

July 8, 2009

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, 3rd 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; Nandlal Varyani, M.D.; W. Frank Hairston; Susan E. Stephens, M.D.; Darshan Mahajan, M.D. and Anita M. Steinbergh, D.O. The following did not attend the meeting: Marchelle L. Suppan, D.P.M. and Jeffrey M. Jacobson, Esq.

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; Rebecca J. Marshall, Chief Enforcement Attorney; 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; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; and Jacqueline A. Moore, Disciplinary Information Assistant.

MINUTES REVIEW

DR. STEINBERGH MOVED TO APPROVE THE MINUTES OF JUNE 10-11, 2009.

MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

EXECUTIVE SESSION

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

VOTE:

Mr. Albert	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- 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.

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

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 Orders 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 and Proposed Orders; and any objections filed in the matters of Samer Ahmad Ali-Hasan, M.D.; James J. Anthony, M.D.; Romeo C. Enrique, M.D.; Michael Anthony Liston; Jason D. McComb, M.T.; Steven Paul Sherry, D.O.; and Muhammad Z. Shrayyef, M.D.; and the Proposed Findings and Proposed Order in the Matter of David Ronald Miller, M.D. A roll call was taken:

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

Dr. Madia noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying

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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. Ali-Hasan, Dr. Enrique and Dr. Shrayyef, 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.

Dr. Steinbergh indicated that she thought that Dr. Shrayyef's case was pulled from the agenda and she did not review his materials. She would therefore abstain from voting in his case.

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

SAMER AHMAD ALI-HASAN, M.D.

Dr. Madia directed the Board's attention to the matter of Samer Ahmad Ali-Hasan, M.D. He advised that no objections were filed to Hearing Examiner Clovis' Report and Recommendation.

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

Dr. Ali-Hasan was accompanied by his attorney, Eric J. Plinke, Esq. Mr. Plinke stated that this is a licensure case, non-disciplinary in nature. Mr. Plinke stated that this is a case where an application was filed prior to the adoption of the Board's new rule. The Hearing Examiner is applying the new rule to this case, and he thinks that that is appropriate. It's a matter that's within the Board's discretion due to the timing of the case.

Mr. Plinke stated that this may be the first case to come before the Board under the new rule. He advised that Dr. Ali-Hasan is an applicant who is outside of the ten-year time frame, has not failed any step more than three times, and therefore, under the Hearing Examiner's correct analysis of the rule, he needs to show good cause to the Board for granting a license. In this case, he agrees with the Hearing Examiner that the extensive training that Dr. Ai-Hasan has received in a relatively unique and refined area of specialty and his repeated residencies and fellowships equate to nine years of graduate medical education training. It's all continuous and consecutive. This provides the basis of good cause.

Mr. Plinke stated that he would add that under the Board's old rule, "good cause" included a definition of training beyond that which is required for initial licensure. He stated that he thinks that Dr. Ali-Hasan has that by greater than some significant multiple of five or six. Mr. Plinke commented that he hasn't done the math on that. He stated that Dr. Ali-Hasan has Ohio roots, he trained here in part, and he has job opportunities in Ohio. His most recent fellowship was in peripheral vascular intervention.

Dr. Ali-Hassan thanked the Board for allowing him to appear today. He also thanked Mr. Plinke for representing him. Dr. Ali-Hassan stated that he did nine years of postgraduate medical training, and he did three years of cardiology training. He was on the faculty of Indiana University for three years, as an

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invasive cardiologist. He went back for a year of interventional cardiology at the University of Chicago, and a year of peripheral vascular intervention at Ochsner Clinic, which is the leading center in the nation in peripheral vascular intervention. Dr. Ali-Hassan stated that he was very fortunate to train with these people, especially in areas that are very new for interventional cardiologists. He added that there is one area in which he was very fortunate to train at Ochsner Clinic, and that is acute strokes. He stated that this is the only program in the nation where interventional cardiologists perform acute stroke training. Dr. Ali-Hassan stated that they take people to the cath lab and do different types of procedures, such as balloons and stents in the brain, and these procedures are only done in big programs like the Mayo Clinic and Cleveland Clinic by neuroradiologists, not cardiologists. He stated that this is a very, very new area.

Dr. Ali-Hassan stated that he did some training in Toledo, Ohio and he did a year of training at the Cleveland Clinic. He stated that he and his wife are very familiar with the State of Ohio. He added that his wife was actually raised in Ohio, and that they have family in Cleveland. He also has a brother who got a Ph.D. in engineering at Ohio State. Dr. Ali-Hassan stated that he would love to come back to Ohio to practice medicine. Also, his wife wants to come back to Ohio. Dr. Ali-Hassan stated that they have family here. They also have a daughter who just turned eleven in June, and who wants to move close to her cousins and close to the rest of the family. Dr. Ali-Hassan stated that he has interviewed in Toledo and Cleveland, and he has offers from two good practices to join those practices.

Dr. Ali-Hassan thanked the Board for taking time to look at his application. He added that he appreciates the Board's consideration.

Dr. Madia asked whether the Assistant Attorney General wished to respond. Ms. Unver stated that she did not.

DR. STEPHENS MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF SAMER AHMAD ALI-HASAN, M.D. DR. AMATO SECONDED THE MOTION.

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

Dr. Steinbergh stated that she appreciates the education process that Dr. Ali-Hassan has gone through. She stated that the ten-year rule is such that a decision about going beyond ten years becomes a real concern, and the "good cause" piece is a concern for her. She noted that he did have some substantial concerns during the USMLE process. She stated that she doesn't question the education, but she does question the "good cause" for going beyond ten years. She stated that in her mind this had nothing to do with the process of education but has to do with understanding the rules. At the time Dr. Ali-Hassan applied, he was really under the seven-year rule, and the Board is extending the courtesy of the ten-year rule at this point.

Dr. Varyani stated that Ohio needs physicians. He stated that he understands that the educational part had some variances; however, he is inclined to overlook that because Dr. Ali-Hassan has received additional training, and he is board certified. Dr. Varyani acknowledged that it's a new area, especially going into the brain and doing interventional stuff there, but he thinks that physicians such as these are needed in Ohio.

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He stated that he is willing to overlook a few months, and to overlook the initial variance. Dr. Varyani stated that he's happy that Dr. Ali-Hassan has found a couple of positions. Dr. Varyani stated that, as a general rule, it bothers him that people take more than ten years to complete the exam sequence. In this case, because of the specialty boards and the interventional training, he is willing to overlook that.

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

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

The motion carried.

JAMES J. ANTHONY, M.D.

Dr. Madia directed the Board's attention to the matter of James J. Anthony, M.D. He advised that objections were filed by both the State and Dr. Anthony to Hearing Examiner Petrucci'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. Anthony. Five minutes would be allowed for that address.

Dr. Anthony was accompanied by his attorney, Eric J. Plinke, Esq. Mr. Plinke stated that he did file objections in this matter that he knows the Board has reviewed. Mr. Plinke stated that he would like to address a couple issues.

Mr. Plinke stated that in the State's objections, there was an assertion that the testimony concerning the inappropriateness of the utilization of Intravenous Immunoglobulin (IVIg) on Patient 1's first visit was uncontroverted and the Hearing Examiner was wrong in dismissing that charge. Mr. Plinke stated that he believes that the record is replete in at least three areas of testimony and some documentation that IVIg is an appropriate medication for either of the diagnoses. Mr. Plinke stated that, initially, he thinks that the Hearing Examiner was correct in dismissing that one charge. Mr. Plinke stated that the State's was incorrect in the assertion that the testimony was uncontroverted on that issue.

Mr. Plinke stated that, while he agrees with the Hearing Examiner in that regard, he disagrees as to the Proposed Order as he set forth in his objections; and he thinks that the comparison of this case to Dr. Parks' case is an inappropriate comparison because the nature of the cases are completely distinguishable. Mr. Plinke advised that Dr. Parks' case involved the care and treatment of three patients. It was a highly

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debated case for two of those patients regarding the standards of care in dermatologic surgery. Whereas this case involves a physician acknowledging that he missed the diagnosis, and acknowledging that he missed reviewing the lab report that had come back into his office, but due to a transition period in his office, he missed the lab report that would have been indicative of the correct diagnosis. Mr. Plinke stated that he thinks that Dr. Anthony has been open and honest in his communications, and willing to criticize himself for this error. Mr. Plinke pointed out the mitigation in the record of no prior disciplinary action, Dr. Anthony has taken remedial measures, he's changed some office procedures to prevent this from recurring, and he's taken a continuing education course that is focused on the diagnosis of these difficult conditions. Mr. Plinke stated that he thinks that the Parks type of proposed discipline is more than is necessary and appropriate in this case. Mr. Plinke stated that his partner's analysis and argument at hearing that the Dr. O'Neil case is the appropriate disciplinary scheme to follow is correct.

Dr. Anthony thanked the Board "for this opportunity which I never looked forward to." He stated that he's been in the private practice of general neurology in Cincinnati for 33 plus years. He's spent his entire career in the State of Ohio, except for two years in the Navy, when he served at the end of the Viet Nam war. He does a general practice. He doesn't do any procedures; he just sees patients every day in his office or in the hospital. He goes to the hospital seven days a week most weeks to see consultations, and he's in the office five days a week. Dr. Anthony stated that he cannot tell the Board how many days and nights he thought about this error on his part. He added that it is something that he'll never understand. He stated that he knows that he was way over-confident in his diagnosis of this patient initially, and he doesn't understand why he didn't order more testing on the first day he saw her. He stated that receiving that letter from the doctor at Children's Hospital was one of the worst things that he's ever received in the mail, short of the letter the Board sent him more recently. Dr. Anthony stated that it is something that has grieved him, and he's glad that the patient has apparently done well, in spite of him.

Dr. Anthony advised that they have taken steps, they're actually putting in a whole new computer system in their office that will flag abnormal results and hopefully never allow anyone to miss a significant result. He added that he has done a course at The Ohio State University. He stated that he was advised to do a course, and he couldn't find one that was adequate. So he called John Kissel, M.D., the head of the muscle-nerve department at Ohio State. Dr. Kissel provided a course for him, seeing patients over a period of days in their clinics. Dr. Anthony stated that he thinks that that was very helpful to him, as well.

Dr. Anthony stated that he hopes that the Board will consider that he's done the best he can.

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

Ms. Unver stated that she did. She advised the Board that in 2005, Dr. Anthony inappropriately diagnosed Patient 1 with Guillain-Barré syndrome (GBS) rather than Myasthenia Gravis (MG) and his actions constituted a departure from the minimal standards of care of similar practitioners. The State filed objections in this matter because, while it agrees with most points of the Report and Recommendation, the State disagrees with the 3rd conclusion of law which did not find that Dr. Anthony departed from the minimal standards of care in his use of IVIg therapy to treat Patient 1. The State respectfully requests that the Board modify the conclusions of law in the Report and Recommendation to find that Respondent inappropriately treated Patient 1 with IVIg therapy because he was inappropriately prescribing this therapy

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under his misdiagnosis of GBS at the time and it was pure luck that Dr. Anthony happened to be using, unbeknownst to him, the appropriate treatment for MG.

Ms. Unver continued that Dr. Anthony also filed objections in this case, which pointed out that there are several mitigating factors that the Board should take into consideration when deciding the proper discipline in this case. She commented that Dr. Anthony wants this Board to believe that there being only one patient involved somehow makes the fact that he made serious errors in his diagnosis and treatment of that patient less important. He thinks that all this Board should do is give him a reprimand, and that's based upon the case that he cited in his objections. The other aspect of that case involved a fine, and that is not within the power of the Board at this time to impose. Ms. Unver stated that a reprimand in a case involving a series of mistakes that could have, and should have, been avoided would not only be well below the minimum disciplinary guideline of probation for three years, it also would set a poor precedent on how this Board views standard of care cases involving a single patient. Dr. Anthony is an experienced neurologist who should have known how to clinically diagnose the patient by taking a thorough patient history and conducting a physical exam. She added that Dr. Anthony also could have performed various tests early on to verify his diagnosis, including a simple blood test to positively identify, or rule out, MG. The Report and Recommendation already takes mitigating factors into consideration when recommending the 180 days' stayed suspension and three years probation. Ms. Unver stated that the State agrees with this recommendation.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JAMES J. ANTHONY, M.D. DR. VARYANI SECONDED THE MOTION.

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

Dr. Mahajan stated that he reviewed this case, and, as Dr. Anthony already said, he recognizes what was missed and what he should have done. This was a 16-year-old girl having symptoms for a month or two. She was short of breath and could not sleep. Dr. Mahajan stated that he would have admitted the patient that day, rather than doing outpatient IVIg. If you think that it's a form of GBS, there's a special test, antibodies you can check. You could do a spinal tap or nerve conduction studies. Dr. Anthony knows that he could have done it. Dr. Mahajan stated that he doesn't know whether Dr. Anthony was in a hurry or had other reasons for not doing further tests. Had he suspected GBS, he should have confirmed it.

Dr. Mahajan stated that there were other opportunities that another look could have been taken at the patient. Dr. Mahajan stated that sometimes physicians are doubtful about the diagnosis. That's the time when he would have talked with one of his colleagues or have sent the patient somewhere else to have somebody else take another look. Luckily, no harm was done to the patient. She suffered a few extra months, and that was unfortunate.

Dr. Mahajan stated that he agrees with the recommendations and the Conclusions of Law.

Dr. Steinbergh noted that the reference to Section 4731.22(B)(26) in the record should be corrected to Section 4731.22(B)(6).

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Dr. Steinbergh stated that she agrees with the State's Objections regarding Finding of Fact 2(c), which she found was below minimal standards. That was the inappropriateness of treating the patient with IVIg at that time.

Dr. Steinbergh stated that her concerns in this case were multiple. She had concerns with Dr. Anthony's thought process. When he made the presumptive diagnosis of GBS, and the record didn't really go through a concrete differential diagnosis, he was sort of hoping, according to the record, that he made the right choice in treating the patient the way he did. In the hearing record, the Hearing Examiner felt that he could have given this to her for MG, and probably no harm or foul as the State objects. Dr. Steinbergh stated that she agrees with the State's objection, because this patient had been two months into her disease process and there was really no indication to do this. Dr. Steinbergh stated that she really agrees with the concept of seeing this patient and admitting this patient, at least, for a more appropriate differential diagnosis in treating her.

Dr. Steinbergh stated that, nevertheless, Dr. Anthony treated this patient as an outpatient. Throughout the record, Dr. Anthony seems to say that she's getting better. His assessment is that she was getting better; but, truly, she wasn't getting better. She went through several months without getting better. Dr. Steinbergh stated that another thing that bothered her was that after his second visit to her, not only was she not getting better, but he even said that she was getting better and that he would see her "as needed." There was no follow-up scheduled, and this concerned her a great deal. If you have a patient who is truly not doing as well as expected, you don't say to the patient that you'll see him/her as needed. She stated that, if the record had said that a primary care physician was going to monitor the patient, she could understand his submitting a note to a primary care physician that says, "I think she's coming along, and if she doesn't, please let me see her back." But he told the parents and the patient that he would see her as "needed."

Dr. Steinbergh stated that her next problem is that Dr. Anthony, by phone, prescribed Prednisone for her in a situation where she ought not to have prednisone. This is an oral steroid that he prescribed without taking another look at the patient. He did this by phone. Dr. Steinbergh indicated that this might be appropriate for minor conditions, such as a case of a dermatologist, who has seen a patient recently and the patient is not responding to antihistamines or other therapy and he's already made the decision that if things don't go well in a few days, this is what he's going to do. But when you have a case of a patient who has a form of paralysis, the doctor ought to be seeing that patient before prescribing prednisone.

Dr. Steinbergh stated that the patient continued to decline, and by the time she was admitted to Children's Hospital in Cincinnati, she had to be admitted to the Intensive Care Unit because she was in respiratory distress.

Dr. Steinbergh stated that Dr. Anthony realizes the mistakes that he's made, but she thinks that the mistakes are significant. Dr. Steinbergh stated that she debated over what would be appropriate for Dr. Anthony. She noted that he has admitted to the case, he has no prior disciplinary record, she doesn't think that there was anything dishonest or selfish, he gave full and free disclosure to the Board, and he has expressed extreme remorse. The issue of the medical record and his missing the acetylcholine test which he ordered and then did not check in his record, was a real concern to her, also. She stated that if you're

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really thinking about a differential diagnosis, those tests are really important. He missed that test result, and he's been highly criticized for it.

Dr. Steinbergh stated that she's glad to know that Dr. Anthony has come to Ohio State, that he's rounded with Dr. Kissel and apparently has provided himself with more information on the differential diagnosis of MG and this form of GBS, but she still has concerns. Dr. Steinbergh stated that she's not 100% sure that she'd like to stay the proposed suspension, adding that she thinks that he needs a time of probation, but shorter than the three years proposed. She suggested a one-year probation, during which time the Board ought to be convinced that the medical record situation in his office has been changed. Dr. Steinbergh stated that she thinks that Dr. Anthony should take a medical records course, and at the end of his probation, that he also provide for the Board a written explanation of how things are going to change in his practice.

Dr. Steinbergh stated that the proposed monitoring physician requirement is questionable to her. She commented that, although she doesn't necessarily believe that he needs the same degree of monitoring as other physicians the Board has disciplined, she thinks that perhaps Dr. Anthony could choose a physician from his own practice to monitor him during his probationary period, to review his charts and to reassure Dr. Anthony, as well as the Board, that his thought processes are intact and that he's practicing according to today's standards.

Dr. Varyani stated that, listening to both sides in this case, he was having a difficult time. He knows that Dr. Anthony misdiagnosed a case. Dr. Varyani stated that he can rationalize the rest of the proceedings that went on, that Dr. Anthony believed firmly his diagnosis. Somehow he was attached to the diagnosis of GBS, and he failed to look at MG. Dr. Varyani stated that what bothered him most about Dr. Anthony was that he signed the antibody test for acetylcholine in August, and he was so attached to the GBS, that when he saw the patient on September 2, he did not discuss the test results or know on September 2 the results of the test that he signed for. Dr. Varyani stated that he finds that incredible because Dr. Anthony knew that GBS at that point, bulbar or the regular kind, was not behaving properly. He stated that how Dr. Anthony could see the patient later and not discuss the test is beyond his understanding. Dr. Varyani stated that he believes that that is way below minimal standards.

Dr. Varyani stated that because Dr. Anthony has admitted his mistakes and been cooperative with the Board, he would stay the suspension and impose probation. He stated that he cannot just let Dr. Anthony be, after he ordered a test and didn't discuss the test with the patient. He noted that the test was definite that the patient had MG. Dr. Varyani stated that there has to be some price for that. He spoke against a reprimand and letting Dr. Anthony go.

Dr. Stephens indicated that she felt that three years of probation is too long, and that one year would be appropriate.

DR. STEINBERGH MOVED TO AMEND CONCLUSION OF LAW # 3 TO INDICATE THAT THE EVIDENCE DOES ESTABLISH THAT PROVISION OF THE IVIg TREATMENT IN JUNE 2005 WAS BELOW THE MINIMUM STANDARDS OF CARE. DR. STEINBERGH FURTHER MOVED TO AMEND THE PROPOSED ORDER BY CHANGING THE PROBATIONARY TERM

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FROM THREE YEARS TO ONE YEAR, WITH THE SAME PROBATIONARY TERMS IN PLACE. SHE FURTHER MOVED: TO AMEND PARAGRAPH 4, THE MEDICAL RECORDS COURSE REQUIREMENT, TO INDICATE THAT IT MUST BE COMPLETED BEFORE THE END OF THE PROBATIONARY PERIOD; TO AMEND PARAGRAPH 5, THE MONITORING PHYSICIAN REQUIREMENT, TO REQUIRE DR. ANTHONY TO CHOOSE ONE OF HIS PARTNERS TO MONITOR TEN CHARTS A MONTH DURING THE YEAR OF PROBATION, WITH APPROPRIATE REPORTING, AS THE LANGUAGE IS DEVELOPED IN THE PROPOSED ORDER. DR. STEINBERGH FURTHER MOVED THAT REFERENCE TO SECTION 4731.22(B)(26) IN THE REPORT AND RECOMMENDATION BE AMENDED TO READ SECTION 4731.22(B)(6). DR. AMATO SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. PETRUCCI'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JAMES J. ANTHONY, M.D. DR. STEPHENS SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ROMEO C. ENRIQUE, M.D.

Dr. Madia directed the Board's attention to the matter of Romeo C. Enrique, M.D. He advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

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DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF ROMEO C. ENRIQUE, M.D. DR. VARYANI SECONDED THE MOTION.

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

Dr. Varyani stated that he worked with Dr. Enrique for four years, but he does feel that he can remain impartial in this case. Dr. Varyani stated that he supports the Proposed Order, requiring Dr. Enrique to pass the SPEX for restoration of his license.

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

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

The motion carried.

MICHAEL ANTHONY LISTON

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

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

Mr. Liston thanked the Board for the opportunity to speak. He stated that he has been a factory worker most of his life. The last couple of jobs he's had required background checks and nothing turned up on those checks, so when he filled out his application to sit for the massage therapy examination, he answered "no," that he had no criminal background because he assumed that nothing would show up on the background check like it had failed to show up before. He was wrong and he's sorry for that.

Mr. Liston concluded by stating that he's trying to improve his family's way of life by becoming a massage therapist.

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

Ms. Pfeiffer stated that she does not.

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DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MICHAEL ANTHONY LISTON. DR. VARYANI SECONDED THE MOTION.

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

Dr. Amato noted that Mr. Liston's misdemeanor conviction was over twenty years ago. He commented that it seems that the proposed 180-day suspension on his license is a bit severe. He stated that, as a matter of fact, he would like to see zero suspension, but he doesn't like the fact that Mr. Liston didn't mention that conviction. He stated that he would impose a ten-day suspension with no probation. He again noted that this was a misdemeanor crime that occurred 20 years ago and there have been no other infractions of the law by Mr. Liston.

Dr. Stephens stated that she would agree with no suspension, but she doesn't know which is better: no suspension or no probation. Dr. Stephens stated that she would think that no suspension and a very limited probation would be better for him. She suggested a three-month probation.

Dr. Steinbergh stated Mr. Liston has applied for a massage therapy license and he did have, in fact, a misdemeanor over twenty years ago. He did not answer the Board's questions correctly. The Conclusions of Law state that his actions do constitute making a false, fraudulent, deceptive and misleading statement. She stated that Mr. Liston has been very remorseful for his failure to answer the application question correctly.

Dr. Steinbergh stated that she agrees with the Proposed Order granting Mr. Liston a license. There is a question then about the suspension, which could be stayed. Dr. Steinbergh stated that she agrees that the probationary term is too long, and she suggested a one-year probation. She stated that the reason she suggests a one-year probation is that she believes that he ought to be taking a personal and/or professional ethics course to allow him to understand the responsibilities to his certificate and what it means to take care of patients in the state of Ohio. Dr. Steinbergh stated that when the Board licenses a massage therapist, it is saying that this is an ethical and honest individual, and to the best of the Board's knowledge, is appropriate for massage therapy. Dr. Steinbergh stated that there is no evidence that Mr. Liston would not be an appropriate therapist, but this would be a good time to take this course.

Dr. Steinbergh stated that her thought was that, if Mr. Liston had some professional ethics course during his massage therapy training, he could submit that to the Board as documentation of the professional piece and then go on to take the personal ethics course. She stated that she thinks that the other parts of the Proposed Order are appropriate.

Dr. Varyani agreed with staying the suspension and imposing a one-year probation. Dr. Varyani noted that Mr. Liston has stayed out of trouble for 20 years, and, according to his statement, he wants to better his life for his family and himself. Dr. Varyani would just let it go at that.

Dr. Steinbergh suggested a reprimand and probation for one year.

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Dr. Varyani stated that that would be great.

Dr. Stephens stated that, in terms of Mr. Liston's "lying," she can put herself in his shoes and believe that he applied for jobs, they did a background check, nothing came up, and he believed his record is expunged and he really didn't have to put that on an application. She stated that she can see where he made that mistake. She doesn't get the sense that he was purposely trying to be deceitful or lie or anything like that. He thought about it and came to the wrong conclusion. She suggested a reprimand and minimal probation.

Dr. Amato agreed with Dr. Stephens. He suggested that, de facto Mr. Liston has served a one-year suspension, based on the eleven months he has been kept from practicing massage therapy, having filed his application in August 2008. He agrees with a reprimand and the idea of probation. He added that the ethics course requirement also makes sense.

Dr. Steinbergh stated that she doesn't look at that "application pending" time as a suspension. She stated that Mr. Liston couldn't have expected to start practicing at the time he submitted his application.

Dr. Amato stated that a clean license application would have brought him within a month of licensure.

Dr. Varyani stated that applications are made before the applicant even sits for the licensing examination.

Ms. Debolt explained that the application for massage therapy is actually an application to sit for the exam. If his application came in in August, it was to sit for the December 2008 examination. And then it would be seven months since he passed the December examination.

Dr. Amato stated that no matter how the Board talks about the months, Mr. Liston has already had a suspension.

Ms. Debolt advised that, for purposes of professional licensure, an expunged conviction is not necessarily expunged, and it does show up on background checks, routinely.

Dr. Stephens stated that she doesn't think that lay people know that.

Mr. Whitehouse stated that the question asks whether the applicant has ever been convicted. It doesn't say, "excluding expungements."

Ms. Pfeiffer stated that this conviction was never expunged. It just didn't show up on some background checks.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MR. LISTON TO GRANT HIM A LICENSE TO PRACTICE MASSAGE THERAPY, TO REPRIMAND HIM, TO PLACE HIM ON PROBATION FOR AT LEAST ONE YEAR, DURING WHICH TIME HE WILL COMPLETE A PERSONAL AND/OR PROFESSIONAL ETHICS COURSE, THE EXACT NUMBER OF HOURS AND THE COURSE OR COURSES SHALL BE

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SUBJECT TO PRIOR APPROVAL OF THE BOARD.

Dr. Steinbergh stated that if Mr. Liston wishes to submit some evidence of having taken a course in professional ethics during his training, he could submit that to the Board for approval and then just take the personal ethics course.

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

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. CLOVIS' FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED IN THE MATTER OF MICHAEL ANTHONY LISTON. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JASON D. MCCOMB, M.T.

Dr. Madia directed the Board's attention to the matter of Jason D. McComb, M.T. He advised that objections were filed to Hearing Examiner Shamansky'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 Mr. McComb.

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Five minutes would be allowed for that address.

Mr. McComb stated that he's not arguing his case. He stated that he has made his mistakes in the past and he's not hidden any of them from anybody. He stated that he's been trying his best over the past four years to rebuild his life. He went to school for massage therapy while holding down two jobs and taking care of his two children. Mr. McComb stated that he's abstained from alcohol for over three years, and he doesn't have any plans to partake again. Mr. McComb stated that he's not against the Findings of Fact, but he can't do anything to change his past. He stated that he's hoping that the Board will see that he's been doing everything possible to better himself. He advised that he still has some questions about Roy Nichols, the person who was his counselor at Glenbeigh Hospital, where the Board asked him to go for an evaluation and which cost him \$1,800 plus other costs that have been adding up. All he's trying to do is start over and try to get licensed.

Mr. McComb stated that he does appreciate the Board hearing him today. He stated that he knows that his lawyer and the Assistant Attorney General have agreed upon the outpatient program and such, which is still quite costly. Mr. McComb stated that he'll do what he has to, but he's asking for a little leniency. It's been over three years since he's had a drink, and almost five years since the last incident happened. He stated that he has changed his life significantly.

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

Ms. Unver stated that Mr. McCombs submitted an application to the Board for licensure as a massage therapist in August 2007. That application is pending and is before the Board today. She stated that he had submitted documentation with his application indicating that he had convictions for three offenses, including operating a motor vehicle under the influence of alcohol or drugs in 2000, reckless operation of a vehicle in 2001, and loss of physical control of a vehicle in 2005. He was ordered by the Board to attend a 72-hour assessment at Glenbeigh, and Dr. Adelman determined that Mr. McComb was impaired, due to chemical dependence. Based upon, and consistent with the amendment to, OAC 4731-16-02, which deals with impairment for practitioners, and specifically as it is addressed to massage therapists, Dr. Adelman asserted that Mr. McComb should undergo intensive outpatient treatment involving a minimum of 20 treatment sessions over no less than five consecutive weeks. Ms. Unver noted that this is a less stringent standard than what used to be contained within the Administrative Code. Ms. Unver stated that the State agrees with the Report and Recommendation's findings that Mr. McComb would be a good candidate for the intensive outpatient treatment program; and it agrees with the Proposed Order, as well.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. SHAMANSKY'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JASON D. MCCOMB, M.T. DR. VARYANI SECONDED THE MOTION.

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

Dr. Steinbergh stated that she agrees with the Conclusions of Law, in terms of Mr. McComb's impairment. He did undergo a 72-hour assessment. He was very appropriate in his approach to this. She stated that the Proposed Order before the Board is similar to a Step I Consent Agreement. It grants him a license,

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suspends that license for an indefinite period of time but not less than 90 days. Dr. Steinbergh reviewed the terms of the Proposed Order, and advised that she agrees with the Proposed Order.

Dr. Stephens disagreed with the Proposed Order, stating that she doesn't think that there should be a suspension or that Mr. McComb should have to go through probation. She noted that he has been alcohol free for three years and trouble-free for five years. She felt that requiring him to undergo the expense of outpatient treatment was onerous. She stated that the suspension should be stayed, and the five-year probation is also too long. She would recommend a shorter probation.

Dr. Varyani stated that he understands that Mr. McComb has advised that he has abstained for the last three years; however, there is no proof of that. He stated that Mr. McComb has indicated that he just went through an \$1,800 program at Glenbeigh, and the finding there was that he is impaired. Dr. Varyani stated that he has no way of knowing whether Mr. McComb is telling the truth or not. Dr. Varyani stated that he doesn't care about the suspension, and that he would go either way on that. But he thinks that the probation is important and that outpatient treatment is important. The Board needs to be assured that he is being rehabilitated.

Dr. Steinbergh stated that the only objective criteria this Board has, and that it is obligated to follow, is that it asks for an assessment. She stated that people come out of such programs with an assessments that they're not impaired, at which point the Board grants a license and the individuals go on with what they need to do. In this case, there was an assessment of impairment of ability to practice. The Board can't ignore that, and like every other impaired physician or licensee, he has to be monitored appropriately. She stated that the Step I agreements are all the same. He has to be out of practice. A three-month suspension period is effectively going to allow him the time to become monitored, set himself up. Dr. Steinbergh stated that to deviate from the Proposed Order is very dangerous. It sets a precedent that is just wrong. She stated that she understands, emotionally, how you can feel sorry for a person, but, quite frankly, Dr. Varyani is right. The Board has no objective criteria to say that this person has abstained from alcohol. He's not coming before the Board with urine tests, drug testing, or any other documentation that he, in fact, has been sober.

Dr. Mahajan stated that in August 2007 Mr. McComb applied to take the Medical Board massage therapy examination. It has been 22 months since the application was filed.

Dr. Steinbergh stated that during that period of time there was an investigation. She stated that that's what goes on. She added that there's nothing that says that any applicant in the State of Ohio gets a license. They get a license under certain circumstances. If you change the process, then it will forever change what the Board does.

Ms. Debolt stated that she would like to remind the Board that the Proposed Order before the Board includes a Conclusion of Law that the applicant is impaired. Ohio Revised Code says that, if the Board finds a licensee or applicant to be impaired, it shall require them to demonstrate that they have had treatment as one of the conditions. If the Board doesn't want to require him to undergo treatment and establish that he's no longer impaired through the regular mechanisms, it will have to amend the Conclusions of Law.

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Dr. Amato stated that the Revised Code does not specify a maximum or minimum time for suspension. He stated that the Proposed Order could be amended to state that his license shall be suspended for a minimum period of thirty days from the date of mailing of the Order. Mr. McComb would still have to comply with the reinstatement conditions before he can get his license. If he can get through all the requirements in 30 days, then on day 31 he would be “good to go.” If it takes him 40 days, the suspension would, in fact, last 40 days.

Dr. Steinbergh agreed, and again reviewed the terms he would have to meet for reinstatement.

Dr. Amato stated that he agreed with what Dr. Varyani said but, perhaps, for slightly different reasons. He stated that it seems to him that Mr. Albert did an awful lot of work, and the Board went through a lot of soul searching, to make outpatient treatment available to limited branch practitioners. Dr. Amato stated that it seems to him that therapy will hopefully lower the relapse rate. He would hope that there would be a much better potential long-term outcome with the therapy. He stated that he would like to see that at the time Mr. McComb finishes the therapy and gets everything else in place, he’d be allowed to go to work.

Dr. Mahajan stated that it would take a minimum of six weeks to finish his required treatment, and he suggested a minimum suspension period of two months.

Dr. Stephens stated that she would like to state something for the record, because Dr. Steinbergh said something about her comments being emotional.

Dr. Steinbergh stated that she didn’t say that.

Dr. Stephens stated that she was the only one who made an objection, so Dr. Steinbergh was referring to the objections. She stated that she wants to state for the record that it wasn’t based on emotion.

Dr. Madia asked to get back on the subject.

DR. AMATA MOVED TO AMEND THE PROPOSED ORDER TO CHANGE THE SUSPENSION PERIOD TO 60 DAYS. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. SHAMANSKY'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JASON D. MCCOMB, M.T. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Dr. Talmage left the meeting during the following discussion.

STEVEN PAUL SHERRY, D.O.

Dr. Madia directed the Board's attention to the matter of Steven Paul Sherry, D.O. He advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF STEVEN PAUL SHERRY, D.O. MR. HAIRSTON SECONDED THE MOTION.

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

Dr. Steinbergh stated that Dr. Sherry is an emergency room physician. Ten patient cases were evaluated and she had grave concerns for all ten of them related to minimal standards of care. Dr. Steinbergh stated that she found the record of this matter to be very appropriate. She added that Mr. Porter made a very concise summary of the case. She added that the record demonstrates very sloppy care on the part of Dr. Sherry, including not finding the results of blood cultures. Dr. Steinbergh stated that she finds that Dr. Sherry practiced below minimal standards of care in all of these cases. She stated that she felt that his defense was, basically, to attack the State's expert with questions and putting different scenarios into play to confuse the State's expert. Dr. Steinbergh stated that she felt that the State's expert did a good job. Dr. Steinbergh stated that Dr. Sherry simply fabricated stories during the testimony to defend himself. She noted that there was inappropriate documentation about the deterioration of one patient.

Dr. Steinbergh stated that, in the case of Patient 7, in which Dr. Sherry defended himself by saying that he'd been out of residency for five to seven months, and he was still at that point relying on other people to

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help him to do the things that he needed to do to follow the protocol and to address what needed to be addressed at the time. Dr. Steinbergh commented that in that statement Dr. Sherry was blaming another physician for his own inappropriate behavior. Dr. Steinbergh stated that Dr. Sherry discharged patients inappropriately, and he blamed nurses for erroneous reports. She added that the bottom line for her is that Dr. Sherry has absolutely practiced below the minimal standards of care. He also was very dishonest in his personal defense. He made up reasons why the cases went the way they went, and he tried to defend his care. He brought no defense witnesses. Dr. Steinbergh stated that she felt that Dr. Sherry had no one who would be able to defend him.

Dr. Steinbergh stated that the discussion concerning the Proposed Order by Mr. Porter said that Dr. Sherry's conduct seemed to evidence a lack of medical knowledge, a lack of sound medical judgment and/or carelessness. Dr. Steinbergh stated that she would also say that there was a great degree of dishonesty. She added that she agrees with the Proposed Order of permanent revocation.

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

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

The motion carried.

MUHAMMAD Z. SHRAYYEF, M.D.

Dr. Madia directed the Board's attention to the matter of Muhammad Z. Shrayyef, M.D. He advised that no objections were filed to Hearing Examiner Shamansky's Report and Recommendation.

DR. VARYANI MOVED TO APPROVE AND CONFIRM MS. SHAMANSKY'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF MUHAMMAD Z. SHRAYYEF, M.D. MR. HAIRSTON SECONDED THE MOTION.

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

Dr. Varyani stated that this case is a licensure case. Dr. Shrayyef sat for and passed Step 1 of the USMLE in October 1997. He sat for and passed Step 2 in March 1998. Then, because of training or other difficulties, he didn't sit for Step 3 until May 2003. He did not succeed on his first two attempts. He did pass the exam in July 2006.

Dr. Varyani advised that Dr. Shrayyef did not fail any of the steps more than three times. He stated that

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under the recent rule change, Dr. Shrayyef is now eligible for a license. He added that Dr. Shrayyef is also board-certified. Dr. Varyani spoke in support of the Proposed Order, granting him a license.

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

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

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDER

DAVID RONALD MILLER, M.D.

Dr. Madia directed the Board's attention to the matter of David Ronald Miller, M.D. He advised that the Board issued a notice of opportunity for hearing to Dr. Miller, and documentation of service was received. There was no request for hearing filed, 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.

He at this time asked for a motion in this matter.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE DECEMBER 10, 2008 NOTICE OF OPPORTUNITY FOR HEARING IN THE MATTER OF DAVID RONALD MILLER, M.D., HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ADOPT THE PROPOSED FINDINGS AND PROPOSED ORDER. DR. MAHAJAN SECONDED THE MOTION.

Dr. Steinbergh stated that in November 2002, Dr. Miller entered into a consent agreement with the Board in which he admitted to a diagnosis of major depressive disorder. Dr. Miller's treating psychiatrist had opined that he was psychologically unable to continue to practice medicine. In a letter Dr. Miller sent to the Board in 2008, he said that he still suffers from depression and anxiety and is not yet able to return to practice. Dr. Steinbergh advised that Dr. Miller failed to cooperate with the Board's investigation. There was a question about whether or not he would surrender his certificate to practice medicine, but that did not come to fruition. Dr. Steinbergh stated that the Proposed Order is for revocation. She stated that it is a non-permanent revocation, and should Dr. Miller become well again, he could reapply for licensure in the State of Ohio.

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Dr. Talmage returned during the previous discussion.

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

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

The motion carried.

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. He added that Dr. Talmage and Mr. Albert may participate in the discussion and vote in the matter of Kimberly Stewart, M.D., as that case is not disciplinary in nature and concerns only the individual's qualifications for licensure.

KIMBERLY ANN STEWART, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MAY 13, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, APPROVING DR. STEWART'S APPLICATION FOR A CERTIFICATE TO PRACTICE MEDICINE AND SURGERY, SUBJECT TO HER PASSING THE SPEX OR SPECIALTY BOARD RECERTIFICATION EXAMINATION WITHIN SIX MONTHS OF MAY 13, 2009. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

PATSY NERISSA FIRTH, M.D.

Dr. Steinbergh stated that normally under circumstances like this, she might say that the Board would revoke the license and it would become effective immediately because she didn't request a hearing in a timely fashion. She stated that, on reading the case, she thought she would suggest something else.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE AUGUST 14, 2008 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER THE FOLLOWING ORDER, EFFECTIVE IMMEDIATELY:

It is ORDERED that:

- A. **SUSPENSION, STAYED; PROBATION.** The certificate of Patsy Nerissa Firth, M.D., to practice medicine and surgery in the State of Ohio is hereby SUSPENDED for a period of 180 days. Such suspension is STAYED, subject to PROBATIONARY terms, conditions, and limitations as follows for a period of at least two years.
1. **Obey the Law:** Dr. Firth shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which she is practicing.
 2. **Personal Appearances:** Dr. Firth shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective or as otherwise ordered by the Board. Dr. Firth shall also appear upon her request for termination of the probationary period, and/or as otherwise requested by the Board.
 3. **Quarterly Declarations:** Dr. Firth shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent declarations must be received in the Board's offices on or before the first day of every third month.
 4. **Medical Records Course(s):** Within one year of the effective date of this Order, Dr. Firth shall provide acceptable documentation of satisfactory completion of a course or courses on maintaining adequate and appropriate medical records, such course(s) to be approved in advance by the Board or its designee. Any courses taken in compliance with this provision shall be in

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

In addition, at the time Dr. Firth submits the documentation of successful completion of the course or courses on maintaining adequate and appropriate medical records she shall also submit to the Board a written report describing the course(s), setting forth what she learned from the course(s), and identifying with specificity how she will apply what she has learned to her practice of medicine in the future.

5. **Practice Plan:** Prior to Dr. Firth's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Firth shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Firth's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Firth shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

At the time Dr. Firth submits her practice plan, she shall also submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary or Supervising Member will give preference to a physician who practices in the same locale as Dr. Firth and who is engaged in the same or similar practice specialty.

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

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

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

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Board directly of his or her inability to continue to serve and the reasons therefor.

6. **Violation of Terms of Probation:** If Dr. Firth violates probation in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.

- B. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Firth's certificate will be fully restored.

- C. **REQUIRED REPORTING AND DOCUMENTATION OF REPORTING**

1. **Required Reporting To Employers and Others:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Firth shall provide a copy of this Order to all employers or entities with which she is under contract to provide health-care services (including but not limited to third-party payors) or is receiving training, and the Chief of Staff at each hospital or health-care center where she has privileges or appointments.

Further, Dr. Firth shall provide a copy of this Order to all employers or entities with which she contracts in the future to provide health-care services, or applies for or receives training, and the Chief of Staff at each hospital or health-care center where she applies for or obtains privileges or appointments. This requirement shall continue until Dr. Firth receives from the Board written notification of her successful completion of probation as set forth in section B above.

2. **Required Reporting To Emergency Medical Services Organization or Provider:** In the event that Dr. Firth provides any health-care services or health-care direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, Dr. Firth shall provide, within 30 days or as otherwise determined by the Board, a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.
3. **Required Reporting To Other Licensing Authorities:** Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Firth shall provide a copy of this Order to the proper licensing authority of any State or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which she currently holds any license or certificate.

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When Dr. Firth applies for any professional license or reinstatement/restoration of any professional license in any State or jurisdiction, she shall provide a copy of this Order to the proper licensing authority of that State or jurisdiction at the time of application. This requirement shall continue until Dr. Firth receives from the Board written notification of her successful completion of probation as set forth in section B, above.

4. **Documentation that the Required Reporting Has Been Performed:** Further, Dr. Firth shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each notification required above: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

Dr. Steinbergh explained that Dr. Firth was a psychiatrist who was disciplined for a minimal standards of care violation by the Maryland Board of Physicians in October 2008. They based their action on conclusions that she “failed to meet the standard of quality medical care and failed to maintain adequate medical records as required under the Maryland Medical Practice Act.” Dr. Steinbergh stated that they reviewed ten cases of Dr. Firth’s while she had been medical director of the Chesapeake Youth Center in Cambridge, Maryland. She was the director from October 2002 until June 2005, at which time she resigned. Dr. Steinbergh stated that, according to the October 2008 Consent Order, Dr. Firth is now in private psychiatric practice in Maryland.

Dr. Steinbergh stated that the Maryland Board’s Consent Order reprimanded Dr. Firth, placed her on probation for two years, and during which time she was subject to chart and/or peer review.

Dr. Steinbergh noted that her Proposed Order stays a suspension of 180 days and places her into a two-year probationary period. During the first year of that probation, she would be required to do a medical records course. Should she desire to practice in Ohio, she would be required to submit a monitored practice plan.

DR. AMATO SECONDED DR. STEINBERGH’S MOTION.

Dr. Varyani asked why Dr. Firth would want to come and practice in Ohio. He stated that he understands that she has an Ohio license.

Dr. Steinbergh stated that the reason she put the requirement for a monitored practice plan is that if

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Dr. Firth does decide to come into the State of Ohio, the Board wants to monitor her practice. She stated that she was trying to do this bootstrap action in a way that would allow Dr. Firth the same opportunities that she has in Maryland.

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

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

The motion carried.

ANAMIKA JAIN, M.D.

DR. STEINBERGH MOVED TO FIND THAT THE ALLEGATIONS AS SET FORTH IN THE MAY 13, 2009 NOTICE HAVE BEEN PROVEN TO BE TRUE BY A PREPONDERANCE OF THE EVIDENCE AND TO ENTER AN ORDER, EFFECTIVE IMMEDIATELY, REVOKING DR. JAIN'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN OHIO. MR. HAIRSTON SECONDED THE MOTION.

Dr. Steinbergh stated that on February 3, 2009, the Medical Board of California issued a notice "Notice of Out of State Suspension Order." Dr. Jain also has a suspension of his Nevada license.

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

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

The motion carried.

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CITATIONS, PROPOSED DENIALS, ORDERS OF SUMMARY SUSPENSION & NOTICES OF IMMEDIATE SUSPENSION

CONSTANCE E. ANGE, 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. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. ANGE.
DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

DENISE MARIE BACHMANN, M.T. – CITATION LETTER

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

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

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

The motion carried.

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ROBERT SCOTT BLANKENBURG, 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. BLANKENBURG. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

WALTER GEORGE BROADNAX, 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. STEINBERGH MOVED TO SEND THE NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING TO DR. BROADNAX. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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JOSEPH F. KARRE, 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. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. KARRE, D.O.
DR. VARYANI SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

JORDAN JAMES SCURALLI, M.T. APPLICANT – 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. SCURALLI. MR. HAIRSTON SECONDED THE MOTION.** A vote was taken:

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

The motion carried.

SOHRAB SHAFINIA, 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.

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DR. STEINBERGH MOVED TO SEND THE CITATION LETTER TO DR. SHAFINIA. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MICHAEL J. VJECHA, M.D. – 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. STEINBERGH MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF MICHAEL J. VJECHA, M.D., 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. Varyani	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- aye

The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

Board members were provided with copies of settlement agreements negotiated by Board staff and/or the

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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.

CYNTHIA L. BROWN, M.D. – STEP I CONSENT AGREEMENT

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

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

The motion carried.

PAUL BLANCHARD, M.D. – STEP II CONSENT AGREEMENT

DR. STEINBERGH MOVED TO RATIFY THE PROPOSED STEP II CONSENT AGREEMENT WITH DR. BLANCHARD. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

NAKISHA SHWAINA SIMONE HINES – CONSENT AGREEMENT

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

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ROLL CALL:

Mr. Albert	- abstain
Dr. Talmage	- abstain
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

HAROLD C. MASON, M.D. – CONSENT AGREEMENT

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Talmage	- abstain
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye
Dr. Madia	- aye

The motion carried.

RASHID N. MERCHANT, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Talmage	- abstain
Dr. Varyani	- aye
Mr. Hairston	- aye
Dr. Amato	- aye
Dr. Stephens	- aye
Dr. Mahajan	- aye
Dr. Steinbergh	- aye

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Dr. Madia - aye

The motion carried.

CLIFFORD STUMBAUGH, L.M.T. – VOLUNTARY RETIREMENT

DR. STEINBERGH MOVED TO RATIFY MR. STUMBAUGH'S VOLUNTARY RETIREMENT. DR. VARYANI SECONDED THE MOTION. A vote was taken:

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

The motion carried.

JAMES MICHAEL KENNEN, D.O. – STEP II CONSENT AGREEMENT

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

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

The motion carried.

PROBATIONARY APPEARANCES

PAUL F. HEYSE, M.D.

Dr. Heyse appeared before the Board pursuant to his request for release from the terms of his July 14, 2004 Consent Agreement. If approved, release from probation would become effective July 14, 2009.

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

In response to Board members' questions, Dr. Heyse stated that he's been sober for about six years now. He acknowledged that he's been under probation with the Board for ten years. He stated that he's a practicing vascular surgeon. He performs both general and vascular surgery, but primarily vascular surgery. He attends A.A. meetings regularly and participates in some sponsoring. He's a sponsor for an individual. He also teaches medical students and residents on substance abuse and how to stay out of trouble.

Dr. Heyse advised the medical students present in the room that it can happen and will happen. He urged them to pay attention today and hear some of the bad things that have happened to people. If they have any tendency to substance abuse or dependency, it's best to deal with it early on and get some help before things really get complicated.

In response to further questions, Dr. Heyse stated that he's not taking any medications currently.

Dr. Steinbergh noted that, according to the information provided to the Board, Dr. Heyse had been on Paxil, Avalide and Prilosec.

Dr. Heyse stated that he does take those. He indicated that he thought that the question meant any special medications.

DR. STEINBERGH MOVED TO RELEASE DR. HEYSE FROM THE TERMS OF HIS JULY 14, 2004 CONSENT AGREEMENT. DR. VARYANI SECONDED THE MOTION. All members voted aye. The motion carried.

JOHN F. KUNKEL, M.D.

Dr. Kunkel appeared before the Board pursuant to his request for release from the terms of his May 12, 2004 Consent Agreement.

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

In response to Board members' questions, Dr. Kunkel stated that he's doing well. He advised that he hasn't had a manic episode or a major depressive episode since 2001. He's currently taking 2500 mg of Depakote a day. He sees a psychiatrist for routine medication checks and, if needed, additional psychotherapy.

In response to further questions, Dr. Kunkel stated that his family support is excellent. He has a loving wife of eleven years and three dogs. He stated that life is very good in California. He's the Chief of the Department of Pathology at his hospital. He stated that things are going well.

DR. STEINBERGH MOVED TO RELEASE DR. KUNKEL FROM THE TERMS OF HIS MAY 12, 2004 CONSENT AGREEMENT. DR. AMATO SECONDED THE MOTION. All members voted

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aye. The motion carried.

Dr. Madia asked Ms. Bickers why the medication Dr. Kunkel is taking isn't included in the information provided to the Board.

Ms. Bickers stated that there hasn't been a meeting with Dr. Kunkel since his September 2004 initial appearance, so she was unaware of any medication he was taking.

JAMES M. MCGINNIS, D.O.

Dr. McGinnis appeared before the Board pursuant to his request for release from the terms of his July 14, 2004 Step II Consent Agreement. If approved, release from probation would become effective July 14, 2009.

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

In response to Board members' questions, Dr. McGinnis acknowledged that he's in a family practice in Wheelersburg, Ohio. He stated that it looks like he's getting a new partner, so he'll be slowing down a little bit.

Dr. McGinnis stated he has a stepdaughter at home, a beautiful wife, and a 70-year old house that he's trying to fix up himself. He's not taking any medicine. He stated that he has no real physical complaints, other than a little arthritis. Dr. McGinnis stated that work has been a little bit too hectic for his liking, so he's recruiting a partner, and that looks good. He should be slowing down a little bit within the next month or so.

His recovery program is pretty standard and has pretty much remained the same for the last four years or so. He attends three or four meetings a week. He has a Suboxone program in his office. He has A.A. meetings in his office to benefit some of the other folks in the community. He has a good sponsor who has been his sponsor for six years.

Dr. Madia noted that the information provided the Board indicates that Dr. McGinnis has a psychiatric diagnosis of anxiety and depression. He asked whether he is taking any medication for that.

Dr. McGinnis stated that he is not. He added that that diagnosis was made about six years ago, when he was going through a divorce. He sought help from a psychiatrist, who recommended that he get a divorce, get a new girlfriend and take Lexapro. He took Lexapro sporadically, commenting that he wasn't a good patient, and then when he went to rehab they gave it to him every day and he couldn't handle it. It made him so sluggish, and his response time was so slow. He asked if he could stop it and they told him that he'd better. He hasn't had anything since getting a divorce, getting a new girlfriend, and stopping drinking.

DR. STEINBERGH MOVED TO RELEASE DR. MCGINNIS, EFFECTIVE JULY 14, 2009 FROM THE TERMS OF HIS JULY 14, 2004 STEP II CONSENT AGREEMENT. DR. MAHAJAN SECONDED THE MOTION. All members voted aye. The motion carried.

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TANIA RENEE (ECK) NEATER, M.T.

Ms. Neater appeared before the Board pursuant to her request for release from the terms of her December 14, 2005 Consent Agreement.

Ms. Bickers reviewed Ms. Neater's history with the Board.

In response to Board members' questions, Ms. Neater stated that she has been sober for five years, with a sobriety date of April 23, 2004. She was married in May 2008. She attends three to four A.A. and Al-Anon meetings a week. She stated that she has an awesome sponsor, who is also a massage therapist. She has a tight-knit recovery community, and she plans to continue to go to meetings and take it one day at a time.

DR. VARYANI MOVED TO RELEASE MS. NEATER, EFFECTIVE JULY 14, 2009, FROM THE TERMS OF HER DECEMBER 14, 2005 CONSENT AGREEMENT. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

AIMEE V. CHAPPELOW, M.D.

Dr. Chappelow made her initial appearance before the Board, pursuant to the terms of her April 8, 2009 Step I Consent Agreement.

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

In response to Board members' questions, Dr. Chappelow stated that she has had the blessing of having some time off, which she desperately needed. She jumped in and made her whole life about recovery. She's been attending nine to ten meetings a week, she has daily contact with her sponsor, and she exercises. Dr. Chappelow stated that she's gotten into yoga and meditation. She's taken the opportunity to finish some papers she's been writing, and to tie up some loose ends at the same time.

In response to further questions posed by Dr. Steinbergh, Dr. Chappelow stated her addiction started in the summer of 2008. She stated that she's always been a very anxious person and she's been treated with S.S.R.I.s. She's always needed to have exercise and balance in her life. At that time she began applying for retina fellowships and she was rotating in her field of choice, and she was working all of the time. She was working 14-hour days, and on the weekends she was writing chapters and writing articles. Then she started interviewing. She went on fourteen interviews, all over the country, and she didn't have balance in her life. As such, she decompensated. When she was in such a state of needing calm in her life and not getting it, the Percocet gave that to her. She advised that her father had had a tooth extraction and, since her parents don't take medicines, he had only taken one pill. She stated that she just went to the medicine cabinet, and added that that one bottle was enough to get her started. Dr. Chappelow stated that it was really a frightening experience. Had she known what she knows now, she would have done things differently. Dr. Chappelow stated that it's been an interesting learning experience, and she truly believes that addiction is a physical illness. She's experienced it and it's very powerful. Dr. Chappelow stated that

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she never intended to take anything, and every time she did take something, it was going to be the last time. Several weeks went by after her father's Percocet ran out and she was feeling very stressed and hopeless, and she wrote a prescription for a fictitious patient and she went to a pharmacy and had it filled. She added that the patient's name she used was one that she knew wouldn't be linked to insurance, that she could pay cash for it. She filled the prescription, and she felt very ashamed and she didn't even finish the whole prescription. She threw it out, feeling horrified. Dr. Chappelow continued that a matter of weeks later she found herself doing the same thing. In retrospect, she felt a true feeling of powerlessness.

In response to further questions, Dr. Chappelow stated that she came to the Board's attention when a prescription she'd written was flagged at the pharmacy. She believes that her program director was notified and she was brought to the Cleveland Clinic. At which point she was very grateful to be there because she knew that she needed help. From that point on she's been in the process of recovery.

Dr. Chappelow stated that when she was using the Percocet, she got the same "pull" that she gets with alcohol, and she was using it to relax. She was using it as a social lubricant because she had a lot of social anxiety. She found that it was taking away from her life. It was taking her time, and she wasn't doing the things she used to do, such as staying in excellent physical fitness. She felt herself being compromised. She had to abstain completely, because it was not something that she could do on a social level and maintain. She found that she wasn't able to drink socially anymore. She went to some A.A. meetings and got some help that way. She didn't undergo treatment for that, per se. The end of her drinking was probably three and a half years ago, since she moved to Cleveland.

In response to further questions, Dr. Chappelow stated that there was no history of alcoholism or depression in her family before that. Her parents are married and she had a very healthy childhood.

Dr. Steinbergh stated that she appreciates Dr. Chappelow's openness and sharing with the students present.

DR. STEINBERGH MOVED TO CONTINUE DR. CHAPPELOW UNDER THE TERMS OF HER APRIL 8, 2009 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MAHAJAN SECONDED THE MOTION. All members voted aye. The motion carried.

LYNNE A. EATON, M.D.

Dr. Eaton made her initial appearance before the Board, pursuant to the terms of her January 14, 2009 Step I Consent Agreement.

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

In response to Board members' questions, Dr. Eaton stated that her drug of choice was Percocet. She advised that she had surgery in December. She added that it's amazing in that when she puts the Percocet into her mouth, her brain changes, she becomes a sick addict. She was off to the races again. She stated that the doctor who prescribed the Percocet did know about her chemical dependence. She stated that she talked about it with her psychiatrist, who is also an addictionologist, and he sent a letter to the surgeon.

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Dr. Eaton stated that part of the problem for the surgeon was that she went to a few emergency rooms (E.R.s) post surgery for a large hematoma, and in her addict brain she thought she was having a lot of pain. She didn't fully disclose to the E.R. physicians that she was an addict. She told the nurse, but not the physician. Dr. Eaton stated that she had gone to an urgent care for her perceived pain, and a very astute nurse practitioner realized that it was probably drug-seeking behavior and confronted her. After that, she personally notified the Board.

In response to further questions Dr. Eaton stated that during this period of suspension, she's spending a lot of time with her two teenage children and her three dogs. She does go to quite a few meetings per week, even though they're not on her log. She explained that she logs in three meetings, but she attends probably six or seven meetings a week. She stated that she has a wonderful sponsor. She also has a group of running buddies who are also in recovery, and every morning at 6:00 a.m. they go running. She also has a trainer with whom she works out twice a week to help with her depression and to just kind of keep her healthy.

Mr. Albert advised that prior to Dr. Eaton's relapse she was a good probationer. He stated that he has a lot of confidence in her. She has good prospects for a job for the year she'll be out of practice. He advised that he thinks that she has good prospects for a good recovery and getting back into practice.

Dr. Eaton stated that she's keeping up with her knowledge base mostly by reading peer review journals. She went to one CME program on childhood obesity, just to keep up with her CME requirements.

Concerning her future plans, Dr. Eaton stated that she's interviewing for a program directorship at the James Cancer Hospital at Ohio State, for the survivorship program. She met with someone the previous day who had very positive things to say. Dr. Eaton stated that she's hoping that that will go well. She stated that it's been a very humbling experience for her to apply for jobs and not get them when before she was one who was sought after. She misses what she did, and she hopes that she will get back into that.

DR. STEINBERGH MOVED TO CONTINUE DR. EATON UNDER THE TERMS OF HER JANUARY 14, 2009 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. AMATO SECONDED THE MOTION.

Dr. Amato stated that the citizens of the State of Ohio desperately need GYN/ONC physicians. He commented that it can be very difficult for those in the rural parts of the state to find practitioners to whom they can refer patients. Dr. Amato stated that he hopes that Dr. Eaton gets herself back straight and that she gets back into GYN/ONC. There's a desperate shortage in that area.

Dr. Amato stated that, at the same time, physicians certainly don't want to refer patients if they cannot count on that practitioner. He stated that it seems to him that quite a bit of patience has been extended to Dr. Eaton. He stated that he doesn't want to see her back in another Step I agreement.

Dr. Eaton stated that she will stay sober.

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All members voted aye on Dr. Steinbergh's motion. The motion carried.

MARJORIE M. HAAS, M.D.

Dr. Haas made her initial appearance before the Board, pursuant to the terms of her April 8, 2009 Step I Consent Agreement.

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

In response to Board members' questions, Dr. Haas stated that she's fine. She is currently trying to find employment. Aside from that, she's using the time out of practice to attend twelve-step meetings, she's involved with her aftercare each week, and she's involved with her sponsor every day, mostly just recovery issues right now.

Dr. Steinbergh stated that Dr. Haas' case is very serious in that she prescribed controlled substances to family members and co-workers without performing a medical examination. She stated that that is always of grave concern to the Board. She noted that Dr. Haas is required to take a controlled substance prescribing course. She asked whether Dr. Haas has looked into that at this point.

Dr. Haas stated that she's looked at all the options on the website. She hasn't yet talked with Ms. Bickers about how to decide which one is the one that will be acceptable.

In response to questions about her recovery program, Dr. Haas stated that she attends five to six twelve-step meetings a week. She's still involved with her aftercare at Parkside, so she drives from Lebanon to Columbus every Monday for aftercare. She's in contact with her sponsor every day.

In response to further questions, Dr. Steinbergh asked whether Dr. Haas was aware of the Board's prescribing rules at the time she was prescribing for her family members, Dr. Haas stated that she was. She stated that it was just a very, very bad decision.

DR. VARYANI MOVED TO CONTINUE DR. HAAS UNDER THE TERMS OF HER APRIL 8, 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.

GREGORY GENE JOHNSON, M.D.

Dr. Johnson made his initial appearance before the Board, pursuant to the terms of the Board's Order of March 11, 2009.

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

In response to Board members' questions, Dr. Johnson stated that he's doing fine. He finished his 28 days at the Cleveland Clinic, which was excellent. He stated that Dr. Collins was a difficult but great mentor.

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He has lined up all his testing, and will make his initial call-in tomorrow. Dr. Johnson stated that he has a sponsor, who has been around four years and who was recommended to him by the fellows at the Cleveland Clinic. He stated that he's been attending Caduceus meetings on a regular basis. He stated that he's doing approximately four meetings a week.

Dr. Johnson stated that he's waiting to see what happens in terms of reinstating his license before he pursues any employment. What he's doing now is spending a lot of time with his family, reuniting a lot of relationships that have been strained in the past.

Dr. Johnson stated that he was very lucky. He went to the Cleveland Clinic on his own volition, although the Board told him that he needed to undergo a 28-day program. He actually went on his own. He stated that he didn't know if he was going to try to get his license back again, but he knew that he had to do something because his relationship with his family was not good. He was fortunate the first few days he was there when he met another physician who gave him some direction, and he was told to take this time and use it. He actually did and was fortunate in having a very rewarding experience. Giving up control has been the best thing that's happened to him. It's been excellent, not only in terms of recovery, but in terms of personal relationships. He commented that he and his wife probably have the best relationship they've had in a number of years.

DR. VARYANI MOVED TO CONTINUE DR. JOHNSON UNDER THE TERMS OF THE BOARD'S ORDER OF MARCH 11, 2009, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION. All members voted aye. The motion carried.

JONATHAN L. HAIMES, M.D.

Dr. Haimes made his initial appearance before the Board, pursuant to the terms of his May 13, 2009 Step II Consent Agreement.

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

In response to Board members' questions, Dr. Haimes advised that his Step I Consent Agreement required him to attend a prescribing course and a recordkeeping course. He stated that he attended both of those courses and provided documentation of that.

Dr. Haimes stated that he's in a transition right now with his doctor concerning Suboxone. He stated that he was put on Suboxone originally for opiate dependence. About a year and a half ago, he herniated two or three discs in his neck, one of which is compressing his spinal cord. He's having quite a bit of chronic pain now due to that. He stated that he didn't come off the Suboxone just because of the pain, but whether he was on it for pain or addiction was kind of foggy. Dr. Haimes stated that he asked his doctor to take him off the Suboxone. He continued that his doctor is, at the same time, trying to take care of the pain. That's kind of in transition right now. He is currently taking about a dozen medications.

Ms. Bickers stated that the list of prescriptions Dr. Haimes has provided is: Trazadone, Seroquel, Zofran,

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Topamax, and Lamictal.

Dr. Haimes listed the drugs he is taking, which include: Suboxone, Lamictal, Nexium, Mirtazapine, Nortriptyline, Chantix, Migrinol, Trazadone, Zomig, and Zofran. He stated that most of the drugs he takes are on a P.R.N. basis for migraines or the like. There are five drugs that he takes every day: Nexium, Lamictal, Mirtazapine, Nortriptyline and Chantix.

Dr. Steinbergh asked how he feels with all those medications in his body.

Dr. Haimes stated that, psychologically, he feels great. He feels lousy physically, but it's been an interesting experience learning to deal with the chronic pain. Dr. Haimes stated that he didn't understand how a patient could be in his office and indicate that the pain was a seven or eight on a scale and they look perfectly fine. He would think that at that level, people are usually writhing. Now, having to live with severe pain like that, he gets it. Life has to go on, regardless of the pain, and he does his best to distract himself.

Dr. Varyani commented that Edward Conner Covington, Jr., M.D., has a pain program at the Cleveland Clinic, and he suggested that Dr. Haimes see Dr. Covington for help.

Dr. Haimes stated that he's working with Dr. Collins' partner, who has talked with Dr. Covington about Dr. Haimes about a week ago, so Dr. Covington is involved in his case.

Dr. Steinbergh asked whether Dr. Haimes has looked at other modalities for pain management.

Dr. Haimes stated that he has. He stated that he does physical therapy, uses home traction, sees a chiropractor, and does water therapy. He has not done acupuncture due to financial limitations, his insurance specifically excludes that. Dr. Haimes stated that he believes that acupuncture is the only modality he hasn't tried.

DR. STEINBERGH MOVED TO CONTINUE DR. HAIMES UNDER THE TERMS OF HIS MAY 13, 2009 STEP II CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. AMATO SECONDED THE MOTION. All members voted aye. The motion carried.

MATTHEW PROCTOR NOYES, M.D.

Dr. Noyes made his initial appearance before the Board, pursuant to the terms of his April 8, 2009 Consent Agreement.

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

In response to Board members' questions, Dr. Noyes stated that he is doing well. He stated that he understands his Consent Agreement. He apologized to the Board, adding that what he did is an embarrassment, not only to the State of Ohio, but to his family, as well, especially when a term of being

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dishonest is put on your name. He stated that he was definitely in trouble with the law when he was younger, way before he ever thought that he would be a physician. They were immature acts, fully his responsibility. He stated that he's now in his third year of an orthopedic surgery residency. When he was getting ready to apply for his training certificate, he contacted an attorney and asked what he needed to put on his application. He stated that he told the attorney everything because he had no reason to lie about it. The attorney told him what he needed to put on his application. He then received a letter, probably a couple of months into his intern year, saying that he was to meet with one of the Board's Enforcement Attorneys for a hearing. That's when he contacted Dr. John Irwin in Cleveland. He told Dr. Irwin his situation, and the fact that he did not put everything on his application. He told Dr. Irwin everything because he thought that the Board might think that he was doing something wrong, and he wants to be honest.

Dr. Noyes stated that he went to the meeting with the Enforcement Attorney with Dr. Irwin, at which time he disclosed everything to the Enforcement Attorney. He stated that he even volunteered to submit to the 72-hour evaluation at the Cleveland Clinic with Dr. Collins. He was honest about everything. Since then he's just been working in his residency. Dr. Noyes stated that his best advice to the medical students would be that the cover up is always worse than the crime.

Dr. Steinbergh agreed with Dr. Noyes, stating that people have to be honest when completing applications to this Board. She stated that everyone does get investigated if they respond "yes" to a question on the application, and the person will have to give an explanation when the questions are answered with "yes," but in the long run, being honest about what occurred is always the answer.

Dr. Noyes stated that he hopes to redeem himself over the next three years and gain the Board's respect. He stated that he's not a dishonest person. Nevertheless, it was still his fault and he takes full responsibility. Dr. Noyes added that he looks forward to practicing in Ohio when he's done with his residency and fellowship.

DR. VARYANI MOVED TO CONTINUE DR. DR. NOYES UNDER THE TERMS OF HIS APRIL 8, 2009 CONSENT AGREEMENT. DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

SHAILEN R. PATEL, M.D.

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

Ms. Bickers reviewed Dr. Patel's history with the Board. Ms. Bickers noted that Dr. Patel has yet to sign up with a drug testing program, but she talked with him about that earlier today.

In response to Board members' questions, Dr. Patel stated that he is doing very well. He stated that he does get drug testing through another laboratory. His initial monitoring agency was the Committee for Physician Health in New York, who recommended that he go into rehab. Since then, there's been some miscommunication between his attorney, the Ohio Board and himself. He's just trying to find a suitable

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place where he can get testing done by FirstLab in New York.

Dr. Madia commented that Dr. Patel's information shows that he is in Sandusky, Ohio.

Dr. Patel stated that he did send a change of address to the Board, but for some reason it has not been changed. A lot of his paperwork has been sent to an incorrect address. He now lives in Westchester County, New York. He did practice in Sandusky, but moved back to New York upon his discharge from rehab. Right now he's doing health-care consulting there. He would like to get back to the practice of cardiothoracic surgery, but with the suspension on his license, that's not feasible.

In response to further questions, Dr. Patel stated that he wanted to keep himself occupied, so he started up his own consulting company and really educated himself in the arena of informatics and health information technology. He has been helping companies implement electronic medical records in their practices to improve patient care. He does no patient care himself.

Dr. Madia asked whether the New York testing laboratory is acceptable for purposes of this Consent Agreement.

Ms. Bickers stated that it is not. She added that he will have to enroll with a program that requires the daily call-in process. She stated that his attorney has been informed of this, and, as she said, she spoke with Dr. Patel about this.

Dr. Madia asked whether this means that he's not compliant with his agreement.

Ms. Bickers stated that that's correct.

Dr. Patel indicated that he understands that he's not compliant. He stated that he will rectify the situation as soon as possible. He added that the Committee for Physician Health also needs to receive testing, and they do not have a contract with FirstLab. They're trying to do that.

Dr. Varyani stated that he has a problem with this. He stated that the Board entered into the consent agreement on January 15. It's now July. He asked how long it takes to do this.

Ms. Bickers stated that it takes a day.

Dr. Varyani commented that he's listening to Dr. Patel, who is a very smart man. He understands that Dr. Patel moved out of Ohio, but that doesn't take him off the responsibility list. He has time to open a consultancy, but he doesn't have time to get into compliance.

Dr. Patel stated that one of the issues was that the paperwork from the Ohio Medical Board was not reaching him.

Dr. Varyani stated that it was Dr. Patel's responsibility to get his change of address to the Board. It is not the Board's responsibility to find him. Dr. Varyani again stated that Dr. Patel seems to be very smart and

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“with it,” but it feels like he’s not understanding the consent agreement. Dr. Varyani noted that Dr. Patel said that he understands the consent agreement, but he’s not in compliance. That means that there are two things that are possible: either the Board does something about his license, or he gets into compliance soon.

Dr. Varyani stated that he would like to add that if Dr. Patel is not compliant by August 15, he be required to appear before the Board again.

Dr. Patel stated that he went to rehab for nine and a half weeks, and he was not actually aware of any action taken against him by the Ohio State Medical Board until he was on his way out of rehab, at the end of July 2008.

Dr. Madia asked Ms. Bickers how Dr. Patel didn’t know that an action was taken against his Ohio license.

Ms. Bickers stated that that’s a good question, especially since Dr. Patel signed the consent agreement and was represented by an attorney.

Dr. Patel stated that he didn’t realize there was any action until he was leaving rehab. He went into rehab on the recommendation of the Committee for Physician Health of the New York State Medical Society. On his discharge from rehab, he learned of the action against him in Ohio. At that time the Ohio Board did not recognize Marworth in Pennsylvania as an accredited treatment facility. Since that time his attorney has been working to have his nine and a half weeks of inpatient treatment accredited by Ohio, which he believes it has been done now.

Ms. Anderson advised the Board that Marworth is now an approved program for Ohio.

Dr. Steinbergh stated that that still doesn’t solve the problems troubling Dr. Varyani and Dr. Madia. Dr. Patel is not in compliance. Every three months he has to sign a paper saying that he’s in compliance, and he’s not. He stated that what happens when he’s not in compliance is that the Board takes another look. He could be cited. She agreed that the Board may need to see Dr. Patel again in a month.

Dr. Varyani stated that he’s not doubting Dr. Patel’s rehabilitation. What he’s doubting is whether Dr. Patel really understands what he’s supposed to do.

Dr. Steinbergh stated that she thinks that Dr. Varyani has driven that point home to Dr. Patel. She suggested that, rather than waiting three months, he should come back in one month.

Dr. Varyani stated that what he wants to do is, if Dr. Patel is not compliant next month, he comes back to the full Board.

Ms. Bickers stated that technically what happens, if a physician is not in compliance with the terms of a consent agreement, a complaint is filed. She stated that she hears the Board members’ concerns, and she will take the necessary steps should Dr. Patel not get himself into compliance.

DR. VARYANI MOVED TO CONTINUE DR. PATEL UNDER THE TERMS OF HIS JANUARY

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15, 2009 STEP I CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. HAIRSTON SECONDED THE MOTION.

Dr. Madia advised Dr. Patel that if he wants his license back, he has to take this seriously.

All members voted aye on Dr. Varyani's motion. The motion carried.

Dr. Varyani cautioned Dr. Patel that if he doesn't get his Ohio license, he will probably not get his license in any other State.

CHRISTOPHER MCKINLEY HEBEN, P.A.

Although scheduled to make his initial appearance before the Board, pursuant to the terms of his April 8, 2009 Step I Consent Agreement, Mr. Heben did not appear.

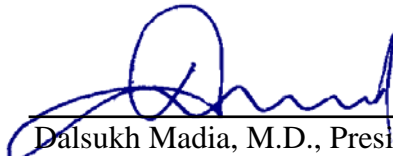
PAULA CLARK ADKINS, M.D.

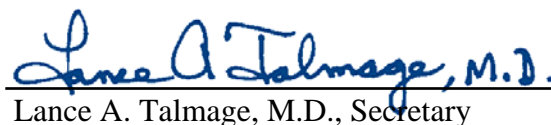
Ms. Bickers advised that Dr. Adkins will meet with Mr. Albert, rather than the full Board, regarding her request.

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

Thereupon at 4:26 p.m., the July 8, 2009 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on July 8, 2009, as approved on August 12, 2009.


Dalsukh Madia, M.D., President


Lance A. Talmage, M.D., Secretary

(SEAL)



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MINUTES**THE STATE MEDICAL BOARD OF OHIO****July 9, 2009**

Dalsukh Madia, M.D., President, called the meeting to order at 8:00 a.m., in the Administrative Hearing Room, 3rd 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; Nandlal Varyani, M.D.; W. Frank Hairston; Darshan Mahajan, M.D. and Anita M. Steinbergh, D.O. The following did not attend the meeting: Susan E. Stephens, M.D.; Marchelle L. Suppan, D.P.M.; and Jeffrey M. Jacobson, Esq.

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; Rebecca J. Marshall, Chief Enforcement Attorney; 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; 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. He noted the addition of the June 2009 PMLexis and Cosmetic Therapy exam results contained in the table file, and allowed the Board members a few minutes to review those documents. It was also noted that, due to the Board's summary suspension of the license of Michael J. Vjecha, M.D. the previous day, his probationary request has been pulled from the 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. MAHAJAN MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON JUNE 8 AND 9, 2009, WITH: ALLAN W. CLARK, M.D.; GREGORY G. DUMA, M.D.; WILLIAM H. FIEGENSCHUH JR., M.D.; LAMBERTO T.R. GALANG, JR., M.D.; TIMOTHY A. HEINRICHS, M.D.; JAMES CAMERON JOHNSON, D.O.; JAMES M. KENNEN, D.O.; ALBERTO LEON, M.D.; JOSEPH FRANCIS LYDON, JR., M.D.; GREGORY S. MASIMORE, M.D.; STEPHEN T. MCCARREN, M.D.; BRETON LEE MORGAN, M.D.; CARLA M. MYERS, D.O.; UJWALA PAGEDAR, M.D.; MARK A. RHODEBACK, M.T.; JOSEPH ALOYSIUS RIDGEWAY, IV., M.D.; WILLIAM DENNY ROBERTSON, M.D.; STEPHEN J. ROLFE, M.D.; STEVEN E. SCHWARTZ, P.A.; JOHN W. SHAW, M.D.; MATTHEW ALLAN SNYDER, L.M.T.; BRIAN D. SOUTHERN, M.D.; FRANK M. STRASEK, D.P.M.; STEVEN H. SUESS, M.D.; DEBORAH L. TAYLOR, M.D.; RANDALL G. WHITLOCK, JR., P.A.; AND JAMES F. ZIMMERMANN, D.P.M.

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

- **TO APPROVE DAVID E. ALLEN, M.D.'S REQUEST FOR FULL AUTHORITY TO ADMINISTER, PERSONALLY FURNISH OR POSSESS CONTROLLED SUBSTANCES;**
- **TO GRANT DANNY C. BLANKENSHIP, M.D.'S REQUEST FOR APPROVAL OF THE ETHICS COURSE, *INTENSIVE COURSE IN MEDICAL ETHICS, BOUNDARIES AND PROFESSIONALISM*, OFFERED BY CASE WESTERN RESERVE UNIVERSITY, AS FULFILLING PARAGRAPH 8.b. OF DR. BLANKENSHIP'S JANUARY 14, 2009 CONSENT AGREEMENT;**
- **TO APPROVE TODD S. CARRAN, M.D.'S REQUEST FOR A REDUCTION IN PSYCHIATRIC SESSIONS TO TWICE PER MONTH;**
- **TO GRANT DEBORAH LYNNE FRANKOWSKI, M.D.'S REQUEST FOR APPROVAL OF MARY ANN CURTISS, M.D., TO SERVE AS THE MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO GRANT RYAN STEVEN FRYMAN, D.O.'S REQUEST FOR PERMISSION TO ADMINISTER, PERSONALLY FURNISH OR POSSESS CONTROLLED SUBSTANCES, SUBJECT TO HIS MAINTAINING A LOG OF ALL CONTROLLED SUBSTANCES ADMINISTERED, PRESCRIBED OR PERSONALLY FURNISHED;**
- **TO GRANT CHRISTINE M. GRAHAM, M.T.'S REQUEST FOR APPROVAL OF LINDA S. SIX, LPCC, TO SERVE AS HER MENTAL HEALTH PROFESSIONAL;**
- **TO GRANT RICHARD DAVID GREZANIK, D.O.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS, AND A REDUCTION IN MEETINGS TO TWO PER WEEK WITH A MINIMUM OF TEN PER MONTH;**
- **TO APPROVE DONALD C. MANN, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO EVERY SIX MONTHS;**
- **TO GRANT ELIZABETH J. MARTIN, P.A.'S REQUEST FOR APPROVAL OF AZARIA AKASHI, PHD., TO SERVE AS HER TREATING MENTAL HEALTH PROFESSIONAL;**
- **TO GRANT THOMAS A. NGUYEN, M.D.'S REQUEST FOR APPROVAL OF JYOTI SACHDEVA, M.D., TO SERVE AS HIS NEW TREATING PSYCHIATRIST;**
- **TO GRANT NATHAN THOMAS PENNEY, D.P.M.'S REQUESTS FOR A REDUCTION IN**

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HIS APPEARANCE SCHEDULE TO ANNUALLY, AND TO ELIMINATE THE CONTROLLED SUBSTANCE LOG REQUIREMENT;

- **TO GRANT MARK ALLEN RENZ, M.D.'S REQUEST FOR APPROVAL OF MATTHEW L. JONES, M.D., TO SERVE AS HIS NEW MONITORING PHYSICIAN;**
- **TO GRANT MADELYN SARTAIN, D.O.'S REQUEST FOR APPROVAL OF BOTH THE COURSE ON THE PROPER HANDLING AND DISPOSAL OF HAZARDOUS MEDICAL WASTE, OFFERED BY THE MAHONING COUNTY MEDICAL SOCIETY, AND APPROVAL OF THE IN-OFFICE TUTORIAL PRESENTED BY ACCU MEDICAL WASTE SERVICES, INC.; COMPLETION OF BOTH TO SATISFY THE TERMS OF PARAGRAPH 6.b.ii. OF HER JANUARY 14, 2009 CONSENT AGREEMENT;**
- **TO GRANT KIMBERLY M. (TELMANIK) SCHERRY, P.A.'S REQUEST FOR APPROVAL OF RAJENDRAN SUNDARAM, M.D., TO SERVE AS HER NEW REPORTING PHYSICIAN;**
- **TO GRANT JEFFREY E. SHOOK, D.P.M.'S REQUEST FOR APPROVAL OF RICHARD CURTIS ARNOLD, D.P.M., TO SERVE AS THE MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO GRANT JOSEPH COOPER SIMONE, D.O.'S REQUESTS FOR A REDUCTION IN DRUG SCREENS TO TWO TIMES PER MONTH, AND A REDUCTION IN PERSONAL APPEARANCES TO EVERY SIX MONTHS;**
- **TO GRANT WILLIAM C. STEVENSON, M.D.'S REQUESTS FOR DISCONTINUANCE OF THE CONTROLLED SUBSTANCE LOG REQUIREMENT;**
- **TO GRANT ALAN B. STORROW, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE TO ANNUALLY;**
- **TO GRANT ANDREAS HERBERT SZOKOLOCZY-SYLLABA, D.O.'S REQUEST FOR A REDUCTION IN THE PSYCHOLOGY SESSION REQUIREMENT TO TWICE PER MONTH;**
- **TO GRANT ROSS PUTMAN TURNER, D.O.'S REQUEST FOR A REDUCTION IN HIS PSYCHIATRIC SESSIONS TO EVERY SIX MONTHS;**

DR. MAHAJAN 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;" TO APPROVE THE RESULTS OF THE JUNE 2009 PMLEXIS (EXHIBIT "C") AND THE JUNE 2009 COSMETIC THERAPY EXAMINATION (EXHIBIT "D"), AND TO CERTIFY AS PASSING AND LICENSE THOSE

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RECEIVING A SCORE OF 75 OR GREATER ON THEIR EXAMINATION, AND TO CERTIFY AS FAILING AND DENY LICENSURE TO THOSE WHO RECEIVED A SCORE OF LESS THAN 75 ON THE PMLEXIS OR COSMETIC THERAPY EXAMINATION. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

ADMINISTRATIVE REPORT

At this time, Mr. Whitehouse reviewed his written report with the Board. He noted that the staff has recently experienced some challenges related to the State's E-Licensing system, which went down for about a week and a half. That system is back up. He commented that the staff has been dealing with other challenges with the Department of Administrative Services (DAS) in terms of printing some of the renewal licenses.

Dr. Steinbergh asked whether the Board or DAS picked up the printing error.

Mr. Whitehouse deferred to Ms. Thompson.

Ms. Thompson stated that DAS did not pick it up. DAS shipped everything to Vincent Graphics, which is the Board's outside contract mailing supplier, and Vincent Graphics looked at what they were sent and called Debby Jones, Chief of Renewal, and told her there was a problem. The renewal forms were double sided and couldn't be mailed.

Dr. Steinbergh asked whether the Board staff would have to approve it before it went to the printer.

Ms. Thompson stated that it wouldn't, adding that it's not printed anywhere close to the Board offices. The listing is generated from the computer, and it's downloaded and printed at Alum Creek, and then their truck takes it to Vincent Graphics. The Board staff doesn't actually see the notices.

Dr. Steinbergh asked whether it wouldn't be possible for them to just send the Board one so that it could take a look at what was going to be sent. She stated that if she gets something printed, she's always allowed to approve it first.

Ms. Thompson stated that the body of the document is set by the Board. The computer generates the name

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and address, the User ID and the password and puts it in the body of the letter.

Mr. Whitehouse stated that this is the problem of centralization.

Ms. Thompson stated that Vincent Graphics always looks at the documents before they start folding, stuffing and mailing, and they know what it's supposed to look like, too. They're the ones that said, "Wait a minute, you can't mail something that has one doctor's mailing information on the front, and a different doctor's mailing information on the back. This isn't supposed to be double-sided." She stated that they contacted the Board about the problem. DAS had to reprint this as a single-sided document. She added that even had they sent the Board a copy to approve, the Board staff wouldn't know that it was double-sided when they actually printed it out. Ms. Thompson again stated that Vincent Graphics does know what the mailing is supposed to look like.

Ms. Rieve stated that one concern is that the Board may not be allowed to utilize Vincent Graphics in the future. She stated that they are a good vendor, they take care of the Board, and they do their job. They have done their job well.

Ms. Thompson stated that if the Board has to use DAS services to do the mailings, staff will have to go out to Alum Creek to check each job.

Mr. Whitehouse advised that the budget process continues, and the State is on its second interim budget. He stated that there is hope that there will be a budget soon. He reported that at this point the Board is funded at 2.9 percent below where it started. The goal is to try to get back to a flat funding position.

Mr. Whitehouse stated that the Board received recognition from the Ohio Osteopathic Association for its educational outreach efforts. He added that the Partners in Professionalism program is still going like gangbusters. He advised that he understands the Board's desire to grow this program, but at this point in time, given the constraints with the budget, the Board has been unable to. Mr. Whitehouse noted that, since the inception of that program about two years ago, the Board has run 400 people through the program.

Mr. Whitehouse advised that toward the end of the meeting, the Board would be adjourning to Room 336 to begin its discussions to figure out where the Board is headed and to establish better communications.

REPORTS OF ASSIGNED COMMITTEES

LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Miller reviewed his written report with the Board. He advised that the budget process continues.

Other legislation that could affect the Board include:

- H.B. 215 (State Dental Board) – Mr. Miller advised that there have been a couple of hearings on this Legislation, with testimony from dentists who have had action taken against their licenses by the Dental Board. One of the defense attorneys, who represents about 80% of the dentists that go

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before the Board, and who is also a dentist as well as a former Dental Board member, appears to be the one who is pushing this bill most prominently at this time with some *de facto* support from the Dental Association.

Mr. Miller stated that the three biggest concerns for the Medical Board at this point in time is that it would allow for open discovery of all investigatory and complaint information; it would put a two-year time limit on minimal standards cases; and it would require that a criminal conviction be substantially related to an individual's area of practice. He commented that it would restructure the entire way the Dental Board does their investigations and hearings. His concern is that if some of this goes into law for the Dental Board, it will find its way into the Medical Practices Act, as well.

Mr. Miller stated that the former Dental Board member also filed a case in Federal Court, claiming that the entire Dental Practices Act is unconstitutional. He stated that the Dental Association doesn't appear to be actively pushing things at this point in time, but they're behind the scenes and trying to make some changes. He added that he doesn't think that the Dental Association has the same interest as the former Dental Board member does.

Dr. Madia asked where the Dental Board stands on this.

Mr. Miller stated that the Board signed off on a letter and in testimony that the Executive Director provided, but he thinks that it's kind of a tacit approval.

Mr. Miller stated that the concern is that if this goes into the Dental Practices Act, it becomes the model for all the other Boards. He stated that he's been working with the Executive Director of the Dental Board to come up with a plan on how to approach this issue.

Ms. Debolt stated that, from reading the lawsuit by the attorney pushing this legislation, it becomes apparent that one of the main reasons for this proposed legislation is because about ten years ago the Dental Board changed the Dental Practices Act and removed the Board's Secretary as the one who has oversight over investigations. Now the Dental Board doesn't have a formal process giving a Board member the oversight of investigations. One of the big differences the Medical Board has is that it has a Secretary and Supervising Member overseeing investigations.

- H.B. 206 (APN Schedule II Prescribing) – Mr. Miller stated that this legislation has had three hearings before the House Health Committee. Testimony in support of the bill has been given by APN associations, practicing APNs and the medical directors for a couple of the hospices. Opposition testimony has been from OSMA. Mr. Miller stated that he thinks that OSMA is going to try to work behind the scenes on a couple of things, but all indications are that this Legislation will go right through.
- S.B. 89 (Out-of-state APN Prescriptive Authority) – Mr. Miller advised that in the course of legislation, they attempted to codify some Board of Nursing rules regarding the definition of a supervising professional, which would have allowed an APN with a certificate to prescribe to

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oversee and supervise another APN during their externship period. Mr. Miller stated that the Medical Board has argued that that exceeded their statutory authority, as far as rulemaking went. He stated that that language was removed from the legislation, but the Board of Nursing still has a rule in place that says an APN can supervise an APN during the externship period for up to 200 of the 500 hours required for direct supervision. Mr. Miller stated that the Committee agreed that the Board should attempt to get that language removed from the rule as well.

IMPAIRMENT COMMITTEE

Mr. Albert stated that the Committee met the previous day and had a very spirited discussion on the use of community service as a sanction for physicians who find themselves in trouble with the Board. He advised that he and Dr. Talmage will meet with staff to develop a proposal. Mr. Albert stated that he doesn't believe that the Board will need legislation to allow this.

Ms. Anderson stated that whether or not legislation would be needed is something that Mr. Albert will have to look at with staff.

Mr. Albert stated that the other thing the Committee discussed will require a legislative change and a lot of work. That would be giving the massage therapists their own chapter. He stated that the recent rule the Board adopted, giving impaired therapists the opportunity to undergo outpatient treatment, didn't accomplish what he had wanted. He noted that the evaluation they would have to undergo would still cost a lot of money. Mr. Albert stated that at Shepherd Hill it costs over \$800 to perform evaluations of massage therapists and only \$150 to \$200 to perform evaluations of truck drivers. Mr. Albert asked who represents the potential for more harm to the public: the guy on the road driving a big semi, or a massage therapist?

Mr. Albert stated that the Committee will be keep the Board updated on these issues.

Dr. Varyani stated that Group 1 had an extensive discussion, and he knows the feelings of the members. He stated that he thinks that it's important for Group 2 members have input.

Ms. Anderson stated that the goal would be that the matter would be brought to the full Board before any changes would be made.

Dr. Varyani expressed concern about one group doing a lot of work on this without having input from all Board members.

Ms. Debolt stated that the Disciplinary Policy & Guidelines Committee is looking at all the possibilities for Board disciplinary action, including community service. She stated that the Committees should be working together, and suggested that there might need to be an ad hoc committee of the whole Board because both committee groups are interested in the possibility of having community service available in disciplinary situations.

Dr. Steinbergh suggested that this might be a topic that the full Board could discuss at their Thursday

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morning sessions, with the discussions led by the Chairs of the Impairment Committee and the Disciplinary Policy & Guidelines Committee.

Mr. Whitehouse stated that the Board does not have the statutory authority to order a licensee to do community service. It could include it in consent agreements.

Dr. Varyani agreed that this would be a good topic for a Thursday session.

DISCIPLINARY POLICY & GUIDELINES COMMITTEE

Dr. Steinbergh stated that the Committee will begin to review the Disciplinary Guidelines for the purpose of making any necessary changes, based on the feelings of all Board members. She referred Board members to pages 42 through 48 of the agenda, and suggested that they may wish to review those materials. She stated that these materials present a very good review of the Board's authority.

At this time, Dr. Madia stated that the Board will take a brief break and will then reconvene in Conference Room 336.

After a brief recess, the Board reconvened in the Conference Room 336. Discussion regarding general public policy issues facing the Board was postponed and it was determined that discussion should be had on the merits and feasibility of mandated public service as a disciplinary tool. That issue was ultimately determined to be one requiring additional research prior to discussion. Board Members decided instead to further discuss efforts to develop more effective working relationships between members. Board members discussed the important role of the Board in protecting the public and the need for Board Members to come to meetings, be prepared, and conduct the Board's business in a civil manner.

Among the ideas discussed were:

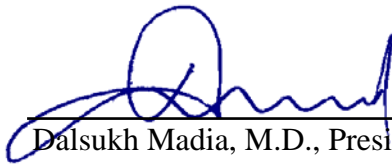
- Sharing responsibilities for leading the Personal Appearances portion of the agenda. It was suggested that the duty be rotated between Board Members.
- The importance of Board Members committing themselves to spending one hour on Thursdays in general conversation regarding substantive topics facing the Board, their history, and new approaches to dealing with them.
- The value of a Board Retreat focused upon processes in different areas (licensing/renewal, complaints, investigation, enforcement, compliance, hearing)
- The value of working from a "base" of common understanding and principles and the willingness to recognize when change or deviation from precedent is appropriate.
- The nature of the Board's work within a legal framework and the need to rely upon the administration support of staff.

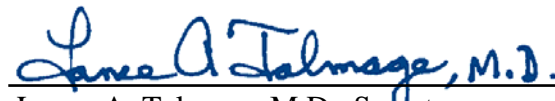
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MR. ALBERT MOVED TO ADJOURN. DR. STEINBERGH SECONDED THE MOTION. All members voted aye. The motion carried.

Thereupon at 10:50 a.m. on July 9, 2009, the July 8-9, 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 July 8-9, 2009, as approved on August 12, 2009.


Dalsukh Madia, M.D., President


Lance A. Talmage, M.D., Secretary

(SEAL)

