the Board pursuant to his request for release from the terms of his July 13, 2005 Consent Agreement. If approved, release from probation would become effective July 13, 2007.

In response to Board members' questions, Dr. Van Kirk stated that he is doing well. He's moving to Michigan next week to start a new job. He acknowledged that he completed an ethics course in professionalism. He stated that the thing he retained most from the course was a segment on professionalism, and the speaker talked about professionals being held to a higher standard than the general public. That's true, not just at work but in their personal lives as well. Dr. Van Kirk stated that that's something he's been aware of since then. This experience has also taught him about that.

Dr. Van Kirk continued that other things he learned from the course included the importance of recordkeeping and being meticulous about that, which sort of applies to the reason why he's before the Board. It stressed the care needed in answering questions on an application, and that you need to make sure that you're being all-inclusive. It's better to err on the side of over-reporting.

Dr. Steinbergh commented, also, that if an applicant has questions relating to questions on an application, he or she should contact the Board for clarification.

Dr. Van Kirk agreed.

Dr. Van Kirk continued that, when he moves to Michigan, he'll be joining a private practice in Port Huron. The practice is a group of three pathologists, including himself, in a small community hospital. Dr. Van Kirk stated that he just completed training, so this will be his first group.

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DR. STEINBERGH MOVED TO RELEASE DR. VAN KIRK, EFFECTIVE JULY 13, FROM THE TERMS OF HIS JULY 13, 2005 CONSENT AGREEMENT. DR. MADIA SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye

The motion carried.

JONATHAN L. HAIMES, M.D.

Dr. Haimes made his initial appearance before the Board, pursuant to the terms of his April 11, 2007 Step I Consent Agreement.

In response to Board members' questions, Dr. Haimes advised that he doesn't have the exact date of the end of his inpatient treatment, but he did enter on March 23 and was there for approximately 34 days. At this time his main goal is to get well from his opiate addiction, from his depression and anxiety disorder and from his severe migraine disorder. Dr. Haimes stated that he knows that, if he doesn't get well, he'll be unable to help patients. Dr. Haimes stated that while, ultimately, he would like to have his license back, he's in no condition to do that at this time.

Dr. Haimes stated that he lives in Wilmington, Ohio, which is just north of Cincinnati. Usually on Sunday or Monday he'll travel to Cleveland, stay with his mother, and go to psychiatric and psychologic appointments with doctors at the Cleveland Clinic, as well as his aftercare there. Then on Monday night or Tuesday, he'll drive back to Wilmington. Most of the meetings he attends in Wilmington are at the Tri-County Center, which has meetings all day long. He averages about twelve meetings a week in addition to aftercare. He also goes to the Christ Hospital Caduceus meeting in Cincinnati, and to a caduceus meeting, as well, as part of his aftercare. He has a sponsor and he has completed step 7 of the 12-step program.

In response to further questions, Dr. Haimes stated that he is currently on medication. He takes Suboxone, Wellbutrin, and Paxil.

Dr. Kumar asked who is prescribing those medicines.

Dr. Haimes stated that they are prescribed by Dr. Stroom, who is with Dr. Collins. They are two

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psychiatrists who specialize in substance abuse at the Cleveland Clinic. He also takes Prevacid.

Dr. Haimes advised that the physician who is in charge of prescribing medication for his headaches is Dr. Hollister, who is head of the headache division of the neurology department of the Cleveland Clinic. Both Dr. Stroom and Dr. Hollister have prescribed Neurontin and Cataflam. He also takes Reglan and Zofran for nausea, when he gets severe headaches. Dr. Haimes added that he takes Zelmec, as needed. He also takes Anaprox DS.

Dr. Madia noted that Dr. Haimes is shaking, and asked why.

Dr. Haimes stated that he has a lot of anxiety. His doctor believes it is from post-traumatic stress disorder. He stated that being here before the Board has exacerbated it a little.

Dr. Kumar asked whether Dr. Collins functions as both Dr. Haimes' psychiatrist and supervising physician.

Dr. Haimes stated that Dr. Collins and Dr. Stroom work together in tandem. He was originally admitted to Dr. Collins, and Dr. Collins is his Board-approved supervising physician.

Dr. Bickers noted that the Step 1 consent agreement does not require psychiatric treatment, which is why the psychiatrist wasn't specifically noted in her report.

Dr. Buchan asked Dr. Haimes to tell him about his support system.

Dr. Haimes stated that he has his girlfriend, whom he hopes to marry some day. He added that his ex-wife and he are still close, in terms of raising the kids. There are no arguments or disagreements about the kids. Dr. Haimes stated that his ex-wife recently moved to Colorado, where her sister with breast cancer lives, and got a better job there, making much more money than she was making here. The children are with her. Dr. Haimes stated that his children, who are eight and ten years of age, have been a major part of his life. He advised that he was completely honest with them about his situation. He is able to videoconference with them on a daily basis. Dr. Haimes stated that he does plan to go to Colorado for a week, but he's still doing his weekly random drug screens. Dr. Haimes continued that his mother, his brother, and his brother's family live in Cleveland, so he has support from them. He also has extended family in Cleveland.

Dr. Buchan stated that the Board will support Dr. Haimes as well. Dr. Buchan stated that if Dr. Haimes has any questions about his consent agreement, he should contact Ms. Bickers.

Dr. Steinbergh asked whether Dr. Haimes has any questions about his consent agreement.

Dr. Haimes stated that he didn't have any questions about it. He stated that he would like to say that he thinks he had what a lot of doctors in the area call a moment of clarity. He stated that, even after the Board's investigators came to see him, his addicted brain was trying to figure out how he was going to get the drugs now, and not really even thinking about what might come from the visit. When he had that

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moment of clarity, he called his family in Cleveland, and that's why he was able to enter the Cleveland Clinic before the Board actually took any action. He stated that he knew that he was allowed to practice after the investigators came in, but after calling his family, he stopped his drug use and he could barely function with his illness. He saw only the patients that he needed to, so that there wouldn't be any abandonment issues. His last morning, he knew that he could barely function as he was going through detox, and he collapsed after that morning. Dr. Haimes stated that he knows that he was sick and disabled and shouldn't have been working. He added that he thinks that the Board will agree that he should have stopped practicing long before, due to the illness that was causing his disability.

Dr. Kumar encouraged Dr. Haimes. He stated that Dr. Haimes has seen people come before the Board today who have been through this process. He stated that they have succeeded, and if Dr. Haimes sticks with it, he can get there. He encouraged Dr. Haimes to keep working at it.

Dr. Haimes stated that he has three and a half months sobriety at this point.

DR. BUCHAN MOVED TO CONTINUE DR. HAIMES UNDER THE TERMS OF HIS APRIL 11, 2007 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MADIA SECONDED THE MOTION. A vote was taken:

Dr. Egner stated that she would recuse herself from voting in this matter.

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- abstain
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye

The motion carried.

Dr. Varyani left the meeting at this time.

SUSAN GAIL SWEDA, M.D.

Dr. Sweda made her initial appearance before the Board, pursuant to the terms of her October 12, 2006 Consent Agreement.

In response to Board members' questions, Dr. Sweda stated that she is doing great. She advised that, in

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regard to her illness, on a day-to-day basis she gets up in the morning and prays, she walks her dog, sometimes she goes to Shepherd Hill and mirrors. Dr. Sweda advised that she has moved and now lives next door to Shepherd Hill. Dr. Sweda stated that she does a combination of things, including riding her horses, taking women from Shepherd Hill to recreation or having them come over to her house for community day, going to her therapist, cooking and eating a lot, attending meetings, talking to or seeing her sponsor, praying, reading, and volunteering to pull weeds in people's yards. She also picks up women from Courage House and takes them to meetings.

Dr. Steinbergh asked Dr. Sweda where she is in the reinstatement process.

Dr. Sweda stated that she has seen Dr. Whitney (May 18) and Dr. Jones (June 25), her two addictionologists. She also saw Dr. Jenkins (June 19), her psychiatrist. Dr. Sweda stated that she believes that she has done what she is supposed to do. She stated that she doesn't know whether or not the Board has received reports from those physicians.

Ms. Bickers stated that she will see whether or not the Board has the evaluations.

Dr. Buchan asked Dr. Sweda how she feels about re-engaging in practice.

Dr. Sweda stated that she's excited, but unhappy that she won't have all the free time to do all the fun stuff. Dr. Sweda stated that she's always been a loner, her entire life. After being at Shepherd Hill, she's actually starting to like people. She stated that she used to work all the time, thinking that that was the only thing she was good for. That's really changed. Dr. Sweda stated that she attended her first party of her entire life on New Year's Eve at the Serenity Club in Newark. Dr. Sweda stated that that's huge for her. She added that she went white-water rafting with a group, and she also went camping. Dr. Sweda stated that she's never done any of those things before.

Dr. Kumar asked whether any medical problems precipitated her use of medications.

Dr. Sweda stated that initially she took Benadryl orally, but then she went to IV because she had trouble sleeping. When she would wake up at 2:00 a.m., or when it was 2:00 a.m. and she couldn't sleep, it occurred to her to titrate the doses so that instead of taking 50 orally and then have a hangover in the morning, you could just do ten or whatever. Then, when she started drinking, she was on call every other night. So on the days she was off, she would drink. Dr. Sweda stated that her recollection of that morning was that she felt terrible, she had an awful headache, and she took some Motrin and it didn't work. She just thought, just this one time, she took Fentanyl to get rid of the headache, and it was a wonderful feeling. Her headache was instantly gone and she felt great.

Dr. Madia noted that Dr. Sweda is an anesthesiologist. He stated that she will have access to all those medicines instantly. Dr. Madia asked how Dr. Sweda will control herself so that she doesn't go back to using.

Dr. Sweda stated that, first of all, the period of the drug being wonderful was very short-lived. It stopped

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making her feel good a long time ago, whether it was alcohol or Fentanyl. The other safeguard is to not use Fentanyl in her practice and not waste any medications at all. They will all go back to the pharmacy.

Dr. Madia asked how Dr. Sweda can say that she won't use Fentanyl in her practice. He noted that it is an integral part of anesthesia.

Dr. Sweda stated that there are other narcotics that can be used.

Dr. Steinbergh stated that it doesn't matter what the narcotic is. The real issue is her dependency. She can't just say that she won't use Fentanyl.

Dr. Sweda stated that she understands that, but when she had talked to Dr. Whitney about it, he thought that, for a time, she could just substitute other narcotics and send everything back to the pharmacy without wasting anything. She added that she was also going to speak to Dr. Whitney about taking Vivitrol.

In response to further questions, Dr. Sweda stated that she does not have a desire to use drugs. She no longer suffers from headaches. When asked how she will modify her practice when she returns to it in order to protect herself from this disease, Dr. Sweda stated that she thinks that her depression has been very longstanding, for many decades, and drugs and alcohol actually prolonged her life initially. It helped her stay alive until it stopped working, and it allowed her to get to Shepherd Hill. Dr. Sweda stated that she wanted to die long before she ever picked up a drink or touched a drug. When she had her medications adjusted and her psychotherapy and such, her outlook has just changed. It was a means to just survive, to get by and do the only thing she knew how to do, and that's work.

Regarding questions about support systems, Dr. Sweda stated that she doesn't have any children. She has friends that she's never had. She has no family support. Dr. Sweda stated that she had an older sister, and a younger brother who took his life, and she has another brother eight years younger with whom she has a very distant relationship. Dr. Sweda stated that her family doesn't think that she has a problem. They didn't see any reason that she needed to go to Shepherd Hill, and they don't understand why she thinks that she needs to do this. Dr. Sweda stated that she had always supported her family, financially and otherwise, and they just seem to think that this is ridiculous.

Dr. Steinbergh recommended that Dr. Sweda be certain that she's well before she tries to take care of others. She needs to take care of herself.

Dr. Sweda stated that that's what she's learned, but she never thought she was worth it.

Mr. Albert noted that Dr. Sweda stated that she was always a loner before she entered Shepherd Hill and made friends. He asked whether she has any friends outside the recovery network.

Dr. Sweda stated that she does not.

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Mr. Albert asked her what she does with her spare time.

Dr. Sweda stated that she does volunteer work, whether it's working outside in people's yards, or going to Shepherd Hill. The friends that got her into doing volunteer work are ones she met in A.A. She attends meetings every day, and attends pretty much the same meetings. She does not belong to a church.

Mr. Albert stated that it's good to have a lot of friends in a recovery network, but she needs to develop some relationships outside of that recovery network.

Dr. Sweda indicated that she understands what he means, but added that, even prior to her drinking or using, she didn't do anything with anybody. For her it's a huge thing just to be able to do what she does now.

Mr. Albert encouraged her to work on that.

Dr. Sweda stated that when she went to treatment, she thought it was the absolute biggest tragedy. She certainly did not aspire to chair the Grandville 12 in 12, or anything else. It has turned out to be the thing for which she is most grateful. She added that it has turned out to be one of the top things for which she is grateful because she would have never gotten here and she would never have known that she wants to get up in the morning and look forward to it. Dr. Sweda stated that she doesn't consider the Board the enemy, adding that she's grateful because, in retrospect, she knows that she would have continued with the attitude that she could figure this out and do it herself unless she was really forced to enter into treatment.

Dr. Amato left during the previous discussion.

DR. BUCHAN MOVED TO CONTINUE DR. SWEDA UNDER THE TERMS OF HER OCTOBER 12, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Robbins	- aye

The motion carried.

LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

Dr. Kumar advised that at this time he would like the Board to consider the probationary reports, the

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

Dr. Talmage stated that he would like to consider Alan J. Parks, M.D.'s, request separately.

Dr. Steinbergh stated that she would like to discuss the following probationary reports: Nathan Thomas Penney, D.P.M.; Kolli M. Prasad, M.D.; and Joseph Aloysius Ridgeway, IV, M.D.

Dr. Steinbergh stated that she would like to consider the requests by the following separately: Adam P. Hall, D.O.; Robert L. Hubley, D.O.; Alan J. Parks, M.D.; William C. Stevenson, M.D.; and Alan B. Storrow, M.D.

MR. BROWNING MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON JUNE 11-12, 2007, WITH: DAVID C. BLOCKER, M.D.; ROBERT L. BRANDT, JR., M.D.; MICHAEL B. BURGHARDT, M.D.; TODD S. CARRAN, M.D.; ALLAN W. CLARK, M.D.; WILLIAM L. CRAWFORD, M.D.; GREGORY G. DUMA, M.D.; TANIA RENEE ECK, M.T.; RYAN STEVEN FRYMAN, D.O.; ARLAN MARCUS GUSTILO-ASHBY, M.D.; MARK O. HENSON, M.D.; TIMOTHY J. HEYD, M.D.; W. ANDREW HIGHBERGER, M.D.; MELANIE E. JUNGBLUT, M.D.; STEPHEN BARRY LEVITT, M.D.; MAHENDRA K. MAHAJAN, M.D.; DONALD C. MANN, M.D.; GREGORY S. MASIMORE, M.D.; MARK S. MCALLISTER, M.D.; FRANCINE R. MOSLEY, M.D.; THOMAS GEORGE OLSEN, M.D.; ASHOK V. PADHIAR, M.D.; ANDRE PROCHOROFF, M.D.; JOSEPH ALOYSIUS RIDGEWAY, IV, M.D.; WILLIAM DENNY ROBERTSON, M.D.; STEPHEN J. ROLFE, M.D.; CHRISTOPHER S. SHAW, M.D.; JOSEPH COOPER SIMONE, D.O.; RICHARD S. SKOBLAR, M.D.; MATTHEW ALLAN SNYDER, L.M.T.; DAVID E. SUBLER, M.D.; MICHAEL J. VJECHA, M.D.; JOSEPH G. WERNER, M.D.; JAMES F. ZIMMERMANN, D.P.M.; AND RICHARD ALLAN ZINNI, D.O. DR. VARYANI FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS FOR BOTH PROBATIONARY REQUESTS AND REINSTATEMENT REQUESTS:

- **TO APPROVE DAVID E. ALLEN, M.D.'S REQUEST FOR THE FOLLOWING: A REDUCTION IN DRUG SCREENS TO TWO PER MONTH; A REDUCTION IN DRUG AND REHABILITATION MEETINGS TO TWO MEETINGS PER WEEK, WITH TOTAL OF 10 PER MONTH; AND A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS;**
- **TO APPROVE DOUGLAS W. BEECH, M.D., TO SERVE AS DAVID B. AXELSON, M.D.'S TREATING PSYCHIATRIST;**
- **TO APPROVE ROBERT L. BELLUSO, D.O.'S, REQUEST FOR A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS;**

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- TO APPROVE JAMES PALLAS, M.D., TO SERVE AS RICHARD J. DEFRANCO, M.D.'S, TREATING PSYCHIATRIST;
- TO GRANT LAMBERTO T.R. GALANG, JR., M.D.'S, REQUESTS: TO APPROVE HIS PROPOSED PRACTICE PLAN TO JOIN HIS FATHER'S MEDICAL PRACTICE; FOR APPROVAL TO CHANGE THE MONITORING PHYSICIAN FROM STEPHEN GOLDBERG, M.D., TO JEFFREY B. MILLER, M.D.; FOR APPROVAL TO CHANGE THE TREATING PSYCHIATRIST FROM KEVIN W. EGGERMAN, M.D., TO SCOTT A. SCHMITT, M.D.; AND FOR APPROVAL TO CHANGE THE MENTAL HEALTH PROFESSIONAL FROM STUART W. BASSMAN, ED.D., TO ARCANGELA SPATARO WOOD, PSY.D.
- TO APPROVE ANN V. GOVIER, M.D.'S REQUEST TO CHANGE HER MONITORING PHYSICIAN FROM EWELINA M. WORWAG, M.D., TO ROBERT R. EVANS, M.D., AND TO LIFT HER WORK HOUR RESTRICTIONS;
- TO GRANT ADAM P. HALL, D.O.'S REQUEST FOR APPROVAL OF THE COURSE, *ETHICAL FITNESS SEMINAR*, OFFERED BY THE INSTITUTE FOR GLOBAL ETHICS, AS FULFILLING THE REQUIREMENTS OF PARAGRAPH 17 OF HIS CONSENT AGREEMENT;
- TO APPROVE AARON BILLOWITZ, M.D., TO SERVE AS ROBERT L. HUBLEY, D.O.'S ASSESSING PSYCHIATRIST REQUIRED FOR REINSTATEMENT
- TO APPROVE ANIL H. JHANGIANI, M.D.'S, REQUEST TO DISCONTINUE THE PSYCHIATRIC SESSIONS REQUIRED BY HIS DECEMBER 9, 2004 CONSENT AGREEMENT;
- TO APPROVE CARLA M. MYERS, D.O.'S, REQUESTS TO: REDUCE DRUG SCREENS TO TWICE A MONTH, AND TO REDUCE HER APPEARANCES TO EVERY SIX MONTHS;
- TO APPROVE BRADLEY WINKHART, M.D. TO SERVE AS MICHAEL J. O'BRIEN, D.O.'S, NEW TREATING PSYCHIATRIST;
- TO APPROVE WILLIAM A. ROMER, M.D.'S, REQUEST FOR A REDUCTION IN HIS DRUG SCREEN REQUIREMENT TO TWICE A MONTH;
- TO APPROVE SUSAN E. KIMMEL, M.D., TO SERVE AS PATRICIA A. SPIESS, M.D.'S, TREATING PSYCHIATRIST;
- TO APPROVE DEBORAH L. TAYLOR, M.D.'S, REQUEST FOR A REDUCTION IN

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PSYCHIATRIC SESSIONS TO EVERY THREE MONTHS;

- **TO APPROVE MICHAEL CRAIG WARREN, D.O.'S, REQUEST TO ELIMINATE HIS CONTROLLED SUBSTANCE LOG REQUIREMENT; AND**
- **TO APPROVE DOUGLAS H. LINZ, M.D., TO SERVE AS RANDALL G. WHITLOCK, JR., P.A.'S, SUPERVISING PHYSICIAN;**

MR. BROWNING 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 ACUPUNCTURE APPLICANTS LISTED IN EXHIBIT "C," AND TO APPROVE THE RESULTS OF THE JUNE 2007 PMLEXIS AND THE JUNE 2007 MASSAGE THERAPY EXAMINATION, AND TO CERTIFY AS PASSING AND LICENSE THOSE RECEIVING A SCORE OF 75 OR GREATER ON THEIR EXAMINATION, AND TO CERTIFY AS FAILING AND DENY LICENSURE TO THOSE WHO RECEIVED A SCORE OF LESS THAN 75 ON THE EXAMINATION. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ALAN J. PARKS, M.D.

Dr. Talmage stated that following his approval of Ronald J. Siegle, M.D., to serve as Dr. Parks' monitoring physician, he learned some information he had not previously had, i.e., Dr. Siegle testified on Dr. Parks' behalf at hearing.

DR. TALMAGE MOVED TO DENY DR. PARKS' REQUEST FOR APPROVAL OF DR. SIEGLE TO SERVE AS HIS MONITORING PHYSICIAN. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

Nathan Thomas Penney, D.P.M.; Kolli M. Prasad, M.D.; and Joseph Aloysius Ridgeway, IV, M.D.

Dr. Steinbergh noted that there are still outstanding reports due in all three cases. She stated that she's not fine with the fact that some people aren't in compliance, and she asked what happens when they're not.

Dr. Talmage stated that the Board is only approving the reports that include those facts. If these individuals continue to be out of compliance, they are cited. The Board is only approving the report of the facts at this time.

DR. STEINBERGH MOVED TO ACCEPT THE SECRETARY AND SUPERVISING MEMBER'S REPORTS OF CONFERENCE FOR NATHAN THOMAS PENNEY, D.P.M.; KOLLI M. PRASAD, M.D.; AND JOSEPH ALOYSIUS RIDGEWAY, IV, M.D. DR. BUCHAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Adam P. Hall, D.O.

Dr. Steinbergh stated that she has questions concerning the *Ethical Fitness Seminar* offered by the Institute for Global Ethics, the course for which Dr. Hall is requesting approval. She noted that Dr. Hall's Step II Consent Agreement requires that he take a course on personal and professional ethics, and asked whether the proposed course meets the requirement. She noted that it is a one-day course, and she acknowledged that the Board has approved this course in the past under certain circumstances, but she is uncomfortable approving it this time. She added that she is unfamiliar with the names of the individuals giving the course.

Dr. Talmage stated that the course has been previously approved. He added that after Dr. Hall returns from

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the course he has to submit verification that he has attended and report what he has gained from the course. The approval is not final until Dr. Hall submits that report.

Dr. Steinbergh asked to see feedback from this course.

Ms. Bickers stated that no one has taken the course since the reporting requirement has been included. She added that the Board could approve this as partial fulfillment until the report is received from Dr. Hall.

Dr. Steinbergh asked to see information about the individuals giving the course.

Ms. Bickers stated that she will get that information for Dr. Steinbergh.

Robert L. Hubley, D.O.

Dr. Steinbergh stated that she did have an issue concerning Dr. Hubley. Dr. Steinbergh stated that Dr. Hubley's license is currently suspended for an indefinite period due to chemical dependency. He's applying for a full license, and is trying to find a residency program in Ohio to accept him. Dr. Steinbergh stated that Dr. Hubley would prefer to stay in Ohio, he plans to do a family practice residency, and has interviewed for a position in New Jersey. Dr. Hubley indicates that he has the possibility of a position, prior to reinstatement of his license, of dictating discharge summaries. He would not be making medical decisions. Dr. Steinbergh asked whether or not the dictation of discharge summaries to be the practice of medicine. It is not something that anybody else can do, other than a physician. Dr. Steinbergh commented that Dr. Hubley's explanation to Ms. Bickers was that another physician would write this out and he would dictate. Dr. Steinbergh stated that physicians know what doing a discharge summary entails. She doesn't think that anybody but a physician can do that. She acknowledged that a Nurse Practitioner and a Physician Assistant can do that. Dr. Steinbergh stated that her concern is that this is an unlicensed physician dictating discharge summaries, and she does not feel that that is appropriate.

Dr. Talmage stated that there are some discharge summaries that are actually done by nurses who are credentialed by credentialing departments to accompany physicians and write notes for them that the physician signs. The summary is signed by the physician, who attests that the information is true and accurate.

Dr. Kumar stated that he understands what Dr. Talmage is saying, but at the same time he wonders who will be signing the discharge summary that Dr. Hubley will be dictating.

Dr. Talmage stated that Dr. Hubley is only dictating the notes.

Dr. Egner stated that the attending physician has to sign it.

Dr. Talmage agreed, stating that Dr. Hubley is not a licensed physician and can't sign them.

Dr. Steinbergh stated that her concern would be the medical/legal aspect of it.

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Dr. Talmage stated that the responsibility is that of the physician who signs the summary.

Dr. Egner stated that she doesn't have a problem with it.

Dr. Buchan stated that he doesn't think that there's independent decision making, necessarily. Dr. Buchan stated that he doesn't think that the risks are high enough to necessarily create a barrier.

Dr. Egner stated that it might be a good learning experience for him.

Dr. Steinbergh suggested that a letter of caution be sent to Dr. Hubley.

William C. Stevenson, M.D. and Alan B. Storrow, M.D.

Dr. Steinbergh advised that she pulled these two requests because they should have been asterisked on the agenda since the Secretary and Supervising Member recommendation differs slightly from the request made.

DR. STEINBERGH MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:

- **TO APPROVE AARON BILLOWITZ, M.D., TO SERVE AS ROBERT L. HUBLEY, D.O.'S ASSESSING PSYCHIATRIST REQUIRED FOR REINSTATEMENT;**
- **TO APPROVE WILLIAM C. STEVENSON, M.D.'S REQUESTS FOR: REDUCTION IN APPEARANCES TO EVERY SIX MONTHS; REDUCTION IN DRUG SCREENS TO TWICE PER MONTH; AND REDUCTION IN DRUG AND REHABILITATION MEETINGS TO TWO PER WEEK, WITH A MINIMUM OF 10 PER MONTH; AND**
- **TO APPROVE ALAN B. STORROW, M.D.'S REQUESTS FOR: REDUCTION IN APPEARANCES TO EVERY SIX MONTHS; REDUCTION IN DRUG SCREENS TO TWICE PER MONTH; ELIMINATION OF THE CHART REVIEW REQUIREMENT; AND ELIMINATION OF PRACTICE PLAN REQUIREMENT.**

MR. ALBERT SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Mr. Browning	- aye

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Ms. Sloan - aye
Dr. Steinbergh - aye

The motion carried.

Dr. Talmage, Mr. Browning, Dr. Amato and Dr. Buchan left the meeting at this time.

REINSTATEMENT REQUESTS

ALBERTO A. LEON, M.D.

Dr. Leon's request for restoration of his license, which was suspended by Board Order of November 10, 2004, was considered by the Board at this time.

DR. STEINBERGH MOVED TO APPROVE THE APPLICATION FOR RESTORATION OF DR. LEON'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN OHIO, SUBJECT TO HIS PASSING THE SPEX AND SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED THE NOVEMBER 10, 2004 BOARD ORDER. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DAVID A. RATH, M.D.

Dr. Rath's request for reinstatement of his license to practice medicine and surgery, which was suspended by Board Order of April 14, 2006, was presented to the Board for consideration at this time.

DR. EGNER MOVED THAT THE REQUEST FOR THE REINSTATEMENT OF THE LICENSE OF DAVID A. RATH, M.D., BE APPROVED, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED THE BOARD ORDER OF APRIL 12, 2006. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

ROLL CALL: Mr. Albert - aye
Dr. Egner - aye
Dr. Madia - aye
Ms. Sloan - aye

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Dr. Steinbergh - aye
Dr. Kumar - aye

The motion carried.

FRANK M. STRASEK, D.P.M.

Dr. Strasek's request for reinstatement of his license to practice podiatric medicine and surgery, which was suspended by Board Order of July 12, 2006, was presented to the Board for consideration at this time.

DR. EGNER MOVED THAT THE APPLICATION FOR THE REINSTATEMENT OF THE LICENSE OF FRANK M. STRASEK, D.P.M., TO PRACTICE PODIATRIC MEDICINE AND SURGERY IN THE STATE OF OHIO BE APPROVED, SUBJECT TO THE PROBATIONARY TERMS AND CONDITIONS AS OUTLINED THE JULY 12, 2006 ORDER. DR. MADIA SECONDED THE MOTION. A vote was taken:

ROLL CALL:

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

The motion carried.

Dr. Talmage and Dr. Buchan returned to the meeting at this time.

FINDINGS & ORDERS IN THE MATTER OF ADOPTION OF RULES 4731-16-04, 4731-16-11, AND 4731-16-14, OHIO ADMINISTRATIVE CODE

MR. ALBERT MOVED THAT THE FINDINGS AND ORDER IN THE MATTER OF THE ADOPTION OF PROPOSED RULES PERTAINING TO IMPAIRMENT, AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 11TH DAY OF JULY 2007, BE ADOPTED AS THE FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE PROPOSED RULES CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE THE FINAL RULE IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Buchan	- aye

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

The motion carried.

ADMINISTRATIVE AND PRESIDENT'S REPORT

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

Dr. Kumar advised that the Board will hold its annual retreat in September. The tentative agenda was discussed to some degree during the Executive Committee meeting, but he asked that Board members submit their comments and recommendations. A copy of that draft agenda will be maintained in the exhibits section of this Journal.

Dr. Kumar stated that the Board will meet with representatives of O.S.M.A. at 9:00 a.m. on August 9. Among the items that O.S.M.A. would like to discuss are retail clinics, criminal background checks, competency-based licensure and requiring at least half of the C.M.E. earned to be in the doctor's specialty. Dr. Kumar stated that the other thing to be discussed is the gathering of demographic information from licensees at the time of their license renewals. Dr. Kumar asked for input on this agenda.

Dr. Kumar stated that the O.S.M.A., O.O.A. and O.P.M.A. leadership will also be invited to attend the retreat in September.

Dr. Kumar stated that arrangements are also being made for the Governor to attend the Wednesday session of the September Board meeting and have his picture taken with Board members. He stated that that depends on the Governor's availability.

Mr. Whitehouse reported on the current requirements for entering into contracts and his negotiations with the Attorney General's Office concerning the cost of services to the Board. He also asked Board members to keep September 7 open on their schedules to attend Ethics training seminars. He reminded the Board that this training is required by the Governor, and must be completed before the end of the year.

Mr. Whitehouse also reported on the Board's budget status

Mr. Whitehouse advised that he met with the Dean of Ohio University's School of Osteopathic Medicine concerning the Board's pilot project with that school. He commented that he has high expectations that the program will be successful. He advised that he will be introducing the Board to first-year students on August 21, and there will be periodic opportunities to meet with the students. He stated that the Board will take those opportunities to tell them about licensing, impairment issues, and, basically, how to avoid future problems. Each student in the program will be required to attend at least one meeting. He advised that the students will be debriefed at the end of their attendance, so that by the end of the first

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year the Board will have been able to put together a good program that, hopefully, can be duplicated in other schools.

REPORTS OF ASSIGNED COMMITTEES

IMPAIRMENT COMMITTEE

Mr. Albert advised that the Committee reviewed applications for renewal of certificates of good standing for three treatment providers and recommends approval.

DR. MADIA MOVED TO RENEW THE CERTIFICATES OF GOOD STANDING FOR: HEALTHCARE CONNECTION, TAMPA, FL; SHEPHERD HILL, NEWARK, OH; AND TOLEDO HOSPITAL, TOLEDO, OH. DR. EGNER SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Miller advised that the Legislature has adjourned for the summer. He noted that prior to adjourning, the House passed H.B. 104, the background checkS legislation, and that bill is now in the Senate. The House also passed H.B. 149, the optometry bill.

LICENSURE COMMITTEE

In Dr. Robbins' absence, Dr. Madia reported on the Committee's activities. He noted that the Committee reviewed a number of applications.

Carsten Schroeder, M.D.

Dr. Madia referred the Board to Dr. Schroeder's application for medical licensure. Dr. Schroeder is a graduate of a school not accredited by the Liaison Committee on Medical Education. He has requested that the Board consider his previous training and experience as being equivalent to 24 months of approved training through the second year level. Dr. Schroeder has advised that he has completed twelve months of

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a fellowship in thoracic surgery at the Cleveland Clinic and University Hospitals of Cleveland. Dr. Madia noted that Dr. Schroeder had a lot of cardiothoracic training in Germany. He did one non-clinical fellowship in Maryland. He has done one year of an approved clinical fellowship in Cleveland. Dr. Madia stated Dr. Schroeder will finish his two years of training there next month.

Ms. Rieve advised that the Committee recommended approving Dr. Schroeder's request. The Committee felt that Dr. Schroeder's training in Germany, combined with the one year of fellowship here, is equivalent. By January 2008, Dr. Schroeder will have 18 months in a fellowship.

**DR. STEINBERGH MOVED TO DENY DR. SCHROEDER'S REQUEST FOR EQUIVALENCY.
DR. BUCHAN SECONDED THE MOTION.**

Dr. Buchan stated that the Board would like to see equivalency of training through PGY-2. Dr. Buchan stated that he doesn't see that here. He sees twelve months.

Ms. Rieve indicated that he is considered to be PGY 7 or 8 in the fellowship.

Dr. Buchan stated that the Board doesn't equate fellowships with residency training.

Dr. Madia stated that the Committee felt that the training in Germany and the year of a fellowship here was equivalent.

Ms. Rieve stated that he has a license in Kentucky.

Dr. Kumar stated that he agrees with Dr. Steinbergh. He expressed concern that the fellowship is not clinical training.

Ms. Rieve stated that Dr. Schroeder completed twelve months of non-clinical fellowship, and then he has another twelve months that is clinical.

Dr. Kumar stated that it's only twelve months. The Board needs that to be 24 months.

Dr. Steinbergh stated that Dr. Schroeder has to have 24 months of graduate medical education through the second year level. The Board has to see that he has achieved two postgraduate years continuously.

Ms. Rieve stated that the Board can grant equivalence for prior training. She stated that Dr. Schroeder is in a high-level fellowship now. He has passed the PGY-2 level in training.

Dr. Kumar stated that none of his fellowships have been for approved clinical residency programs. He added that anybody can start a fellowship without getting formal approval from the Residency Review Committee.

Dr. Buchan stated that this is a non-accredited fellowship.

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Ms. Rieve stated that all fellowships are non-accredited.

Dr. Kumar asked for a vote on the motion to deny.

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

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

The motion carried.

Ayana Barbarin, M.D.

Dr. Madia advised that Dr. Barbarin's request for a "good cause" exception to the seven-year rule was considered by the Committee. Dr. Madia referred the Board to Ms. Sibra's memorandum in the agenda materials, which indicates that Dr. Barbarin's request is based on her graduation from medical school being delayed for two years while she performed cancer research and based on her having completed more than five years of postgraduate training, which is four more than required for licensure. Dr. Barbarin has passed Steps I through I11 within seven years, five months. Dr. Madia advised that the Committee recommends approval.

DR. MADIA MOVED TO GRANT DR. BARBARIN'S REQUEST FOR A "GOOD CAUSE" EXCEPTION TO THE SEVEN-YEAR RULE, AND TO APPROVE DR. BARBARIN'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

Mia Addison Swartz, M.D.

Dr. Madia noted that Dr. Swartz is over the seven-year requirement by six months, and has requested a “good cause” exception to the rule, based on her graduation from medical school being delayed one year while she performed research, and based on her having completed seven years of post-graduate training, six years more than required for licensure. Dr. Madia stated that the Committee recommends approval.

DR. MADIA MOVED TO GRANT DR. SWARTZ’ REQUEST FOR A “GOOD CAUSE” EXCEPTION TO THE SEVEN-YEAR RULE, AND TO APPROVE DR. SWARTZ’ APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Milind Deogaonkar, M.D.

Dr. Madia stated that Dr. Deogaonkar is over the seven-year requirement by one year and four months; however, has requested a waiver, based on his being in the U.K. at the time of the deadline. Dr. Madia stated that Dr. Deogaonkar passed all three steps on the first attempt, and did successfully complete all three steps within ten years.

Dr. Kumar noted that Dr. Deogaonkar was traveling back and forth between the U.K. and the U.S. during that time.

Dr. Buchan asked for clarification.

Ms. Rieve stated that Dr. Deogaonkar took Steps I and II when he was in India. He didn’t come to the U.S. until 2004 and when he entered U.S. postgraduate training, which was required in order to take Step III. By the time he finished, he was over by one year and four months.

Dr. Buchan stated that there are two issues in this case: one is the test sequence, and the other is his post-

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graduate training in the United States.

Ms. Rieve stated that Dr. Deogaonkar has two years of training in the U.S.

Dr. Buchan disagreed, noting that he has two years of a non-accredited fellowship.

Ms. Rieve stated that, for purposes of licensure, the Board considers fellowships accredited if the institution has an accredited residency in the same specialty, which Dr. Deogaonkar's does.

Dr. Madia advised that the Committee recommends approval.

DR. EGNER MOVED TO GRANT DR. DEOGAONKAR'S REQUEST FOR A "GOOD CAUSE" EXCEPTION TO THE SEVEN-YEAR RULE, AND TO APPROVE DR. DEOGAONKAR'S APPLICATION FOR ENDORSEMENT LICENSURE, CONTINGENT UPON ALL REQUESTED DOCUMENTS BEING RECEIVED AND APPROVED IN ACCORDANCE WITH LICENSURE PROTOCOLS. DR. TALMAGE SECONDED THE MOTION. A vote was taken:

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

The motion carried.

P.A. COMMITTEE

Dr. Talmage advised that the Committee reviewed the special services plans for Orthopedic Associates of Southwestern Ohio. He indicated that there were a number of requests, and he would first address the items for which the Committee recommends approval.

Dr. Egner asked whether the Committee had a consensus on the approval.

Dr. Talmage indicated that the Committee had differences on the plans.

Following a brief discussion concerning the late hour and the fact that there were several Board members absent, Dr. Talmage asked for a motion to table these matters until the August meeting.

MR. ALBERT MOVED TO TABLE ORTHOPEDIC ASSOCIATES OF SOUTHWESTERN OHIO'S SPECIAL SERVICES PLANS UNTIL THE AUGUST 2007 MEETING.

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DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Talmage stated that the Committee also reviewed the proposed drug formulary for P.A.s. He referred to the document contained in the agenda package, and asked that Board members review the formulary and submit comments to him or Ms. Sloan as soon as possible so that the rules can be prepared for filing.

LIMITED BRANCH & ALTERNATIVE MEDICINE COMMITTEE

Dr. Buchan advised that the Committee reviewed the credentials of two schools seeking approval by the Board.

DR. STEINBERGH MOVED TO APPROVE THE NATIONAL INSTITUTE OF MASSOTHERAPY'S REQUEST FOR RENEWAL OF ITS CERTIFICATE OF GOOD STANDING. DR. STEINBERGH FURTHER MOVED TO APPROVE PITTSBURGH TECHNICAL INSTITUTE'S REQUEST FOR A CERTIFICATE OF GOOD STANDING AS AN OUT-OF STATE SCHOOL TEACHING MASSAGE THERAPY. MS. SLOAN SECONDED THE MOTION. A vote was taken:

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

The motion carried.

SCOPE OF PRACTICE COMMITTEE

Dr. Steinbergh stated that the Committee continues its discussions on the scope of practice of podiatrists in regards to split thickness skin grafts and peroneal nerve decompression. She advised that those two issues have been tabled by the Committee until August. Input is being sought from credentialing committees in some of the hospitals to learn whether podiatrists are being credentialed in this arena. She added that Dr. Buchan will also be obtaining information on the education and training of podiatrists on these two issues.

Dr. Steinbergh referred to correspondence from Kim E. Watson, who credentials at Anthem Blue Cross/Blue Shield, concerning podiatry services related to neurostimulation. Dr. Steinbergh stated that the Committee approved a draft response, which basically states that the Board feels that this is outside the scope of practice of podiatrist. Copies of both letters shall be maintained in the exhibits section of this journal.

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DR. BUCHAN MOVED TO SEND THE DRAFT RESPONSE TO MS. WATSON.

DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

Dr. Steinbergh stated that the Committee also continues to discuss correspondence from Thomas J. Misny, M.D., of Cleveland Therapy Center, which asks whether exercise instruction may be delegated to massage therapists. Dr. Steinbergh stated that, in reviewing the exercise instructions in question, the Committee feels that massage therapists would be going beyond their scope of practice to instruct in some areas. The Committee will invite Dr. Misny to come to the August meeting to discuss the matter in person.

MINIMAL STANDARDS OF CARE COMMITTEE

Dr. Kumar stated that the Committee reviewed and discussed proposed amendments to Rule 4731-18-01, O.A.C., the standards for surgery rule. He stated that the Committee would like Board members to review this rule and the proposed revisions and contact staff with any comments they may have.

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

Thereupon at 5:40 p.m. the July 11, 2007 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 July 11, 2007, as approved on September 12, 2007.



Deepak Kumar, M.D., President



Lance A. Talmage, M.D., Secretary

(SEAL)



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