

May 13, 2009

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## MINUTES

### THE STATE MEDICAL BOARD OF OHIO

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Dalsukh Madia, M.D., President, called the meeting to order at 1:00 p.m., in the Administrative Hearing Room, 3<sup>rd</sup> Floor, the James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Jack C. Amato, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Marchelle L. Suppan, D.P.M.; Nandlal Varyani, M.D.; W. Frank Hairston; Susan E. Stephens, M.D.; and Darshan Mahajan, M.D. The following joined the meeting at a later time: Raymond J. Albert, Supervising Member; and Jeffrey M. Jacobson, Esq. The following did not attend the meeting: Anita M. Steinbergh, D.O.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; Sallie J. Debolt, General Counsel; Mark R. Blackmer, David P. Katko, Angela S. McNair, Karen H. Mortland, Marcie P. Pastrick, Cheryl D. Pokorny, Sheldon Safko and Daniel S. Zinsmaster, Enforcement Attorneys; Barbara J. Pfeiffer, Karen A. Unver, and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Michael K. Miller, Public Policy & Government Affairs Officer; Karry Thacker, Executive Staff Assistant; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; and Jacqueline A. Moore, Disciplinary Information Assistant.

#### MINUTES REVIEW

**DR. VARYANI MOVED TO APPROVE THE MINUTES OF APRIL 8-9, 2009. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

#### EXECUTIVE SESSION

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

VOTE:	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

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The motion carried.

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

Mr. Albert and Mr. Jacobson joined the meeting 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 AND PROPOSED FINDINGS AND PROPOSED ORDER

Dr. Madia announced that the Board would now consider the Reports and Recommendations and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Madia asked whether each member of the Board had received, read and considered the hearing record; the Findings of Fact, Conclusions of Law and Proposed Orders, and any objections filed in the matters of: Emad S. Atalla, M.D.; Menna Berhane, M.D.; Randall Jay Bolar, M.D.; Ralph Arden Hugunin, M.D.; Venkanna Kanna, M.D.; Kathy Lynn Kruger, D.O.; Marietta J. Medel, M.D.; Robert L. Turton, D.O.; and Jeffrey E. White, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

Dr. Madia 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. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye

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Dr. Madia - aye

Dr. Madia noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matters of Dr. Berhane and Dr. Medel, as those cases are not disciplinary in nature and concern only the doctors' qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

JEFFREY E. WHITE, M.D.

Dr. Madia directed the Board's attention to the matter of Jeffrey E. White, M.D. He advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members.

Dr. Madia continued that a request to address the Board has been timely filed on behalf of Dr. White. He reminded both parties that no oral motions may be made at this time. Five minutes would be allowed for that address.

Dr. White was accompanied by his attorney, Paul-Michael LaFayette. Mr. LaFayette stated that on behalf of Dr. White he filed objections to the Hearing Examiner's decision and recommendations. He advised that they have no objections to the Findings of Fact and Conclusions of Law. They believe that the Hearing Examiner did a very good job in recounting the facts of the case and providing the evidence and testimony to the Board. He advised that they do object to the recommended sanction. The Hearing Examiner recommended a stayed revocation and a 90-day suspension.

Mr. LaFayette noted that Ms. Clovis did not find that harm was done to the patient. She found that, while there was a violation, it was done in a fashion that was not taking advantage of the patient or using any undue influence on the patient. Mr. LaFayette stated that the patient, himself, did not feel violated and was happy and satisfied with the care that was received. Mr. LaFayette advised that the Hearing Examiner recommended a minimal sanction.

Mr. LaFayette stated that his objection to this is that, while the Hearing Examiner recommended a minimal sanction, she nonetheless recommended a revocation, stayed, pending a 90-day suspension period. Mr. LaFayette stated that he feels that that is inconsistent with what could be reasonably interpreted as minimal.

Mr. LaFayette stated that he would like to draw the Board's attention to a case that was recently decided by this Board. He referred to the case of a Michigan physician, Dr. Langschwager, which was considered by the Board in March 2009. Dr. Langschwager was accused of very similar conduct. Dr. Langschwager was seeking licensure in Ohio. His certificate was granted, and the Board imposed a reprimand and probation.

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Mr. LaFayette stated that when reviewing the Board's Disciplinary Guidelines and identifying the issues, he thinks that Dr. White's behavior was minimal and the minimal sanction is more appropriate and more in line with Dr. White's case. He stated that Dr. White met all of the mitigating standards that are set forth in the Disciplinary Guidelines and within the Board's rules, and a 90-day suspension is excessive under the circumstances, particularly, if you look at the facts of the Langschwager case versus this particular case.

Mr. LaFayette stated that he would respectfully request that the Board reduce the recommended sanction to a reprimand or a minimal sanction.

Dr. Madia advised that Dr. White has one more minute to make his statement.

Dr. White apologized to the Medical Board and to his profession for an error in judgment that occurred in the past. He commented that everyone views the medical profession as having high standards. He stated that he has taken steps to assure that his past conduct will not occur again. He attended the Vanderbilt University Borders CME, which allowed him to view what sort of actions he can take to ensure that he's not put in the same situation again.

Dr. White stated that he has also ensured that his practice is run in a way that he will not be placed in undue circumstances that could lead him to be before the Board again.

Dr. White thanked the Board for its time, and added that he hopes that when the Board comes to its decision, he can continue to practice unimpeded.

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

Ms. Unver stated that she does not.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JEFFREY E. WHITE, M.D. DR. AMATO SECONDED THE MOTION.**

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

Dr. Stephens stated that she agrees with Dr. White's attorney that this case does not rise to the level of suspension or revocation. Dr. Stephens suggested a reprimand and limited probation be imposed.

Dr. Mahajan stated that a three-month suspension is too much, and suggested that that be cut down to one month. He stated that Dr. White has already taken precautions to ensure that things don't happen again.

Dr. Suppan stated that she thinks that it's noteworthy in this case that Dr. White was friends with the patient first. The patient then requested Dr. White to see him as a patient, which he was willing to do. There was no preying on the patient or inducing a relationship in that way. She stated that that in no way condones the behavior that happened down the road, but she thinks that the Board does need to take into consideration that both parties were consenting and that the patient went on record saying that he did not

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feel harmed.

Dr. Varyani stated that the minimum penalty for sexual misconduct in practice is a stayed revocation, indefinite suspension, a minimum of one year of suspension, with conditions for reinstatement and subsequent probation, as appropriate. That was the minimum. The maximum penalty is permanent revocation of the certificate or permanent denial of an application.

Dr. Varyani stated that he doesn't know whether he would call this "no harm done," but he would recognize the circumstances. There was first friendship, then the friend became the patient and was treated two or three times. Dr. Varyani stated that he doesn't know that there was no harm done, but there was definitely a sexual relationship between the doctor and the patient.

Dr. Amato stated that he agrees with Dr. Varyani, but he also agrees with Dr. Stephens. Historically, a revocation is imposed for sexual misconduct. He stated that he thinks some suspension is in order, although three months might be a bit long. He would go along with a one-month suspension, and certainly the probation period should be at least nine months.

Dr. Varyani noted that the Proposed Order calls for a two-year probation.

Dr. Amato stated that the total time of suspension and probation should be close to one year.

Dr. Stephens stated that that's not what the Board did before. This physician was friends with the patient before he was a patient. She stated that in the case of Dr. Langschwager, it was a totally different situation and Dr. Langschwager did get what she felt was an appropriate light sanction of reprimand and probation. She stated that she doesn't see how this case rises to the level of any type of suspension. She commented that if Board members want a suspension, they could stay it. She stated that she thinks that the Board is being unfair.

Dr. Varyani again referred to the Disciplinary Guidelines, which call for a stayed revocation, at least.

Dr. Stephens stated that those Guidelines were in effect last time, and the Board didn't do it.

Dr. Varyani stated that he understands it, but he's sure that the circumstances were different. Dr. Varyani stated that he would like to maintain the stayed revocation. He added that he doesn't mind lessening the suspension period to one month. If the Board felt lenient in the past, he's sure that there were different circumstances, although he doesn't remember the circumstances.

Dr. Stephens stated that she does. The circumstances in the Langschwager case were worse. Two months ago the Board had a similar case that was worse, and it imposed a reprimand and probation. The same guidelines were in place and nobody talked about them. She asked why the Board has to stick to them today.

Dr. Madia stated that he agrees with Dr. Varyani's comments. He stated that he doesn't buy the argument that there was no harm done. Dr. Madia recommended a one-month suspension with a one-year probation.

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Dr. Stephens stated that the Board didn't give Dr. Langschwager a one-month suspension.

**DR. VARYANI MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF DR. WHITE BY CHANGING THE PERIOD OF SUSPENSION FROM THREE MONTHS TO ONE MONTH, AND THE PERIOD OF PROBATION FROM TWO YEARS TO ONE YEAR. DR. MAHAJAN SECONDED THE MOTION.**

Mr. Jacobson asked to be reminded of the details of the other case.

Dr. Madia asked that the Board address the matter before it now.

Mr. Jacobson stated that he does think that there's a valid concern that the proposed order in this case is not consistent with what the Board decided in the Langschwager case. He stated that absent further information about the Langschwager case, he will abstain in this case. He stated that precedent is always relevant. If you have different precedents for different people, you find yourselves in front of a court explaining why it is that one person got one treatment and another got another. Sometimes the facts are similar and sometimes they're not. He thinks that it is always relevant to ask.

Dr. Stephens stated that she doesn't think that Mr. Jacobson should abstain. She stated that it would take one minute to answer his question. She stated that the Assistant Attorney General could answer the question, or the attorney for Dr. White could provide the information.

Ms. Debolt asked whether any attorneys present know the facts of the Langschwager case.

Ms. Unver stated that the Langschwager case was actually a bootstrap case. There was action in the State of Michigan by the Michigan Medical Board. Dr. Langschwager had filed an application with the State Medical Board of Ohio, but ultimately got a job in Michigan. That was an application case, but he had been disciplined in Michigan for sexual misconduct. He was an OB at the time; he got involved with a patient, and had sexual relations with the patient. Ms. Unver stated that she can't recall all of the facts of the Michigan action, but Dr. Langschwager did have to complete a boundaries course, and he did probation. She can't recall what his suspension there was.

Mr. Jacobson thanked Ms. Unver for the explanation, and stated that, based on that explanation, he does think that this case is distinguishable from the Michigan case.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- nay
	Dr. Amato	- aye

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Dr. Stephens	- nay
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

**MR. JACOBSON MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JEFFREY E. WHITE, M.D. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- nay
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

RANDALL JAY BOLAR, M.D.

Dr. Madia directed the Board's attention to the matter of Randall Jay Bolar, M.D. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Bolar was accompanied by his attorney, Eric J. Plinke, Esq.

Mr. Plinke stated that he did file objections, and has made his request to reduce discipline known to the Board. He stated that Dr. Bolar has prepared a statement for the Board.

Dr. Bolar read the following statement:

I'm Randall Bolar. Thank you for letting me speak to you.

I want to, quickly as I can, summarize the issue in the renewal of my license in October of 2003, as well as in January of 2007. At the time I was practicing in Kentucky, and the summer of 2002 I'd agreed, on advice from counsel, to settle out of a malpractice case. That was late July, early August of 2002. I reported that to the hospital, to my Kentucky

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license, to third-party payors. At that time I did not realize that the Ohio license was not an annual renewal. When I renewed my Ohio license in October of 2003, I made the false assumption that I'd already reported that in my (sic) October of 2002. I was wrong. That's nobody's fault but my own. It was not intentional. If I'd realized that, I had a nice summary typed up that I could have quickly attached to the renewal application and I would have been happy to do that. The settlement date recorded in the Courthouse was 25 February of 2003. That's the date that every physician involved settled out of the case. I was one of the first to settle.

The second issue involves my renewal of my license in January of 2007. As you know from the records in front of you, my hospital privileges at Samaritan Hospital were subject to a brief summary suspension in the summer of 2006. This was at a time that I had already closed my practice, resigned my privileges and had accepted a job at another institution in Clarksville, Tennessee. In spite of that, the CEO of the hospital issued an unwarranted summary suspension. The term, "unwarranted," is not just mine, but that was the Medical Executive Committee also. To give you a little bit of background on that, I'd practiced in Kentucky for about six and a half years. All but the last year that I was in practice there I was in solo practice. The hospital had recruited another surgeon, Dr. Galo Grijalva, to join my practice, and he did in June of 2005. After he'd been there for a few months, it was clear to me that he was not going to succeed; and, in fact, I found that my burden of patients really hadn't decreased. If anything, it had increased. I felt obligated to let the hospital know in the fall of 2005 that I planned to relocate to Clarksville, Tennessee.

I had, by April of 2006, had an agreement with Gateway Hospital, had signed my agreement. Also had an agreement to join Bill Steeley, who is a surgeon I'd known for twenty years, in fact, someone I trained with. I began to close my practice May 1 of 2006, had hired an attorney to help me do that to make sure that I'd sent all letters out and notified everybody that I needed to notify.

When I first told the administration that I was going to relocate, I'm not sure whether they believed me or not, but they weren't hostile to me; but as the time of my departure became closer and closer, the administration at the hospital, specifically Frank Beirne, CEO, became significantly hostile to me, and, on occasion, was threatening to me. After I had sent letters out to my patients, informing them of my relocation, and telling them a list of surgeons in the community who would be happy to see them in the future if they desired to continue to get care, in Lexington, both Frank Beirne and Dr. Grijalva came to me, both very upset that I was not referring my patients to Dr. Grijalva. That would have kept those patients also at that hospital.

June 1 I closed my practice, resigned my privileges, I actually was boxing up my office, as well as my home. On the 17<sup>th</sup> of June 2006, I received a certified letter from Frank Beirne saying that he had summarily suspended my privileges, effective 15 June 2006, based on "serious allegations made by Dr. Grijalva." The Medical Executive Committee

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met two weeks later and because they had not issued the suspension, they made an initial investigation to determine whether a formal hearing should occur. They found there was no merit and there was not sufficient basis for the suspension, it was unwarranted, and that it was done in a matter (sic) contrary to the bylaws.

Dr. Madia advised Dr. Bolar that he had one more minute to conclude his statement.

I thought it was a resolved issue at that point. Three weeks later after I was working in Clarksville I got another certified letter from Frank Beirne saying that, in fact, even though it had been terminated, my suspension, I, in fact, was suspended for five days and that I was admonished.

I recontacted my attorney. He, by mid-December, had arranged an agreement with the hospital. They had agreed to rescind the suspension if I would not sue them. I agreed to that. When I renewed my license on January 8 of 2007, I called my attorney to ask him how I should answer that question about suspension, and he said I could answer "no" to it because it's rescinded. That turned out to be not only bad advice but about the worst judgment decision I've made in my life. Since then I've spent almost my entire life's savings dealing with this problem at Samaritan Hospital. I wish this had never happened. This was not intentional. And the hospital did file bankruptcy and decided not to, shortly after they had said they would rescind it, they didn't because they filed bankruptcy.

Dr. Talmage returned to the meeting during the previous statement.

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

Ms. Unver read the following statement into the record:

Dr. Bolar was initially licensed to practice medicine in Ohio in 1993. He renewed that license one time, in 1994, but then allowed his license to lapse in 1996. Dr. Bolar practiced medicine in Minnesota, Kentucky and Tennessee. In 2000, Dr. Bolar filed a restoration application in Ohio which was granted in 2001, but he has been practicing medicine out of state since obtaining his license restoration. With this background in mind, Dr. Bolar was cited by this Board for making false, fraudulent, deceptive or misleading statements in two regards:

1. The first instance is when Dr. Bolar filled out his renewal application in July of 2003. At that time he answered question #3, which asks whether, since the last time he renewed his certificate, which was in 1994, whether he had any malpractice awards paid by him on his behalf for acts occurring in any state other than Ohio. In fact, Dr. Bolar had settled a lawsuit in February of that year, approximately 5 months earlier, for 1 million dollars in the Scott Circuit Court, Kentucky. Now, Dr. Bolar tries to throw out a red herring here - in his objections filed to the Report and Recommendation he tries to argue that the citation letter

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- incorrectly lists the 1994 renewal application - but a close reading of the citation letter makes it clear that the 1994 renewal application is not at issue here, and it was properly set forth in the citation letter as background information to clarify the renewal language that an applicant must abide by when filling out each renewal application - every renewal application seeks information which may have changed since the last renewal application. Dr. Bolar throws out this red herring in an attempt to downplay his false statement set forth in the 2003 renewal application. The fact of the matter is that he failed to disclose the 2003 malpractice settlement - and he acknowledged this fact at the hearing.
2. The second aspect of this case involves Dr. Bolar's 2007 renewal application. In this renewal application, Dr. Bolar falsely answered "no" to question #5, which asked whether he had ever had his clinical privileges suspended, restricted or revoked. Dr. Bolar acknowledged that he improperly filled out this question in his 2007 renewal application. He sets forth in elaborate detail the circumstances in which his hospital privileges were suspended - and it is worth mentioning here that all the information we have regarding this instance is coming from Dr. Bolar, so his elaborate detail must be taken with a grain of salt. Dr. Bolar is quick to point out that he had previously disclosed on renewal applications adverse information, but one has to wonder why he did not set out this elaborate detail on his 2007 renewal application or why the suspension took place. As pointed out in the Report and Recommendation, if Dr. Bolar had disclosed the two adverse events in his 2003 and 2007 renewal applications, it seems likely that the Board would not have taken any action. But that is not the case here. Dr. Bolar's improper answers on his 2003 and 2007 renewal applications constitute false, fraudulent, deceptive or misleading statements, in violation of O.R.C. 4731.22(B)(5).

**DR. SUPPAN MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF RANDALL JAY BOLAR, M.D. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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Dr. Suppan stated that she thinks that it's noteworthy, again, in this case that in the information provided, there's a quote from Dr. Bolar's actual testimony, and he himself says, "I'm a doctor who's doing the best he can to do the right thing. But I'm fallible. I made mistakes. And I accept the responsibility for any mistakes that I made here. I should have answered yes to that" question. Dr. Suppan stated that she thinks that the evidence shows that, whatever the circumstances were, he should have answered yes to the question and, perhaps, attached an explanation.

Dr. Suppan stated that, in terms of the best way to handle this, especially because there were two episodes, she's not sure that the minimum sanction is appropriate in and of itself. On the other hand, she personally works as a senior vice president of medical affairs, and she sees these types of situations in the hospital all the time where there's a difficulty between two surgeons and the same types of antics ensue. She understands the dynamics of that. In this, she did not see any issues with Dr. Bolar's quality of care to the patients. It sounds more to her like a war going on over who owned those patients, and that the suspension resulted as a retaliatory action to that. Dr. Suppan stated that this does take up quite a bit of time for the Medical Board, and it was an administrative misstep at the very least on Dr. Bolar's part in filling out his forms appropriately. Dr. Suppan stated that she would recommend a reprimand, but she would also recommend that in the future the Board have the power to fine in cases such as this in order to recoup the cost that goes to the Board. She stated that she understands that the Board can only impose fines for CME violations, but for administrative missteps like this, it's a perfect situation in which there could be an additional sanction issued.

Dr. Amato agreed with Dr. Suppan. Concerning the case in Kentucky, Dr. Amato stated that he believes under JCAHO requirements, summary suspensions can be implemented, and those requirements go on to spell out for medical staffs who have the authority to summarily suspend. Invariably, they say that the CEO of the institution can summarily suspend. He believes that most hospital and medical staff bylaws take the stand that the Medical Executive Committee has the right to overrule on that suspension. He stated that in his hospital's bylaws, and it's straight out of JCAHO's handbook, if the CEO or medical staff president is overruled, then, in fact, the suspension never existed. He expressed concern that this matter was reported to the Board when, under JCAHO requirements, it should never have existed as a suspension.

Dr. Suppan stated that she's reluctant to draw a conclusion on what Dr. Amato just said. She stated that the Board doesn't even know if the JCAHO is even their accrediting body, what the institution's bylaws say or what the rules of the game are. The most telling part of all of this is Dr. Bolar's own admission that he knows he should have marked that question "yes," and he should have attached an explanation. Going from that point, she asked what the appropriate way is to handle this. In lieu of the fact that the Board can't impose a fine, she would default to a reprimand. However, she would like to offer fining for the Board's future consideration.

Dr. Amato asked whether Dr. Suppan is making a motion.

Dr. Suppan stated that she would like to make a motion to put into effect a reprimand.

Mr. Jacobson stated that he would just like to say that he agrees, wholeheartedly, with what Dr. Suppan is

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saying concerning being able to impose a fine in cases where the Board doesn't feel that a suspension is appropriate. He stated that it might be a good way to show the Board members' concern and disapproval of what happened without causing consequences that cause the Board to think about whether to impose anything at all.

Dr. Amato asked whether Dr. Suppan's motion would include any probation.

Dr. Suppan stated that, in light of this case, she thinks that the probation should be at least through the next renewal period.

Dr. Varyani agreed with Dr. Suppan, but added that most physicians know that if there's been a suspension of their licenses, they usually have that in their head. He stated that, were he or Dr. Amato suspended from a medical staff, they would not forget it and say that they have never been suspended. He stated that he finds it hard to believe. He stated that he doesn't think that this was an oversight on Dr. Bolar's part, but he will go along with the amendment.

At this time Ms. Debolt advised the Board that it already voted on the motion to approve and confirm the Hearing Examiner's Report and Recommendation. She commented that she believes that that vote may have been taken in error, since there was no discussion of the motion prior to the vote. At this time, however, amendment of this case would require a motion to reconsider the matter and vote.

**MR. JACOBSON MOVED TO RECONSIDER THE MOTION TO APPROVE AND CONFIRM MR. PORTER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER IN THE MATTER OF DR. BOLAR. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- abstain
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

**DR. SUPPAN MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF REPRIMAND, WITH ONE YEAR PROBATION THROUGH THE NEXT REGISTRATION. DR. AMATO SECONDED THE MOTION.**

Dr. Stephens stated that Dr. Suppan is recommending a reprimand when patient care was impacted by what this physician did.

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Dr. Amato disagreed stating that patient care wasn't part of this case.

Dr. Stephens stated that there was a question of who was covering for Dr. Bolar in his absence.

Dr. Amato stated that Dr. Bolar arranged coverage during the period he was suspended.

Dr. Stephens stated that she still thinks that patient care was impacted.

Dr. Amato stated that Dr. Bolar had already taken steps to resign his privileges.

Dr. Stephens stated that the patients, in terms of coverage, were still left in the lurch.

Dr. Varyani stated that Dr. Bolar had gotten an associate to cover for him. He didn't want his patients to go under the care of his associate. He therefore arranged for the patients to have surgery somewhere else.

Dr. Amato stated that that's when he got suspended.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- abstain
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

**DR. AMATO MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF DR. BOLAR. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye

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Dr. Stephens	- abstain
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

EMAD S. ATALLA, M.D.

Dr. Madia directed the Board's attention to the matter of Emad S. Atalla, M.D. He advised that no objections were filed to Hearing Examiner Petrucci's Report and Recommendation.

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

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

Mr. Byers thanked the Board for granting his request to move this case to this month. He stated that he would like to note, as the Hearing Examiner noted in the Report and Recommendation, that Dr. Atalla exhibited remorse. This was a single, isolated incident, and there was no adverse impact to any other person. There were no treatment or patient-care issues at all in this renewal case, and Dr. Atalla's actions were unlikely to recur. Mr. Byers stated that those are five mitigating aspects that the Hearing Examiner properly noted. In addition to that, it's obvious from the record that Dr. Atalla has fully accepted responsibility for his decision in submitting a response that was misleading on his renewal application. Mr. Byers stated that he knows that the Board studies these Reports and Recommendations, and the records, as well. He hopes that the Board realizes that this was a rational misconstruing by Dr. Atalla. There was certainly no intent to deceive the Board. Simply put, he was under enormous stress and strain at the time, due to a pretty horrid domestic situation, which was then compounded by many immigration problems and the anxiety related to that. Dr. Atalla testified that he sat down, looked at Board protocol and what the Board expected, and he made the wrong decision. He didn't consult with anybody informed on what the Board expects. He simply thought that this is not the kind of thing the Board wanted to know about. He made that conscious decision, but not in a deceptive fashion. It certainly was, technically, misleading, and Dr. Atalla accepts responsibility for that.

Mr. Byers stated that they are hopeful that the Board adopts the proposed outcome, which is fair, or, given the types of cases the Board has been dealing with, might "back up a bit" and place it in a proper scale, such as the last case where there were two separate instances of, at least, misleading information given to the Board. Dr. Atalla's was one, single isolated incident, as the Hearing Examiner noted, and they think that that would justify a straight reprimand. He added that they would endorse Dr. Suppan's idea about fining authority, but he realizes that, statutorily, the Board cannot presently do that except for CME violations.

Dr. Atalla thanked the Board for giving him a chance to be here today and to talk about his case. Four years ago, in February 2005, he was renewing his State of Ohio license and when he came to the question, asking whether he'd ever been convicted of a felony or misdemeanor, he knew that he was convicted of

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disorderly conduct, which he thought was a minor misdemeanor. He commented that at the time he didn't know the difference between a minor misdemeanor or fourth degree misdemeanor, and he thought his was a minor misdemeanor. When he reviewed the Board rules and regulations, he understood that the Board disciplines physicians for felonies, misdemeanors involving moral turpitude, or misdemeanors within the work place. His case did not involve any of this. It came to his mind through a very difficult, stressful situation, where he was on call every other day, and he had to take time off to go to Cleveland and Akron from St. Mary's, to attend an immigration case and a custody case. He was afraid of the Board investigation, and he thought that if he said, "no," the Board would not know about the misdemeanor, and if the Board did know, it may not care because it's not a disciplinary case. That is basically what happened. Dr. Atalla stated that you can't excuse an inexcusable action, but you can provide an explanation. He did give an explanation. Dr. Atalla stated that he's asking for empathy and mercy. Dr. Atalla stated that he understands that mercy and empathy have always been part of justice. His situation had no victims, except himself.

Dr. Atalla again thanked the Board and asked for its consideration.

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

Ms. Pfeiffer referred to State's Exhibit 7, which is a printout of the on-line renewal application that's at issue. That application basically only contains ten questions for the renewing physicians to answer. It's a very simple process, very limited in what it asks for. The question at issue is the second question, which reads: "Have you been found guilty of, or pled guilty or no contest to, or received treatment or intervention in lieu of conviction of, a misdemeanor or felony?" It doesn't say, "other than a minor misdemeanor." Even accepting Dr. Atalla's thought process, that he thought his disorderly conduct was a minor misdemeanor, she stated that she thinks that that's a very non-credible statement to make. A minor misdemeanor is an offense that, basically, you can be fined only up to \$100. Dr. Atalla's conviction was for a fourth degree misdemeanor offense of disorderly conduct, which was plea-bargained down from a more serious charge. He was sentenced to 30 days in jail, 27 of those days suspended, credit for three days already served, probation for a six-month period, anger management classes, and a \$250 fine, with \$50 of that suspended. Ms. Pfeiffer stated that that's not a minor misdemeanor, and she doesn't think that it lends itself to a credible argument.

Ms. Pfeiffer stated that she thinks that this is more than just a misleading response. She thinks it was a more thoughtful, deliberate attempt to falsify the application. She stated that it may be one isolated attempt, but what is troubling is that it was a very conscious choice. This wasn't something that was really old in his past. This conviction was about five months before he actually renewed his application. It had gone up to the Court of Appeals, it had come back down, and he finally entered a plea. This was fresh in this physician's mind, and he knew about it. He made a conscious choice not to report it. Ms. Pfeiffer stated that the last thing on the application, before it's submitted, it says,

Under penalty of law I hereby swear or affirm that the information I have provided on the application is complete and correct. I understand that submitting a false, fraudulent or forged statement or document, or omitting a material fact in obtaining licensure may be grounds for disciplinary action.

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Ms. Pfeiffer stated that those are just factors for the Board members to consider.

**MR. HAIRSTON MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF EMAD S. ATALLA, M.D. DR. VARYANI SECONDED THE MOTION.**

Dr. Varyani referred to paragraph 11 of the Summary of evidence, which reads as follows:

During the hearing, Dr. Atalla explained the reasons for which he chose to answer Question 1 incorrectly. He stated the following:

- "I responded no because I was afraid of any more investigations or legal investigations in my life because I thought I had much more than I could handle with all this custody, immigration and being on call every other day." (Tr. at 38)
- "I thought [the Medical Board] would hire an investigator and they would investigate or -- investigate to go through the whole case including interviewing my ex-wife and the victim and everyone and interviewing me. And I would have to hire an attorney to protect my interests." (Tr. at 39-40)

Dr. Varyani asked Dr. Atalla whether those were his statements. Dr. Atalla confirmed that they were.

Dr. Varyani stated that Mr. Byers has said that Dr. Atalla did not mean to deceive, but he's having a hard time understanding that. Dr. Atalla knew that he was answering wrong. How would that be defined if it's not an intent to deceive? Dr. Varyani stated that he will agree with the Proposed Order, but he thinks that this is weird to him. Dr. Atalla is saying that he didn't intend to deceive the Board, but of course he did. He said himself that he responded this way, "because. . . ." If that's not deception, he doesn't know what it is.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- nay
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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MENNA BERHANE, M.D.

Dr. Madia directed the Board's attention to the matter of Menna Berhane, M.D. He advised that objections were filed to Hearing Examiner Clovis' Report and Recommendation and were previously distributed to Board members.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MENNA BERHANE, M.D. MR. HAIRSTON SECONDED THE MOTION.**

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

Dr. Suppan advised that Dr. Berhane initially made her application in April 2008. She subsequently filed a request for a waiver for good cause, stating that she had been residing in Maryland and didn't know about the seven-year rule. In October 2008 the application was denied because she had failed to pass all three steps of the USMLE in seven years. Her actual time to pass was nine years and three months. In the meantime, the Board adopted revised rule 4731-6-14(C)(3), Ohio Administrative Code, which allows a person to pass all three steps within ten years, provided that the applicant didn't fail any step more than three times. Under this amended rule, Dr. Berhane is eligible for licensure.

Dr. Varyani added that Dr. Berhane also passed her family practice boards on the first attempt.

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

RALPH ARDEN HUGUNIN, M.D.

Dr. Madia directed the Board's attention to the matter of Ralph Arden Hugunin, M.D. He advised that objections were filed to Hearing Examiner Petrucci's Report and Recommendation and were previously distributed to Board members.

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

Dr. Hugunin was accompanied by his attorney, James M. McGovern, Esq. Mr. McGovern stated that Dr. Hugunin would first address the Board, and then he would make a few comments at the end of Dr. Hugunin's statement.

Dr. Hugunin thanked the Board for allowing him to address it in this matter. He stated that approximately five years ago he was sanctioned by the Board for improperly prescribing for his wife for what at that time was a legitimate medical condition. He was prescribing for her as an attending physician. He told the Board that he would never let that happen again, and some Board members might feel that the charges against him today are more of the same. He stated that he would assure the Board that, except for the extreme circumstances he found himself in, he would not be before the Board today.

Dr. Hugunin stated that the Board members are aware, from reading the summary of the Board hearing, that his wife, while under the care of a board-certified psychiatrist, developed an opioid addiction. He first became suspicious of a drug problem after she showed him her infected hand. At that time he was suspicious of benzodiazepam usage, because that's what she was being prescribed by her physician. He later discovered that it was an opioid abuse.

Dr. Hugunin stated that each of the incidents that occurred were what he considered, if not true emergency situations, at least extremely urgent situations. The Hearing Examiner felt that the first two incidents were not true emergencies, due to the time that he was aware of the problem before intervention. He stated that he totally agrees that there should have been enough time to have his wife seek medical attention from a doctor other than himself. Unfortunately, although he asked her to see someone, she refused at each incident. He asked her, told her, demanded and eventually begged her to seek medical attention, but she steadfastly refused.

Dr. Hugunin stated that he doesn't think that she refused in order to put him in a difficult position. He now believes that she was truly scared and terrified at how her family and friends would react if they found out her secret and the effect it would have on their lives. This misguided fear left him in a position of an extremely difficult ethical dilemma. He could follow the law and the Board's Order, in which case she would have almost certainly progressed and there would have been irreversible further harm, or he could try to help her through the emergency and guide her to seek help. As a husband and a physician, he could not turn his back on her when she needed him so desperately.

Dr. Hugunin stated that he's not asking the Board to consider what he did to be right; it wasn't. But at the time, and even now, he felt it was necessary. At that point, he felt all of his other options had been taken away. For him it was an extremely difficult decision. He doesn't take the law, or the Board's Orders, lightly. Except for these proceedings, he's never been in trouble with the Board or the law. He loves the practice of medicine. He knew that his actions put his license at risk, but he loves his wife and family, and he really felt that he had no other choice.

Dr. Hugunin commented that the Attorney General will say that it's not only what he did, but how he acted,

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that is a concern. It was deceitful, and he wrote scripts in false names to prevent detection. Dr. Hugunin stated that he doesn't deny that. It was illegal and deceitful, but he couldn't risk not getting the scripts filled and filled quickly. It would have been unlikely for a pharmacist to fill a script for Erica Hugunin, written by Dr. Hugunin, both living at the same address. Dr. Hugunin stated that what he did was wrong and illegal, and some would say it was unethical. From the Board's perspective, he would certainly agree with that.

Dr. Hugunin asked that the Board give some consideration to his perspective as a husband. Currently his wife is almost two years free of any substances abuse, due to hard work on her part, and, maybe to a small part because he was able to help her through this difficult time in her life. He asked that the Board not just look at what he did, but why he did what he did. Unfortunately, the Board knows nothing of him, except what it heard in these proceedings, when he felt compelled to act in a way he would never normally act. Dr. Hugunin stated that for this reason he had asked some of his colleagues and peers to present testimony as to his character and his practice of medicine, which was in the Board hearing report. He asked that the Board consider their testimony as well when it makes its decision regarding sanctions in this case.

Mr. McGovern thanked Ms. Pfeiffer and Ms. Petrucci. He stated that the hearing was a difficult subject matter, and they handled it with grace and dignity and allowed Dr. Hugunin to present his case in mitigation. They did file objections, which speak for themselves. He would like to reiterate that they are not asking the Board to apply the "emergency situation" exception. This case is clearly mitigation. It's a gut-wrenching scenario. It does have a positive ending for Dr. Hugunin, as a husband, and for his wife, Erica Hugunin, who is on a positive road to recovery.

Mr. McGovern acknowledged that Dr. Hugunin is a repeat offender before the Board, but they hope that the Board will consider the mitigating circumstances that were presented at hearing. The Hearing Examiner certainly recognized them. By all accounts, Dr. Hugunin is a fine physician, and they believe that the community will be well served by allowing him to continue practicing here in Ohio.

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

Ms. Pfeiffer stated that Dr. Hugunin talked to the Board about the ethical dilemma he was placed in and he basically indicates that it was very similar to the previous ethical dilemma he was put in. Ms. Pfeiffer stated that one thing that she thinks is worth remembering in this case is that part of the 2005 Board Order was for Dr. Hugunin to attend a personal/professional ethics course. She stated that he attended that course and worked with an ethicist, Dr. Donna Homenko. Two of the prescriptions at issue were written during and at the end of his interaction with the ethicist. At the very time he's taking a course on this difficult issue, he's doing the same thing that he did before. Ms. Pfeiffer stated that when she asked Dr. Hugunin whether he told Dr. Homenko that he was seeing these signs in his wife and facing these challenging situations, he stated that he didn't. She stated that he had a perfect opportunity to get the help that he needed to address it. She noted that Dr. Hugunin talked about challenges that those with different roles face, whether it's a role as the spouse, as a parent, as a professional, as a physician. Whatever those roles may be, at times those situations and those roles conflict. You have to make a decision, and Dr. Hugunin made a decision. He chose to act in his role as a husband and he basically sacrificed, at that point in time, the privilege of practicing medicine. He made a conscious decision to do what he specifically said in 2005

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he wouldn't do again.

Ms. Pfeiffer noted that in 2005, Dr. Hugunin didn't keep any records regarding the prescribing. He used his wife's maiden name. This time he used a completely false name for one and a patient who he hasn't seen for a number of years for the other one. He kept a record at home on his computer. The actual facts of the situation surrounding his wife are contained after the fictitious one was created on his home computer. Ms. Pfeiffer stated that she considers this to be more devious. He became more crafty. He realized that one of the reasons he got in trouble last time was because he didn't keep records, and he decided to keep records this time. Ms. Pfeiffer stated that that's not keeping records. A "record" for a false patient with false descriptions with what was wrong with the patient is not a record.

Ms. Pfeiffer stated that she did file objections in this case, and she asked that the Board review those and consider amending the Report and Recommendation. She stated that when you first understand the conduct in this case, aggravated trafficking or trafficking in drugs doesn't come to mind; but when you read through the legal elements, that's what happened in this case.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF RALPH ARDEN HUGUNIN, M.D. DR. SUPPAN SECONDED THE MOTION.**

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

Dr. Mahajan stated that this is Dr. Hugunin's second offense, but he has been clean for the past two years. Dr. Mahajan suggested that a one-year suspension is probably a little too much. He stated that he feels that the Board should cut that suspension period down to six months or three months, with a longer probation.

Dr. Suppan stated that one issue about which she was quite concerned when she read through all the documentation was the focus of this being on Dr. Hugunin and his role as a physician. She stated that she's also concerned about another issue, which was his role as an enabler to his wife. She stated that, all things considered, with the repeat nature of this offense, the severity of it and the deviousness of it, the attempt to deceive, there's a certain element of control in this. Dr. Suppan stated that she thinks that part of whatever the Board tries to do today should require a psychiatric evaluation in order to determine whether that element exists so that the Board can predict the recidivism.

Ms. Debolt advised that Dr. Hugunin was not charged with a violation of Section 4731.22 (B)(6), O.R.C., and it would be inappropriate for the Board to order a psychological evaluation.

Dr. Varyani stated that he is glad to hear that Dr. Hugunin's wife is doing well; however, he wonders whether Dr. Hugunin was really the enabler, and whether this was the only way to do this. He also expressed concern that Dr. Hugunin's prescribing and creating fictitious records occurred while he was taking an ethics course. Dr. Varyani stated that that, to him, is unbelievable. He noted that the Report and Recommendation before the Board is ordering him to another ethics course, although he's completed an ethics course, as well as a course for narcotics and recordkeeping. Dr. Varyani stated that he really strongly believes that Dr. Hugunin's wife's addiction may have been prolonged by his action.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- nay
	Dr. Madia	- aye

The motion carried.

VENKANNA KANNA, M.D.

Dr. Madia advised that he has a conflict of interest in this matter, and would recuse himself from this case. He at this time left the Chair.

Dr. Amato, as Vice-President, assumed the Chair in Dr. Madia's absence. He directed the Board's attention to the matter of Venkanna Kanna, M.D. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members. He advised that with those objections, Dr. Kanna filed a Request for Remand. The State, in turn, filed a Memorandum Contra the Motion to Remand. Dr. Amato advised that he was provided with the motion to remand, and the memorandum contra, and he subsequently denied the motion to remand.

It was at this time established that a request to address the Board was timely filed on behalf of Dr. Kanna. Dr. Amato stated that five minutes would be allowed for that address.

Dr. Kanna was accompanied by his attorney, Eric J. Plinke.

Mr. Plinke stated that he would like to address a couple of points that he mentioned in his objections. The primary thrust of the objections is, in reading Mr. Porter's report, he gets to the point where he examines the clinical issues that are referenced in the VA termination of employment document. Based on the Report and Recommendation, it's clear that those issues are very significant to him. Mr. Plinke stated that they really didn't have a hearing about those issues. They had a hearing about whether or not, when Dr. Kanna was fired from the VA, something which he reported to the Board years ago when he renewed his license, whether when he was fired his privileges were terminated. Dr. Kanna acknowledged in interrogatories that they were terminated. Upon further reflection, Mr. Plinke contends that Dr. Kanna actually was never told what happened to his privileges. Mr. Plinke stated that Mr. Porter addressed that issue in the Report and Recommendation, but after doing that he cites to these clinical issues that clearly, in Mr. Porter's mind, up the ante, so to speak, on the disciplinary scale. Those were not addressed in the

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hearing.

Mr. Plinke stated that it has happened before where the Board proposes to take discipline on another action, it doesn't give notice that it wants to base discipline on the acts underlying that action. In those cases, when the Board does do that, the Common Pleas Court has reversed those orders. Mr. Plinke stated that if the Board wants to have a hearing about those issues, Dr. Kanna is happy to do that. Before the Board imposes any discipline at all on those issues, he would think that, as a medical review board, the Board might like to have medical records and witness testimony about those clinical issues. However, that was not the case that was noticed or heard here.

Mr. Plinke stated that if the Board does want to consider anything in this document, the most telling line is where the VA panel acknowledges that the person responsible for terminating Dr. Kanna had admitted at the VA hearing that he had done so because he had perceived what he called an "Asian provider bias," and that he needed to correct that bias by firing Dr. Kanna. After making that admission, this VA review panel said that it ignored that evidence. Mr. Plinke stated that that's all the Board needs to know, along with his legal objections to this, about the reliability of this document.

Dr. Kanna stated that he is a physician who has dedicated his life to service, starting in a small town in India, where he accepted vegetables as payment for his service. For 22 years he has given service to his fellow veterans in the VA hospitals. In all those years he had an outstanding professional record, evidenced by many patient letters of appreciation and his evaluations by supervisors. His firing from the VA was not reflective of his overall attitude or performance as a physician. The document the Board has regarding his firing is not true, and that is why it is the subject of his federal lawsuit. No one from the Board ever asked him about these painful issues in either the interrogatories or the Board's hearing. Everything that was asked concerned whether his firing meant that he had lost privileges. His answer was yes, but no one ever told him that. It was just his assumption.

Dr. Kanna stated that he loves being a doctor, he believes that he is a good one, and many patients and colleagues have echoed that sentiment. He requested that the Board allow him to continue to practice his art, as he has done for over 38 years. He has recently been recertified by the Internal Medicine Boards, and he is currently recertifying in geriatrics. In recent surveys, both his colleagues and his patients rated him highly. He's an active member of the American Association of Physicians of Indian Origin, and he was a fellow of the American College of Physicians, though his membership is no longer active. Dr. Kanna stated that he is a good person and a responsible member of the community, and, above all, a conscientious physician. Dr. Kanna stated that the portions of the document that the Hearing Examiner identified that reflect to the contrary are not true and were the result of an admittedly discriminatory and retaliative finding.

Dr. Kanna stated that if the Board finds him to be at fault in any way, he readily agrees to anything that would guide him to become a better doctor, short of limiting his ability to practice medicine. He's willing to do course work or to go on probation to address the Board's concerns.

Dr. Amato advised Dr. Kanna that his time is up, and he asked him to finish his statement.

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Dr. Kanna stated that he does not and he did not abandon his duties or his patients. To the contrary, when the care of a veteran was threatened, he found it his personal duty as a physician and veteran to protect them by writing to those politicians. The suggestion that he allowed his dispute with the administration over that issue to interfere with his duties to patients is not true. He's currently appealing the VA's decision to terminate him because the allegations were not true, and because of the ethnic bias.

Dr. Kanna asked that the Board allow him the privilege to continue his practice. If the Board wants to hear about medical issues, he will cooperate with the review and tell the Board what happened.

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

Ms. Pfeiffer stated that, as the Board deliberates, it should keep in mind that this particular case is comparable to a bootstrap case where the Board takes disciplinary actions based upon what another state medical board has done against an Ohio physician. When a physician is practicing with the VA, the Board does not have that more traditional type of disciplinary action coming in from the state, necessarily. However, when the Federal Government, which regulates and supervises VA hospitals, takes action, the Board has the statutory ability to take action. Ms. Pfeiffer stated that the Board should equate it that way. Just like in bootstrap cases, the VA basically fired Dr. Kanna. In order to have privileges at the VA hospital, you have to have some kind of employment relationship with that hospital. Ms. Pfeiffer stated that Dr. Kanna tried to make a lot of hay out of the fact that it never really said that his privileges were terminated, but the fact that he was fired and can't come back to work at that hospital means he has no privileges. Ms. Pfeiffer stated that she thinks that it's clear in this particular case that Dr. Kanna's privileges were terminated. The document that was used in evidence to prove that termination was a decision from the VA. That's what the Board has in evidence, just like in bootstrap cases, when you have the other state's orders, it's consent agreements, and you look at those and you take them into consideration. The Board has the right to discipline solely on the fact that this physician's privileges were terminated by the VA. That's the basis of the Board's decision in this case. The Board can look at the evidence that documented why Dr. Kanna was terminated. That was part of the evidence in this case, because it showed that he was, in fact, terminated and why. The Board can take that into consideration. The Board is not disciplining him or charging him with standard of care violations. It's solely the fact that he was terminated by the VA.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF VENKANNA KANNA, M.D. MR. HAIRSTON SECONDED THE MOTION.**

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

Mr. Jacobson stated that when the Board deals with a bootstrap case, it is disciplining for the same reason as the bootstrap. In other words, it's not that someone imposed discipline so "because someone else took an action, we're just going to take one, too." It's not piling on. The Board looks at what the bootstrap was about to find out if what they disciplined on was a violation in Ohio. He stated that the Board doesn't have the right to discipline someone just because they were disciplined in another state for something that is not actionable in Ohio. When the Board looks at a bootstrap case, it looks at the record of the bootstrap,

because it helps the Board figure out if there's a problem here.

Mr. Jacobson stated that that's not what happened here. It's not the same thing. They looked at the fact that he got disciplined and decided that that's the reason Ohio should act. All they were looking for was to figure out whether or not Dr. Kanna got fired or whether he gave the right answer to a question. Because they decided that, the Hearing Examiner looked and said, "Oh, well while I'm here, look at all these bad things he did." Mr. Jacobson stated that if those were truly worth disciplining on, then he thinks that Dr. Kanna deserves the right to defend himself. He deserves the right to have a hearing on those issues. This is not a case where he was brought before the Board because of what he did wrong at the VA Center in another jurisdiction and was sanctioned for that. This is a case where the Board was only interested in whether or not he answered a question correctly, and while we were there we decided that, oh, we can get him on this other thing.

Mr. Jacobson stated that this is a due process violation, at best. He understands the argument of, "did you lose your privileges, yes or no," but it seems to him that it's a semantical basis at best for a sanction of this magnitude. At a minimum, if the Board thinks that the underlying issues, the reasons he was fired, are worth pursuing, it should remand the matter back to the Hearing Examiner for consideration on that grounds.

Dr. Mahajan agreed with Mr. Jacobson. He stated that the Board should get more details into the circumstances of why it happened, and whether it's worth the Board's considering it.

Dr. Suppan stated that she also agrees with Mr. Jacobson. She stated that she looked specifically at the incidents and incident number one was that he left and it caused the patients to have to wait too long to see another physician. That incident wouldn't have come to the Medical Board. Concerning incident number 2, a critical value of potassium, Dr. Kanna sent the patient to ICU and asked for ICU to find the next doctor on call to handle that patient, Dr. Suppan stated that that's a quality of care, communication thing. She stated that, once again, that in and of itself would not have come to the Medical Board. Concerning incident 3, the patient was admitted to Dr. Kanna's service, a history and physical was done by another doctor, and he never saw the patient or made a note in the chart. Again, that's a hand-off communication issue. Dr. Suppan stated that these things are faced in hospitals every day. These are the kinds of cases that she reviewed in the family practice department or the surgery department. There was no expert testimony in this case, there was no due process, and the Board doesn't know what the bylaws said in the hospital.

Mr. Jacobson stated that having heard the explanation that these three things are not things that would have come before the Board, then there is nothing on the face of it that would cause the Board to have an investigation in the first place. There is nothing here to suggest that he fell below the minimal standard of care and the way that the Board is involved in discipline actions. He doesn't even think it's fair to send it back to the Hearing Examiner.

Dr. Varyani asked what the Board does when you are off of CMS, and that entity has determined that a physician has committed Medicare or Medicaid fraud and the person is convicted of that. Does the Board have to retry the whole thing again before it sanctions the person?

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Mr. Whitehouse stated that, more than retry, it means almost a re-citation if the Board goes back and gets into all these instances. If the Board bases its action on those, that would be a violation of due process. The Board would be taking action based on something that was not alleged. What is alleged here is the "revocation, suspension, restriction, reduction or termination of clinical privileges." This is what the Board needs to constrain its discussion to.

Dr. Varyani stated that that's where he's going. He added that, if a hospital removes someone's privileges, they're supposed to report to every agency why. Does that mean that every agency will have to investigate that?

Dr. Suppan stated that they terminated Dr. Kanna first, and that was an issue between an employer and an employee. She stated that, in her view, these things would have been handled in another way, not with a termination.

Mr. Whitehouse stated that the reference to the specific incidents underlying the VA action are there, not for the Board's investigation but to give a little bit of clarity. It's not up to the Board to then review and see whether it agrees with that.

Mr. Jacobson stated that, absent that, then you have to ask yourself whether or not what is proposed as a sanction here is an appropriate sanction for a semantical difference as to whether or not being fired is the same thing as losing your privileges. Mr. Jacobson stated that the physicians on the Board can tell, better than he can, whether or not this is a big deal.

Dr. Varyani stated that to him it's a big deal. He then asked for an explanation of the Conclusion of Law, which reads:

The Decision, as described in the Findings of Fact, constitutes "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs \* \* \*," as that clause is used in Section 4731.22(B)(24), Ohio Revised Code.

Ms. Debolt stated that that is the charge. She stated that it's a ground for disciplinary action. The Board can take disciplinary action against a physician for the loss of privileges.

Mr. Whitehouse stated that if the Board intended to get in and investigate all these things, he thinks that the law would speak to referrals that come off those actions and not give the Board the ability to act based upon someone else's actions.

**DR. SUPPAN MOVED TO AMEND THE PROPOSED ORDER TO TAKE NO ACTION. DR. STEPHENS SECONDED THE MOTION.**

Ms. Debolt asked whether Dr. Suppan also wishes to amend the Findings of Fact and Conclusion of Law.

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Dr. Amato suggested that the Board may wish to table this matter at this time to allow time to rewrite the Report and Recommendation.

Mr. Jacobson suggested that the motion could be to just vacate the Findings.

Dr. Suppan stated that she made the motion based on what she has before her without any change to the facts.

Ms. Pfeiffer stated that the only proposed basis for the citation was that the VA terminated his privileges. There was no allegation that he answered incorrectly or misstated anything. That's a non-issue. If the Board finds that his privileges were terminated, then the Board supports the Findings of Fact and the Conclusions of Law. She stated that one option the Board has in its list of actions it can take is to take no further action. Under the Board's definitions, this means that the Board found a violation occurred, but that the Board declines to impose any disciplinary sanction.

Mr. Whitehouse stated that that way the Findings and Conclusion can be left intact. If Board members don't feel that this is a violation, then the Board would be changing them.

Dr. Suppan stated that that's correct. She asked to change her motion as follows:

**DR. SUPPAN MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING THE FOLLOWING:**

It is hereby ORDERED that no further action be taken in the matter of Venkanna Kanna, M.D.

**DR. STEPHENS, AS SECOND, AGREED TO THE AMENDED MOTION.**

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- nay
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- abstain
	Dr. Amato	- aye

The motion carried.

**DR. SUPPAN MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF**

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**VENKANNA KANNA, M.D. MR. HAIRSTON SECONDED THE MOTION.**

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

There was no further discussion.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- nay
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- abstain
	Dr. Amato	- aye

The motion carried.

**KATHY LYNN KRUGER, D.O.**

Dr. Madia directed the Board's attention to the matter of Kathy Lynn Kruger, D.O. He advised that no objections were filed to Hearing Examiner Petrucci's Report and Recommendation.

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

Dr. Kruger was accompanied by her attorney, Mr. Plinke.

Mr. Plinke stated that this case is regarding Dr. Kruger's application for licensure in the State of Ohio. She did have a job offer in Defiance as an OB/Gyn at the Defiance Clinic, and relocated to Ohio when she applied for a license last fall. The Hearing Examiner recommended a granting of her application, but the imposition of a suspension. They did not file objections; however, they would request that the Board stay the suspension to allow Dr. Kruger to begin practice here in Ohio.

Dr. Kruger apologized to the Medical Board for incorrectly answering one of the application questions. It was not an intentional incorrect answer. She was filling out the application and knew that she had certain questions to answer "yes" to and looked for them. When she found them, she incorrectly assumed that all of the other answers would be "no," and she did answer "no." Had she read them fully, she most certainly would have answered "yes" to the question concerning termination from previous employment.

Dr. Kruger advised that when the cost of running her practice became too difficult, due to increases in

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medical malpractice insurance, she decided to become an employee of Women's Health Specialists in Wheeling, West Virginia. Dr. Jessica Morano and she were as mismatched as can be concerning practice size. She wanted a practice based on taking the time to listen to her patients' concerns, and Dr. Morano was interested in productivity. Dr. Kruger stated that she was given six months to increase her productivity. At the end of this time, she had increased her productivity to the levels Dr. Morano wanted, but was terminated anyway.

Dr. Kruger stated that during her six years in Wheeling, her surgical skills were never in question. She took a job at the Center for Women's Health Care in Carson City, Michigan after that. She soon found out that she had walked into the exact same situation as before. Dr. Michelle Becker was interested in productivity. Her practice did well, however she did have more bladder injuries in that one half-year time span than she'd had prior to or since then. Dr. Kruger stated that she was never placed on formal probation, and one case was settled. No other case or action has been brought. Dr. Becker did assist her in surgery for one month, but after that time period she was returned to doing them on her own with no further actions. She was terminated for productivity issues and not her surgical skills. She then took a position with Mercy Hospital in Jeannette, Pennsylvania. This was her ideal practice. It was in a small community, she was allowed to run the practice in her own style, and she made a profit in her first year and was given a bonus for her work. She did not have any surgical concerns whatsoever, and was made head of the Department of OB/Gyn. Unfortunately, the hospital was sold to a larger system and the OB department was closed.

Dr. Kruger stated that she was contacted by one of her mentors from residency, who was looking for a partner and she thought they could work well together. This is what brought her to Defiance, Ohio and Defiance Clinic. She was to have started December 1, 2008. Since that time her contract has been rescinded due to her not being granted a license. Defiance is a small community, with a college in the center. It's exactly what she would choose for her family. Her children are doing well in school. They have a church that has welcomed them, and they're happy to be members of the church. Her husband has found a job in these very tough economic times. Dr. Kruger stated that this may not be everyone's dream life, but she feels that this is the place where she and her family should be. Her hope is that she will be granted a license, so that they may stay in this area.

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

Ms. Unver read the following statement into the record:

Dr. Kruger previously held a license to practice Osteopathic medicine in the State of Ohio from 1998 to 2000.

Dr. Kruger filed an application for license restoration in 2008. That application is pending and before you today. She plans to permanently practice osteopathic medicine in the State of Ohio. The problem is that Dr. Kruger did not answer question 3 on her restoration application truthfully. Question 3 seeks information from an applicant as to whether the applicant has ever been terminated from a position. Dr. Kruger has been terminated not from just one position in 2004 in West Virginia, but also from another

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position in 2006 in Michigan.

What is troubling here is her continued pattern of false or deceptive statements. First as previously mentioned, Dr. Kruger answered question 3 falsely. But the false statements did not stop there. She had attached to her application two letters that she had written in 2006 and 2008 to explain her gap in employment history following the positions in West Virginia and Michigan. In both of these letters, Dr. Kruger stated that she decided to take time off from employment in West Virginia and that she had left her employment in Michigan, with clearly no mention of being terminated from employment and mischaracterizing what truly happened. Even more troubling is that at the very hearing in this matter, Dr. Kruger testified that she was only terminated from the Michigan position for failure to produce enough revenue, until further pressed on cross-examination about deposition testimony she had given in January of 2009. Only then did Dr. Kruger admit at the hearing that part of the reason she was terminated from the Michigan position was for a concern about several bladder injuries caused to patients during hysterectomies.

Intent to mislead may be inferred from the surrounding circumstances when a licensure applicant clearly knows something but fails to disclose the fact in response to a direct application question. There is clear intent to deceive here.

There is one other facet of this case to be considered. The Michigan Board disciplined Dr. Kruger for failing to comply with that state's requirements for continuing education credits. So this case here today is also based upon that sister-state violation.

The Report and Recommendation nicely sums up the concerns this Board should consider today:

1. A disciplinary action was taken by the Michigan Board;
2. Two employer terminations occurred due to performance issues;
3. There were several injuries to patients during surgery;
4. She's had three malpractice claims that were settled in 2001 and 2005; and
5. Curiously, Dr. Kruger's desire to allow her Pennsylvania license to expire with only a job offer in Ohio and no active license. She allowed her Michigan and West Virginia licenses to expire as well.

With these factors in mind, the State agrees with the Report and Recommendation.

Thank you.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF**

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**FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF KATHY LYNN KRUGER, D.O. DR. AMATO SECONDED THE MOTION.**

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

Dr. Varyani stated that he's gone through this case, and he agrees with the Attorney General. He is also in agreement with the Proposed Order. It takes into consideration the complications as well as everything. She is being granted a license, but it will take her a while to get that license. Dr. Varyani reviewed the terms of the Proposed Order.

Dr. Amato stated that, in view of the patchy background, to guarantee the safety of the citizens of this state, what is recommended is the minimum the Board can do, especially requiring a practice plan, etc.

Dr. Madia agreed with Dr. Varyani and Dr. Amato.

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

**MARIETTA J. MEDEL, M.D.**

Dr. Madia directed the Board's attention to the matter of Dr. Medel. He advised that no objections were filed to Hearing Examiner Davidson's Report and Recommendation.

**DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MARIETTA J. MEDEL, M.D. DR. SUPPAN SECONDED THE MOTION.**

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

Dr. Varyani stated that Dr. Medel came to the United States in 1983. She was to review cases for insurance agencies. In 1990 she went to Canada and came back into the United States in 1999. She did a four-year residency in Toledo from 1999 until 2003. In 2004 she did a fellowship in neurophysiology. In August

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2007 she was granted a license by the Medical Council of Canada. In October 2007 she applied for an Ohio license, and that application is still pending. There is no evidence of active practice for the past two years. She has just passed the TOEFL, which is the English examination. The Proposed Order is to grant her a license, subject to her passing the SPEX within six months of the date of this Order.

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Mr. Jacobson left the meeting at this time.

ROBERT L. TURTON, D.O.

Dr. Madia directed the Board's attention to the matter of Robert L. Turton, D.O. He advised that no objections were filed to Hearing Examiner Silver's Report and Recommendation

**DR. SUPPAN MOVED TO APPROVE AND CONFIRM MR. SILVER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ROBERT L. TURTON, D.O. DR. VARYANI SECONDED THE MOTION.**

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

Dr. Varyani stated that Dr. Turton applied for renewal of his license in 2007. On his application he indicated that he did have the required number of CME hours for the 2005-2007 biennium. His CME was audited and Dr. Turton was unable to substantiate the required number of hours. The proposed order suspends Dr. Turton's license indefinitely, imposes a \$5,000 fine, and requires him to complete the necessary C.M.E.

Dr. Suppan spoke in support of the Proposed Order.

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

ROLL CALL:	Mr. Albert	- abstain
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Dr. Talmage	- abstain
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDER IN THE MATTER OF DAROLD R. LANCE, JR., D.O.

Dr. Madia advised that in the above matter, the Board issued its notice of opportunity for hearing, and documentation of service received. Dr. Lance did not request a hearing, and more than 30 days have elapsed since the mailing of the notice. The matter was reviewed by Hearing Examiner Shamansky, who prepared proposed findings and a proposed order, and is now before the Board for final disposition.

**MR. HAIRSTON MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE SEPTEMBER 10, 2008 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DAROLD R. LANCE, JR., D.O., HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Dr. Stephens left the meeting and Mr. Jacobson returned to the meeting at this time.

FINDINGS, ORDERS AND JOURNAL ENTRIES

Dr. Madia advised that in the following matters, the Board issued Notices of Opportunity for Hearing, and documentation of service for each was received. There were no requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. The matters are therefore before the Board for final disposition.

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DAVID LEE CARR, D.O.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE FEBRUARY 11, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. CARR'S APPLICATION FOR RESTORATION OF HIS LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

WENONAH KAY HARMAN, M.T.

**DR. SUPPAN MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 3, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING MS. HARMAN'S REQUEST FOR RESTORATION OF HER CERTIFICATE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF MARCH 3, 2009. DR. AMATO SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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HEATHER M. HASSMAN, M.T.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 31, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING MS. HASSMAN'S REQUEST FOR RESTORATION OF HER CERTIFICATE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF MARCH 31, 2009. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

LYNN CHRISTINE JANOCH, M.T.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 9, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING MS. JANOCH'S REQUEST FOR RESTORATION OF HER CERTIFICATE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF MARCH 9, 2009. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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TAMERA A. KROLOW, P.A.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 13, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING MS. KROLOW'S APPLICATION FOR A PROVISIONAL CERTIFICATE TO PRESCRIBE. DR. MAHAJAN SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

ANNETTE S. MORRIS, M.T.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 31, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING MS. MORRIS' REQUEST FOR RESTORATION OF HER CERTIFICATE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF MARCH 31, 2009. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:**

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

RAFAEL M. NUNEZ, M.D.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 3, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING DR. NUNEZ'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. DR. TALMAGE SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Dr. Stephens returned to the meeting at this time.

CLINT TED PASEOS, M.T.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 31, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING MR. PASEOS' REQUEST FOR RESTORATION OF HIS CERTIFICATE TO PRACTICE MASSAGE THERAPY, SUBJECT TO HIS PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION WITHIN SIX MONTHS OF MARCH 31, 2009. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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DIANE ROSE SZALKOWSKI, P.A.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 13, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, DENYING MS. SZALKOWSKI'S APPLICATION FOR A PROVISIONAL CERTIFICATE TO PRESCRIBE. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

JERRY VANN YOUNTS, M.T.

**DR. VARYANI MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MARCH 11, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, REVOKING MR. YOUNTS' CERTIFICATE TO PRACTICE MASSAGE THERAPY. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSIONTHOMAS MICHAEL BENDER – 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 MR. BENDER. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

ERICKA L. DAVIS, P.A. – 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 MS. DAVIS. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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MARK EDWARD DAVIS, D.O. - NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

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

**DR. VARYANI MOVED TO SEND THE NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING TO DR. DAVIS. DR. SUPPAN SECONDED THE MOTION. A** vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

PATSY NERISSA FIRTH, 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. SUPPAN MOVED TO SEND THE CITATION LETTER TO DR. FIRTH. DR. VARYANI SECONDED THE MOTION. A** vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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LOGAN JOHN EDMISTON, M.D. – CITATION LETTER

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

**DR. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. EDMISTON. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

MATTHEW REID HARRIS, D.O. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

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

**DR. VARYANI MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF MATTHEW REID HARRIS, D.O., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

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The motion carried.

ROY WILLIAM HARRIS, D.O. – CITATION LETTER

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

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

CANDY L. HOPE, M.T. – 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 MS. HOPE. DR. SUPPAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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ANAMIKA JAIN, M.D. – CITATION LETTER

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

**DR. VARYANI MOVED TO SEND THE CITATION LETTER TO DR. JAIN. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

PERRY ROBINSON, M.D. – CITATION LETTER

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

**MR. HAIRSTON MOVED TO SEND THE CITATION LETTER TO DR. ROBINSON. DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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DAVID WEI WANG, M.D. - NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

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

**DR. VARYANI MOVED TO SEND THE NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING TO DR. WANG. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

MEGAN MARIE XENAKIS – CITATION LETTER

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

**DR. VARYANI MOVED TO SEND THE CITATION LETTER TO MS. XENAKIS. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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RATIFICATION OF SETTLEMENT AGREEMENTS

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

ARLO BRUCE BRAKEL, M.D. – SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

**DR. SUPPAN MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. BRAKEL'S LICENSE TO PRACTICE MEDICINE AND SURGERY. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

JOSEPH HENRY BANKS, JR., M.D. – CONSENT AGREEMENT

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

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The motion carried.

SAMUEL FRANCIS CORNICELLI, JR., M.D. – STEP I CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. CORNICELLI. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

NILESH B. JOBALIA, M.D. – CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. JOBALIA. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

GLENN ALDEN BOLLARD, M.D. – SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

**DR. VARYANI MOVED TO RATIFY THE PROPOSED PERMANENT SURRENDER OF DR. BOLLARD'S LICENSE TO PRACTICE MEDICINE AND SURGERY. MR. HAIRSTON**

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

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

CHRISTINE MARGARETA GRAHAM, M.T. – CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH MS. GRAHAM. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

JEROME DAVID HOMISH, D.O. – STEP I CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. HOMISH. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye

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Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

CHRISTINA M. MITCHEM-WALTER, M.D. – CONSENT AGREEMENT

**MR. HAIRSTON MOVED TO RATIFY THE PROPOSED CONSENT AGREEMENT WITH DR. MITCHEM-WALTER. DR. VARYANI SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- abstain

The motion carried.

RODNEY E. STONE, M.D. – STEP I CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. STONE. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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JONATHAN L. HAIMES, M.D. – STEP II CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED STEP II CONSENT AGREEMENT WITH DR. HAIMES. DR. MAHAJAN SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

WILLIAM JOHN NIEMES, M.D. – STEP I CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH DR. NIEMES. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

TIMOTHY R. HALSTEAD, P.A. – STEP I CONSENT AGREEMENT

**DR. VARYANI MOVED TO RATIFY THE PROPOSED STEP I CONSENT AGREEMENT WITH MR. HALSTEAD. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Talmage	- abstain
	Dr. Suppan	- aye

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Dr. Varyani	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

**DR. SUPPAN MOVED TO HOLD THE TOPIC OF RATIFICATION OF SETTLEMENT AGREEMENTS OPEN UNTIL THE THURSDAY SESSION. DR. VARYANI SECONDED THE MOTION.** All members voted aye. The motion carried.

#### PROBATIONARY APPEARANCES

Although scheduled, John F. Kunkel, M.D. and Nancy J. Lisch, M.D., did not appear at this month's meeting.

Dr. Stephens left the meeting at this time.

#### PAUL E. PANCOAST, M.D.

Dr. Pancoast appeared before the Board pursuant to his request for release from the terms of the Board's Order of March 11, 1998.

Ms. Bickers reviewed Dr. Pancoast's history with the Board.

In response to Board members' questions, Dr. Pancoast stated that he is doing well. He's been taking antidepressant medication (Effexor) for the last eight or nine years. He no longer has counseling sessions. Dr. Pancoast stated that he did have counseling for about five years, and then he was released from that requirement. He stated that he didn't find it useful to continue counseling. He explained that his major problem is that he's an alcoholic and a drug addict, and the treatment for alcoholism and drug addiction is regular frequent attendance at A.A. meetings, which he has done on a regular basis for the last thirteen years. Dr. Pancoast stated that he thinks that people who do that, and who put themselves truly into that, receive far more counseling and assistance from their peer groups, the A.A. groups, than they do from a professional psychiatrist. Dr. Pancoast stated that he has probably encountered four or five psychiatrists in his life on a professional basis, and only one of them really contributed true insight into what causes alcoholism. That psychiatrist happened to be an alcoholic in recovery as well.

**Dr. VARYANI MOVED TO RELEASE DR. PANCOAST FROM THE TERMS OF THE BOARD'S ORDER OF MARCH 11, 1998. DR. SUPPAN SECONDED THE MOTION.** All members voted aye. The motion carried.

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STEVE AMOILS, M.D.

Dr. Amoils appeared before the Board pursuant to his request for release from the terms of his November 9, 2005 Consent Agreement.

Ms. Bickers reviewed Dr. Amoils' history with the Board.

In response to Board members' questions, Dr. Amoils stated that he is doing well. He stated that this has been a very devastating, humiliating and embarrassing time for him, his family and his colleagues. He stated that he wouldn't want anyone to have to go through this.

**DR. VARYANI MOVED TO RELEASE DR. AMOILS FROM THE TERMS OF HIS NOVEMBER 9, 2005 CONSENT AGREEMENT. DR. SUPPAN SECONDED THE MOTION.** All members voted aye. The motion carried.

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

Dr. Myers appeared before the Board pursuant to his request for release from the terms of the Board's Order of September 14, 2005.

Ms. Bickers reviewed Dr. Myers's history with the Board, noting that Dr. Myers' problem was prescribing for a family member.

In response to Board members' questions, Dr. Myers stated that he is doing very well. He advised that he now refers all family members to a physician he respects and whom he'd try to see himself. He feels that it's very clear that the rules were established to protect citizens of the state, as well as the physicians, and that it is a slippery slope when you start to prescribe for family members.

**DR. VARYANI MOVED TO RELEASE DR. MYERS FROM THE TERMS OF THE BOARD'S ORDER OF SEPTEMBER 14, 2005. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

DANNY C. BLANKENSHIP, M.D.

Dr. Blankenship made his initial appearance before the Board, pursuant to the terms of his January 15, 2009 Consent Agreement.

Ms. Bickers reviewed Dr. Blankenship's history with the Board.

In response to Board members' questions, Dr. Blankenship stated that he's doing fine. He's done a lot of personal evaluation of the mistakes he made. He went to an ethics and boundaries course that he found to be very informative and which he thinks should be required for all physicians. Dr. Blankenship stated that he's happy for the opportunity to speak to the Board. He stated that his desire is to do the right thing and to straighten out things in his personal and professional life. He does know that what he did was wrong. He

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crossed some moral and ethical boundaries. Those are clear to him. Dr. Blankenship stated that it's important to understand the potential loss of objectivity a physician might face when taking care of a patient if you have a personal relationship with that patient.

Dr. Blankenship stated that he's learned his lesson. He certainly has a greater appreciation of the importance of the Board and the service that it provides. He's talked with some of his colleagues about his case and the lessons he's learned and how they may apply them to their practices.

Dr. Blankenship stated that he's hopeful, and he's looking forward to getting back to the practice of medicine as soon as possible, when the Board feels it's appropriate.

Dr. Madia stated that he's glad that Dr. Blankenship learned a lesson.

Dr. Mahajan stated that he knows Dr. Blankenship, and advised that he's an excellent cardiologist, and his patients love him. He does a wonderful job.

Dr. Madia stated that one can be an excellent physician, but sometimes that physician can make a mistake. The thing is to face it, and get treatment.

**DR. VARYANI MOVED TO CONTINUE DR. BLANKENSHIP UNDER THE TERMS OF HIS JANUARY 15, 2009 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION. All members voted aye. The motion carried.**

DAVID C. ERNST, M.D.

Dr. Ernst made his initial appearance before the Board, pursuant to the terms of the Board's Order of February 11, 2009. Dr. Ernst has also requested reinstatement of his license at this time.

Ms. Bickers reviewed Dr. Ernst's history with the Board.

In response to Board members' questions, Dr. Ernst stated that he's doing very well. When asked what brought about his relapse, he stated that he took the tramadol for back pain he was experiencing after shoveling out an igloo with his children. The tramadol was in a drawer where they kept medications at home, and it was from previous samples. He quite frankly didn't even think of it as a controlled substance or as a violation of his consent agreement. He has since realized that it is a controlled substance, and that it is a violation of the agreement. He also realizes the ramifications of treating himself without physician intervention or discussion. That's obviously outside the realm of what he should be doing, in general, as a physician. Dr. Ernst stated that he thinks that both things have been a lesson for him. He is now continuing his recovery.

In response to further questions, Dr. Ernst stated that now he doesn't take any medications. He's currently in a two-year aftercare program, on a weekly basis, with the Cleveland Clinic. He sees Dr. Gregory Collins, the Chairman of the Department of Psychiatry and Psychology at the Clinic, on a quarterly basis.

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He attends two Caduceus meetings and three A.A. meetings a week, as well. He also has two sponsors and a sponsee.

Dr. Varyani referred to Dr. Ernst's comments that he didn't think of tramadol as a controlled substance or as a violation of his consent agreement. Dr. Varyani noted that Dr. Ernst's consent agreement specifically says that he's not supposed to take anything. He didn't understand how Dr. Ernst couldn't think of that before he took the tramadol.

Dr. Ernst stated that he totally agrees with Dr. Varyani. He stated that he's four years into recovery, and he'd guess that the exact terminology of his consent agreement wasn't fresh in his mind.

**DR. VARYANI MOVED TO REINSTATE DR. ERNST'S CERTIFICATE TO PRACTICE MEDICINE AND SURGERY. HE FURTHER MOVED TO CONTINUE DR. ERNST UNDER THE TERMS OF THE BOARD'S ORDER OF FEBRUARY 11, 2009, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION.** All members voted aye. The motion carried.

Mr. Jacobson left the meeting at this time.

MARK O. HENSON, M.D.

Dr. Henson made his initial appearance before the Board, pursuant to the terms of the Board's Order of January 14, 2009.

Ms. Bickers reviewed Dr. Henson's history with the Board.

In response to Board members' questions, Dr. Henson stated that he's doing well. He stated that he's continuing the same treatment he's been in all along. He attends three to four A.A. meetings a week. He has a sponsor with whom he works the steps. He also spends time with his family and A.A. members.

Dr. Henson advised that he's just working on his recovery. It's a different life now. He stated that before he would have told the Board the same thing, but through the last few months, he's realized that, even though he thought he was being honest with others, he never was truly honest with himself. Even though he knew that he was an alcoholic, as the *Big Book* puts it, he was always looking for an easier, softer way. In the last few months he's changed his life. The problem of alcoholism has been with him for many, many years, but he was never a regular drinker. He was more of a binge drinker. But the mental obsession that goes along with it was always there. It was a medication for him. It reduced stress, it calmed him somewhat. Dr. Henson stated that he thinks that that was always a way to rectify in his mind that it was okay. He has learned in the last few months that that was just a big lie that he told himself. He doesn't need it anymore, and the obsession has been lifted. He admits that the thought crosses his mind, as it will with any alcoholic, but the obsessive need to relieve something in him was lifted. As far as that part, he's been blessed by God to experience that.

In response to further questions, Dr. Henson stated that he doesn't take anything for stress, and that he

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doesn't think that he's under stress. He added that he's under the normal amount of stress that any living human being experiences. His wife was diagnosed two months ago with cancer and at a previous point in his life he would have found that a good reason to drink. He now realizes what a blessing it is that he doesn't have to. He's there completely for her in her time of need. Dr. Henson stated that he thanks God for that ability. He stated that it's a curse to be an alcoholic, but it's also a blessing. It gives you a different perspective on things. It drives you and others to examine you, to try to solve this problem which cannot be solved. It can only be treated and put in check. He stated that something has happened prior to this diagnosis. The obsession was lifted and he feels differently about life. He has a sense of serenity that he never had before.

**DR. VARYANI MOVED TO CONTINUE DR. HENSON UNDER THE TERMS OF THE BOARD'S ORDER OF JANUARY 14, 2009, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.**

KURT J. PALAZZO, M.D.

Dr. Palazzo made his initial appearance before the Board, pursuant to the terms of his February 12, 2009 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Palazzo's history with the Board.

In response to Board members' questions, Dr. Palazzo stated that he's doing very well. He entered inpatient rehabilitation at Parkside. He has an aftercare agreement at Parkside. In compliance with the aftercare agreement, he attends Caduceus meetings once a week. When he got out of treatment he was attending eight to twelve meetings a week, but now he goes to about four to six meetings a week. He's not currently working so he has a lot of extra time on his hands. He has started to work out again.

Dr. Palazzo stated that he's also returned to the Church, and added that that was probably the biggest thing that was lacking in his life. He recommitted himself to God and Jesus Christ. He has gone to Mass every day since March 2.

In response to further questions, Dr. Palazzo stated that his children are very supportive. He advised that he's in the process of going through a divorce, which he blamed for being the beginning of his problem. He stated that he moved out of the house in October 2007 and got a DUI in January 2008. He stated that he's still in the process of the divorce proceedings, and there is some stress from that. He stated that he does a lot of reading, including reading the Scriptures every day. He also does prayer and meditation. He's been in practice for thirteen years.

Dr. Palazzo advised that he doesn't have any questions about his Consent Agreement at this time.

**DR. VARYANI MOVED TO CONTINUE DR. PALAZZO UNDER THE TERMS OF HIS FEBRUARY 12, 2009 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. AMATO SECONDED THE**

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**MOTION.** All members voted aye. The motion carried.

STEVEN T. PATTERSON, D.O.

Dr. Patterson made his initial appearance before the Board, pursuant to the terms of his February 12, 2009 Step I Consent Agreement.

Ms. Bickers reviewed Dr. Patterson's history with the Board.

In response to Board members' questions, Dr. Patterson stated that he's doing well. He had been under Board supervision for eight years. The reason for his relapse after eight years is that he lost his spiritual way and started to run his life the way he wanted to run his life. He was working way too much and sobriety lost its primary importance in his life. It wasn't the most important thing at that point in time.

Dr. Madia asked him how he's dealing with it now.

Dr. Patterson stated that he's doing great. He's really at peace with himself. He has a morning program where he prays and meditates each morning. He also prays in the evening. He's not working right now and it's a nice opportunity to not have to jump out of bed in the morning and do that. He's done that for many years, but it became less of a priority over time. He stated that he attends Church and he goes to at least five A.A. meetings a week at this point in time. Dr. Patterson stated that the only way that he can stay sober is getting outside of himself and being spiritually fit.

In response to a question about family support, Dr. Patterson stated that he's married with two sons. His parents are alive. He stated that, fortunately, his children have never been exposed to him drinking. When he relapsed, he drank in isolation. His children have gone through counseling. They go to an "International Doctors in A.A." meeting each year and they have a kids program there. His wife has always been very supportive. Dr. Patterson commented that he couldn't ask for a more supportive home environment.

In response to questions about medication he takes, Dr. Patterson stated that he takes Lipitor and Lamictal. He's been on Lamictal since his relapse, and it is helping him. He stated that it's prescribed by his psychiatrist.

**DR. VARYANI MOVED TO CONTINUE DR. PATTERSON UNDER THE TERMS OF HIS FEBRUARY 12, 2009 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.

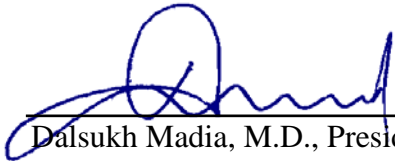
**DR. MAHAJAN MOVED TO ADJOURN. MR. HAIRSTON SECONDED THE MOTION.** All members voted aye. The motion carried.


Thereupon at 4:45 p.m. the May 13, 2009 session of the State Medical Board of Ohio was duly adjourned.

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We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on May 13, 2009, as approved on June 10, 2009.

  
Dalsukh Madia, M.D., President

  
Lance A. Talmage, M.D., Secretary

(SEAL)



May 13, 2009

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**MINUTES**

**THE STATE MEDICAL BOARD OF OHIO**

**May 14, 2009**

Dalsukh Madia, M.D., President, called the meeting to order at 8:00 a.m., in the Administrative Hearing Room, 3<sup>rd</sup> Floor, the James A. Rhodes State Office Tower, 30 E. Broad St., Columbus, Ohio 43215, with the following members present: Jack C. Amato, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Marchelle L. Suppan, D.P.M.; Nandlal Varyani, M.D.; W. Frank Hairston; Darshan Mahajan, M.D. The following joined the meeting at a later time: Jeffrey M. Jacobson, Esq. The following did not attend the meeting: Susan E. Stephens, M.D.; and Anita M. Steinbergh, D.O.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Kimberly C. Anderson, Assistant Executive Director; Sallie J. Debolt, General Counsel; Barbara J. Pfeiffer, Karen A. Unver, and Kyle C. Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Michael K. Miller, Public Policy & Government Affairs Officer; Karry Thacker, Executive Staff Assistant; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; and Barbara Jacobs, Public Services Administrator.

**LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA**

Dr. Madia advised that at this time he would like the Board to consider the probationary reports, the probationary requests, and the licensure applications on today's consent agenda. Dr. Madia 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. VARYANI MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON APRIL 6, 7 AND 9, 2009, WITH: MARK L. ALLEN, M.D.; MARK E. BLAIR, M.D.; DANIEL H. BRUMFIELD, M.D.; JOSEPH CLAUDE CARVER, M.D.; ANDREW J. CASTELLANOS, M.D.; ALLAN W. CLARK, M.D.; RICHARD G. DAY, M.D.; PATRICK R. DENNISON, D.O.; JANICE ELECTA GREEN DOUGLAS, M.D.; MATTHEW H. EVENHOUSE, M.D.; DANN WILLIAM GANZHORN, M.D.; CAREY K. GROSS, D.O.; JONATHAN L. HAIMES, M.D.; MALCOLM W. HENDERSON, M.D.; SRIPRIYA DOSS KOLAKALUR, M.D.; BOBBY C. LENOX, JR., D.O.; RAVI DUTT MADAN, M.D.; FLORENCE B. MATYAS, M.D.; BRUCE JEFFREY MERKIN, M.D.; NYKOLAI VASIL PIDHORODECKYJ, M.D.; JOHN L RATZ, M.D.; STEVEN THOMAS REED, M.D.; ROBERT S. REEVES, JR., M.D.; STEPHEN J. ROLFE, M.D.; JON P. RYAN, D.O.; SCOTT THOMAS STEWART, P.A.; SUSAN GAIL SWEDA, M.D.; BRETT E. TOWARD, M.D.; GARY W. WALTZ, M.D.; AND SCOTT R. WELDEN, M.D.**

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

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**CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:**

- **TO GRANT PAULA CLARK ADKINS, M.D.'S REQUESTS FOR APPROVAL OF WARREN J. PENDERGAST, JR., M.D., TO PERFORM ONE OF THE RETURN TO WORK EVALUATIONS, AND APPROVAL OF FERNANDO A. COBOS, M.D., TO PERFORM THE SECOND RETURN TO WORK EVALUATION;**
- **TO GRANT PAUL E. DUNCAN, M.D.'S REQUEST FOR APPROVAL OF JACK C. LUNDERMAN, JR., M.D., TO SERVE AS HIS NEW TREATING PSYCHIATRIST;**
- **TO GRANT GEORGE V. HASSINK, M.D.'S REQUEST TO ELIMINATE SESSIONS WITH HIS MENTAL HEALTH PROFESSIONAL;**
- **TO GRANT TIMOTHY A. HEINRICHS, M.D.'S REQUEST FOR APPROVAL OF PHILIP R. MASSER, M.D., TO SERVE AS THE MONITORING PHYSICIAN , WITH 10 CHARTS PER MONTH;**
- **TO GRANT MELANIE LYNNE LEU, M.D.'S REQUEST FOR APPROVAL OF DAVID M. KUENTZ, D.O., TO SERVE AS HER NEW MONITORING PHYSICIAN;**
- **TO GRANT DONALD C. MANN, M.D.'S REQUESTS FOR PERMISSION TO ADMINISTER, PERSONALLY FURNISH, OR POSSESS CONTROLLED SUBSTANCES AND FOR ELIMINATION OF THE CHART REVIEW REQUIREMENT;**
- **TO GRANT MARK S. MCALLISTER, M.D.'S REQUESTS FOR: APPROVAL OF ROBERT L. MURDOCK, M.D., TO SERVE AS THE TREATING PSYCHIATRIST; APPROVAL OF THE DRUG TESTING SYSTEM ESTABLISHED BY THE VIRGINIA HEALTH PRACTITIONERS' INTERVENTION PROGRAM [VHPIP], WITH QUARTERLY REPORTING TO THE BOARD; AND FOR APPROVAL TO REPLACE ONE ALCOHOL AND DRUG REHABILITATION PROGRAM EACH WEEK WITH A SEXAHOLICS ANONYMOUS MEETING;**
- **TO GRANT DAVID A. RATH, M.D.'S REQUESTS FOR ELIMINATION OF THE CHART REVIEW REQUIREMENT AND DISCONTINUANCE OF THE CONTROLLED SUBSTANCE LOGS REQUIREMENT;**
- **TO GRANT MARK ALLEN RENZ, M.D.'S REQUESTS FOR DISCONTINUANCE OF THE CHART REVIEW REQUIREMENT AND APPROVAL OF HIS NEW PRACTICE PLAN;**
- **TO GRANT JOSEPH ALOYSIUS RIDGEWAY, IV., M.D.'S REQUEST FOR APPROVAL OF DAVID J. HOREJS, M.D., TO SERVE AS HIS NEW MONITORING PHYSICIAN;**

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- **TO GRANT MADELYN SARTAIN, D.O.’S REQUESTS FOR APPROVAL OF THE PRESCRIBING COURSE, *INTENSIVE COURSE IN CONTROLLED SUBSTANCE MANAGEMENT*, OFFERED BY CASE WESTERN RESERVE UNIVERSITY, IN FULFILLMENT OF PARAGRAPH 6.B.I. OF HER JANUARY 14, 2009 CONSENT AGREEMENT, AND TO DENY HER REQUEST FOR APPROVAL OF THE RECORD-KEEPING COURSE, *INTENSIVE COURSE IN MEDICAL RECORD KEEPING WITH INDIVIDUAL PRECEPTORSHIPS*;**
- **TO GRANT KIMBERLY M. (TELMANIK) SCHERRY, P.A.’S REQUEST FOR APPROVAL OF JOSEPH A. GIRGIS, M.D., TO SERVE AS HER REPORTING PHYSICIAN;**
- **TO GRANT BRETT E. TOWARD, M.D.’S REQUEST FOR A REDUCTION IN APPEARANCES TO EVERY SIX MONTHS;**
- **TO GRANT JOSEPH G. WERNER, M.D.’S REQUEST FOR APPROVAL OF A NEW PRACTICE PLAN FOR EMPLOYMENT IN THE DEPARTMENT OF ANESTHESIOLOGY AT THE OHIO STATE UNIVERSITY MEDICAL CENTER; AND**
- **TO GRANT RICHARD ALLAN ZINNI, D.O.’S REQUESTS FOR: REDUCTION IN URINE SCREENS TO TWICE A MONTH; REDUCTION IN ALCOHOL AND DRUG REHABILITATION MEETINGS TO 2 MEETINGS PER WEEK WITH TOTAL OF 10 MEETINGS PER MONTH; AND FOR REDUCTION IN PERSONAL APPEARANCES TO EVERY SIX MONTHS.**

**DR. VARYANI 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,” AND THE P.A. APPLICANTS LISTED IN EXHIBIT “B,” THE ACUPUNCTURISTS LISTED IN EXHIBIT “C,” THE ANESTHESIOLOGIST ASSISTANTS LISTED IN EXHIBIT “D,” AND TO GRANT CERTIFICATES OF GOOD STANDING TO THE SCHOOLS OF MASSAGE THERAPY, LISTED IN EXHIBIT “E.”** SECONDED THE MOTION. A vote was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye

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The motion carried.

LICENSURE

CHRISTINE M. GRAHAM, M.T. APPLICANT

Ms. Schmidt advised that the Board ratified a consent agreement with Ms. Graham the previous day. Her application is therefore before the Board for approval.

**DR. VARYANI MOVED TO GRANT MS.GRAHAM'S APPLICATION FOR A CERTIFICATE TO PRACTICE MASSAGE THERAPY. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

REPORT ON THE FEDERATION OF STATE MEDICAL BOARDS ANNUAL MEETING (20/20 VISION: THE FUTURE OF MEDICAL REGULATION) AND THE ADMINISTRATORS IN MEDICINE ANNUAL MEETING

Ms. Wehrle reported on the FSMB and AIM annual meetings, held in Washington, D.C., the week of April 29, 2009. Copies of the agendas for these meetings will be maintained in the exhibits section of this journal.

Ms. Wehrle announced that at the annual AIM meeting, the Ohio Board won "Honorable Mention" for the "Best of the Best" Awards for its *Partners in Professionalism Educational Outreach Project* with Ohio University's College of Osteopathic Medicine.

Dr. Varyani congratulated Mr. Whitehouse and Ms. Wehrle on their efforts. He stated that it is a great project and efforts should be made to include the other medical schools.

Mr. Whitehouse stated that that is the goal.

Ms. Wehrle stated that during the Federation meeting, Ohio had a poster session and she did approximately six presentations on the Partners in Professionalism Project and on Ohio's QIP program. There was an

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awful lot of interest in what Ohio is doing.

Ms. Wehrle also discussed the annual disciplinary action rankings from the FSMB and the Public Citizen Health Research group and noted that Ohio is very high on both rankings. She stated that Ohio is truly a model board.

Dr. Varyani commented that he was impressed with Dr. Sidney Wolfe's presentation at the FSMB annual meeting. He stated that he took notes to see how Ohio can get better. Staff commented that the issues raised are currently part of Board procedures.

## REPORTS OF ASSIGNED COMMITTEES

### EXECUTIVE COMMITTEE

Mr. Whitehouse reported on the budget, noting that the State imposed greater restraints on agency spending through a recent executive order. He stated that it's getting a lot tougher to do the things that the Board needs to do. One decision that has been made is to not print and mail the newsletter. Instead, postcards were sent to all licensees to notify them that the newsletter can now be found on line.

Dr. Mahajan suggested that the Board mail printed newsletters to licensees who don't have a computer.

Dr. Madia stated that he didn't like the idea of putting the newsletter on the Board's website.

Mr. Whitehouse stated that Executive Committee discussed other means of communicating information to licensees. Staff is looking into the feasibility of using e-mail or other means to do so more cost effectively. He indicated appreciation for the importance of providing licensees more information on Board policies.

### LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Miller reviewed his written report, a copy of which shall be maintained in the exhibits section of this journal, with the Board. He stated that proposed legislation of note are: potential legislation that will provide for licensure of surgical technicians, similar to legislation introduced in 2008 that would make the Medical Board the regulating body; and legislation that would allow acupuncturists to use herbs in their practices.

Mr. Jacobson arrived at some point during the previous discussions.

### LICENSURE COMMITTEE

Dr. Madia stated that he is moving Dr. Varyani over to Group 1 to chair the Licensure Committee. Someone else will be appointed to chair the Minimal Standards Committee.

Dr. Varyani stated that a new Board member should not be appointed to chair that Committee.

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Dr. Madia asked Ms. Rieve to direct the Board's discussion concerning applications considered by the Committee.

Refit Hegazi, M.D.

Ms. Rieve advised that Dr. Hegazi is a graduate of Mansoura University in Mansoura, Egypt. He stated on his application that he has completed 47 months of a Gastroenterology Research Fellowship at the University Health Center of Pittsburgh. Dr. Hegazi graduated from the University of Mansoura in Mansoura, Egypt in June 1990. He trained and practiced in Egypt from June 1990 (compulsory internship) until December 1996. Dr. Hegazi immigrated to the United States in January 1997, and began as a Graduate Student in Epidemiology at the Graduate School of Public Health at the University of Pittsburgh from January 1997 until April 2002. He obtained a Master of Public Health/PhD. degree. Dr. Hegazi then began the postdoctoral research Fellowship in Gastroenterology at the University of Pittsburgh Medical Center from August 2002 until June 2006. Dr. Hegazi then served as Assistant Professor of Medicine at the University of Pittsburgh from July 2006 until January 2009, and is now Medical Director at Abbott Nutrition in Columbus, Ohio from January 2009 until the present time. Dr. Hegazi holds a license in Pennsylvania, and does not report any American Board certification.

Ms. Rieve stated that Dr. Hegazi is requesting that the Board deem his training and experience in Egypt and his 47 months in the research fellowship in the United States to be equivalent to the 24 months of graduate medical education through the second-year level of GME so that he may be granted a license. She advised that the Committee recommends denying Dr. Hegazi's request.

Dr. Madia stated that the Committee felt that the fellowship in which Dr. Hegazi took part was not clinical.

**DR. VARYANI MOVED TO PROPOSE TO DENY DR. HEGAZI'S APPLICATION FOR ENDORSEMENT LICENSURE ON THE BASIS THAT HE HAS NOT COMPLETED 24 MONTHS OF TRAINING THROUGH THE SECOND YEAR LEVEL. DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- abstain
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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Ryan Gregory King, M.D.

Ms. Rieve advised that Dr. King is over the seven-year time limit by five months. He passed Steps 1, 2, and 3 on the first attempt with scores of 95, 83 and 87. Dr. King has sent a letter of explanation claiming he went over the seven-year limit because he took one year off during medical school to conduct research and then he changed training programs from General Surgery to Emergency Medicine. Dr. King graduated from Columbia University in May 2004. He started a Surgery internship at New York Presbyterian Hospital from June 2004 until June 2005. He then reentered medical training in Emergency Medicine at The Ohio State University from June 2007 until the present. Dr. King holds an Ohio training certificate, and does not report American Board Specialty Certification.

**DR. VARYANI MOVED TO APPROVE DR. KING UNDER THE NEW LICENSURE RULE 4731-6-14, OHIO ADMINISTRATIVE CODE, AND TO ACCEPT HIS EXAMINATION SEQUENCE IN ORDER FOR HIM TO BE GRANTED A LICENSE. DR. AMATO SECONDED THE MOTION.**

A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Christopher Kobet, M.D.

Ms. Rieve advised that Dr. Kobet has requested to take the Computer-based USMLE Step 3 with special accommodations under the Americans with Disabilities Act of 1990. He has been diagnosed with Attention Deficit Disorder with Hyperactivity. Dr. Kobet is requesting extra time (time and one-half).

Dr. Kobet did request and was granted accommodations for Step 1 and Step 2 (CK and CS). The National Board of Medicine Examiners expert agreed that Dr. Kobet should be given accommodations. The Ohio Board previously approved a request to take Step 3 at the February 2008 Board meeting.

**MR. HAIRSTON MOVED TO APPROVE DR. KOBET'S ACCOMMODATION REQUEST OF EXTRA TIME, I.E., TIME AND A HALF, DURING THE ADMINISTRATION OF THE STEP 3 OF THE USMLE. DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
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Dr. Talmage	- aye
Dr. Suppan	- aye
Dr. Varyani	- aye
Mr. Jacobson	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Mahajan	- aye
Dr. Madia	- aye

The motion carried.

Chakradhar Thupili, M.D.

Ms. Rieve advised that Dr. Thupili graduated from the Kurnool Medical College in Kurnool, India in December 1992. He trained and practiced in India from February 1993 (compulsory internship) until May 2007. Dr. Thupili immigrated to Canada in June 2007, and began a Clinical Fellowship in Abdominal Imaging at the Ottawa Hospital from June 2007 until June 2008. Dr. Thupili then began the Abdominal Imaging Fellowship at the Cleveland Clinic from July 2008 until the present time.

Dr. Thupili holds a license in Ontario, Canada and does not report any American Board certification.

**DR. VARYANI MOVED TO APPROVE DR. THUPILI'S APPLICATION FOR ENDORSEMENT LICENSURE, SUBJECT TO THE CONCLUSION OF HIS PRESENT FELLOWSHIP AT THE CLEVELAND CLINIC, WHICH WOULD GIVE HIM 24 MONTHS OF US POSTGRADUATE EDUCATION. DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Roy Whitman, M.D.

Ms. Rieve advised that Dr. Whitman is applying for restoration of his license to practice medicine and surgery in Ohio. Dr. Whitman has indicated that he has not been engaged in the clinical practice of medicine since October 2005. He graduated from the Indiana University School of Medicine in April

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1946. He was Chairman and Professor at the University of Cincinnati from April 1980 until July 1990. Dr. Whitman indicates that until 2004, he also worked part-time at the University of Cincinnati as an Emeritus Professor. He has inactive licenses in Ohio, Indiana and Illinois. Dr. Whitman indicates he was American Board certified in Psychiatry and Neurology in 1952.

**DR. VARYANI MOVED TO APPROVE DR. WHITMAN'S REQUEST FOR OHIO LICENSURE SUBJECT TO SUCCESSFUL COMPLETION OF THE SPEX EXAM OR BOARD RECERTIFICATION. DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

M.T. Applicant Requests for ADA Accommodations

**DR. VARYANI MOVED TO GRANT THE SPECIAL ACCOMMODATIONS REQUESTS OF A TAPED EXAM, EXTRA TIME OF TIME AND A HALF AND A SEPARATE TESTING AREA TO THE FOLLOWING APPLICANTS FOR THE JUNE 2009 M.T. EXAMINATION: ALBERTA BAYNES, M.T.; NICOLE BENDELE, M.T.; JAMIE GUTZWILLER, M.T.; CYNTHIA IBARRA, M.T.; AND CHRISTOPHER PIKE, M.T. DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

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Shaunna Zarlinga, L.M.T.

Ms. Rieve advised that Ms. Zarlinga is applying for restoration of her license to practice massage therapy in Ohio. Ms. Zarlinga has indicated on her application for restoration that she has not actively practiced Massage Therapy since 2001. Ms. Rieve advised that the Committee recommends approve subject to her passing the Limited Branch portion of the Massage Therapy Examination.

**DR. VARYANI MOVED TO GRANT MS. ZARLINGA'S APPLICATION FOR RESTORATION OF HER MASSAGE THERAPY LICENSE, SUBJECT TO HER PASSING THE LIMITED BRANCH PORTION OF THE BOARD'S MASSAGE THERAPY EXAMINATION. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

PRESCRIBING COMMITTEE

Dr. Madia advised that the term of one of the four physicians appointed to the Nursing Board's Committee on Prescriptive Governance by the Medical Board expires in May. Robert G. Axonovitz, M.D., of Sylvania, Ohio, has agreed to continue to serve. At this time, the Board is being asked to reappoint Dr. Axonovitz, who has served on the Committee since 2005. Dr. Axonovitz was initially nominated by OSMA. Dr. Madia stated that the Committee recommends reappointment of Dr. Axonovitz.

**DR. VARYANI MOVED TO REAPPOINT DR. AXONOVITZ TO THE NURSING BOARD'S COMMITTEE ON PRESCRIPTIVE GOVERNANCE. DR. AMATO SECONDED THE MOTION.** All members voted aye. The motion carried.

P.A. COMMITTEE

Dr. Talmage stated that the Committee reviewed one special services plan.

Women's Health Specialists at Wheeling Hospital

Dr. Talmage stated that the above-captioned group has requested approval for its P.A.s to perform the

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insertion and removal of Implanon devices. Dr. Talmage noted that one of the routine procedures permitted to P.A.s is the insertion and removal of Norplant capsules. He stated that there are five of those, and only one of the Implanon devices. He stated that this makes it five times easier. He stated that he felt this was consistent with privileges that had been given to P.A.s earlier. The Committee recommends approval.

**DR. TALMAGE MOVED TO APPROVE THE WOMEN'S HEALTH SPECIALISTS AT WHEELING HOSPITAL'S SPECIAL SERVICES PLAN FOR ITS P.A.S TO PERFORM THE INSERTION AND REMOVAL OF IMPLANON DEVICES, IN AN OFFICE SETTING, UTILIZING 40% DIRECT, 10% ONSITE, AND 50% OFFSITE SUPERVISION WITH THE P.A. OBSERVING THE PHYSICIAN PERFORM FIVE PROCEDURES AND THE PHYSICIAN OBSERVING THE P.A. PERFORM NO LESS THAN TEN PROCEDURES TO DETERMINE COMPETENCY. DR. AMATO SECONDED THE MOTION.** A vote was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Dr. Varyani	- aye
	Mr. Jacobson	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Mahajan	- aye
	Dr. Madia	- aye

The motion carried.

Dr. Talmage stated that the Committee also had some discussion about including Tylenol with codeine in the formulary for P.A.s who hold a prescribing certificate. Dr. Talmage stated that the topic was tabled for further documentation, and no action is needed at this time.

At this time, Dr. Madia stated that the Board will take a brief break and will reconvene in Room 336. The meeting will be adjourned following a short discussion.

Mr. Whitehouse at this time dismissed members of the staff from the remainder of the meeting.


The meeting reconvened in Room 336 whereupon a discussion took place regarding more effective communication and the Board's role as policymakers. After discussion, it was determined that Board members would be well served to engage in periodic discussions as time permits on Thursday mornings to review with staff the direction and options available to them as well as the value of precedent in informing member's judgment. Members recognized that value of having a diversity of views in discussions and the need to forge from them a consensus that represents the view of the Board. This is necessary to inform licensees and the public as well as focus the efforts of the staff on day-to-day operations.

May 13, 2009

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Thereupon at 10:30 a.m. on May 14, 2009, the May 13-14, 2009 meeting of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on May 13-14, 2009, as approved on June 10, 2009.



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Dalsukh Madia, M.D., President



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Lance A. Talmage, M.D., Secretary

(SEAL)



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