



# YOUR REPORT

FROM THE STATE MEDICAL BOARD OF OHIO

WINTER 2001-2002

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## A WORD FROM THE PRESIDENT

In the aftermath of the events of September 11, civilized peoples around the country and around the world have struggled to understand, not why terrorists chose to kill 5,000 innocent Americans, for that is beyond the comprehension of civilized people, but rather how they are to continue on in a world that seems so completely different than it was before. Medical professionals have not been immune to this sometimes overwhelming ennui.

Medical professionals have a heightened responsibility in times such as these, guided by the principle "First, do no harm." Yet harm is precisely what some members of the medical profession may be doing, either by fomenting, pandering to, or exploiting the understandable fear felt by the American people.

Should it be discovered that a physician is exploiting fear to expand patient rolls or sell more antibiotics, that would present an easy case for medical regulators. That type of profiteering is a clear violation of professional ethics and the standard of care, and will not be tolerated.

The other cases are more difficult. Well-intentioned physicians prescribing antibiotics in anticipation of some future threat, however uncertain, either because their own fears have overwhelmed their professional judgment or because they have

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# From the Secretary & Supervising Member

by Anand G. Garg, M.D., Ph.D., Secretary  
and Raymond J. Albert, Supervising Member

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## State law requires physicians to make medical records available to their patients.

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Would it surprise you to know that 4%—nearly 150—of the complaints filed with the Medical Board each year are about patients having difficulty getting copies of their medical records from physicians? The Ohio Medical Practices Act requires that physicians, in accordance with their professional codes of ethics, make records available to patients. Early in 2001, the Ohio General Assembly enacted a more specific law, Section 3701.74 Revised Code, detailing the scope and mechanism for permitting patients to review or obtain copies of their medical records. The law makes hospitals and health care providers, including physicians, responsible for preparing and providing patients or their representatives access to a finalized medical record within a reasonable time after treatment. A companion law (Section 3701.74.1, Revised Code) establishes maximum allowable fees for providing copies of medical records, and even makes some copies available without charge. If a physician fails to provide access to medical records, patients have the right to sue to enforce their access rights.

The Medical Board gets enough complaints about medical records access from both patients and physicians to qualify the subject as one for discussion on the Board's website as part of our newest feature, "**Frequently Asked Questions.**" Here are some of the questions we commonly hear, along with what we hope will be helpful answers:

### ***Does a physician have to let a patient see his/her medical records if asked?***

Yes, a physician is required to permit a patient or a representative to examine his/her medical records without charge, so long as the patient has signed and submitted a request. The request must be dated no more than sixty days prior to the date that it is submitted. One exception: If the physician has determined for clearly stated treatment reasons that allowing access to the records is likely to have an adverse effect on the patient, the physician may instead provide the record to another physician of the patient's choosing.

### ***May a physician charge a patient a fee if the patient wishes to obtain a copy of his/her medical record?***

Yes, with a couple of exceptions. Ohio law provides that a physician must provide one copy of a medical record, without charge, to the Bureau of Workers' Compensation, the Industrial Commission, and the Department of Job & Family Services. The physician must also provide one free copy of the record to the patient or the patient's representative for the purpose of supporting a claim for Social Security disability benefits, provided that the request is accompanied by documentation that the claim has been filed. Otherwise, the physician may charge not more than the sum of the following:

1. An initial fee of \$15, which compensates for the records search.
2. With respect to data recorded on paper, \$1 per page for the first 10 pages; \$ .50 per page for pages 11-50; and \$ .20 per page thereafter.
3. With respect to data recorded other than on paper, the actual cost of making the copy.
4. The actual cost of any related postage incurred.

***When responding to a request for medical records, should copies of records received from another physician be included?***

Once a physician accepts a person as a patient, medical records received by the physician from prior or concurrent treating physicians become part of the patient's medical record in that practice. In most instances, physicians may redisclose records that originated with another physician. Further, although patient records released by a hospital or another physician may be stamped with a statement to the effect that such records may not be disclosed, redisclosure is still permissible based on the patient's signed release.

The Medical Board, for its part, encourages physicians to take a reasonable approach, keeping in mind the difficulty a patient could encounter trying to track down other treating physicians every time a pertinent portion of their medical record is needed.

***If a physician only sees a patient once and the medical record consists almost entirely of information obtained from prior treating physicians, may the physician forward the entire record to the patient's new physician without keeping a copy?***

## Delegating Medical Tasks

**A new Ohio statute and Medical Board rules authorize physicians to delegate the performance of certain medical tasks to persons who are not licensed or otherwise specifically authorized to perform medical tasks by the Revised Code.**

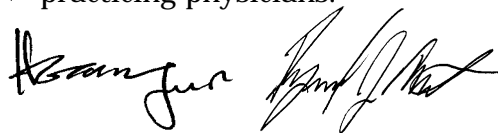
Enactment of new Section 4731.053 of the Ohio Revised Code on April 10, 2001 was spurred by a formal Opinion issued by Ohio's Attorney General last year. In the Opinion (OAG 2000-023), the AG declared that "[a] person who is not specifically authorized by statute to administer a drug or medicine is subject to the prohibition in [O.R.C.] 4731.41 against the unauthorized practice of medicine . . . even if such act is performed at the request of, or with the approval of, a licensed physician." Section 4731.34, O.R.C., enumerates the medical tasks subject to the prohibition in 4731.41, O.R.C., against the unauthorized practice of medicine. Read together in the context of the Attorney General's Opinion, these provisions

See DELEGATION on page 4

Even if the physician's involvement with the patient was minimal, the physician should not part with the only copy of the patient's record. Even before the enactment of Section 3701.74, Ohio Revised Code, the Medical Board's rules required physicians to maintain a complete medical record on each patient. That complete record includes all information presented to the physician concerning prior treatment. Parting with the only copy of the patient's record would put the physician in violation of those rules. In addition, the physician might have dif-

ficulty defending himself or herself should the patient later decide to file a complaint with the Medical Board or bring a malpractice action.

Sections 3701.74 and 3701.74.1 are available for review in greater detail through the Medical Board's website at [www.state.oh.us/med/](http://www.state.oh.us/med/). Judging from the number of concerns about records access that are brought to the Board's attention, the new law would be worth review by Ohio's practicing physicians.



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**DELEGATION** (continued from page 3)

strictly prohibit unlicensed persons from examining or diagnosing patients, prescribing, advising, recommending, administering or dispensing a drug or medicine, mold or cast, application, operation, or treatment of whatever nature, for the cure or relief of a wound, fracture or bodily injury, infirmity or disease. The prohibition extends to a licensed person who is not specifically authorized by the Revised Code to perform a particular task. For example, a physician may not delegate the administration of anesthesia to an LPN or RN who is not a CRNA, even though the LPN or RN holds a general nursing license.

The legislative fix embodied in Section 4731.053, O.R.C., to the existing extensive prohibitions included a requirement that the Medical Board adopt rules “. . . that establish standards to be met and procedures to be followed by a physician with respect to the physician’s delegation of the performance of a medical task to a person who is not licensed or specifically authorized by the Revised Code to perform the task.” The Board complied by adopting Ohio Administrative Code rules 4731-23-01 through 4731-23-04, which became law on September 30, 2001. Both the rules and the underlying statutes include specific prohibitions against the delegation of the administration of anesthesia, controlled substances, and the intravenous administration of drugs to persons who are not licensed or otherwise specifically authorized by statute. In addition to requiring that delegation of a medical task can only be done while conforming to minimal standards of care, Rule 4731-23-02 provides physicians with a list of factors they must consider to determine if a task may be delegated. Those factors include consideration of the condition of the patient, the qualifications of the person to whom the physician seeks to delegate, and the nature of the task to be delegated. The physician may not delegate any level of medical assessment or medical judgment, nor may the physician allow “cascading” delegation; that is, a physician may

not authorize a person to whom he or she is delegating a medical task to further delegate that task to another person. In the end, the physician retains full responsibility for the outcome of the task performed.

The full text of the Board’s delegation rules appears beginning on page 19 of this issue of *Your Report* and can also be viewed on the Board’s web site at <http://www.state.oh.us/med/rules/4731-23.htm>. Additional information will be provided in upcoming additions to the *Frequently Asked Questions* section of the Board’s web site. Point your browser to <http://www.state.oh.us/med/faq/mdindex.htm> and look for information under the “Delegation” link.

The Medical Board has promulgated specific rules regarding delegation in one other area: the use of light-based medical devices. Currently, the Board’s rules only permit the delegation of the use of light-based medical devices to certain specified licensed individuals for the laser removal of hair and in the case of treatment of hyperbilirubinemia in neonates. The first authorization is explained in 4731-18-02, OAC, and can be found on the Board’s web site at <http://www.state.oh.us/med/rules/18-02.htm>. The second is set out in 4731-18-03, OAC, found at <http://www.state.oh.us/med/rules/18-03.htm>. The Board has recently proposed to add a third authorization to address the use of florescent light boxes to treat psoriasis and similar skin diseases. As of this writing, those proposals take the form of proposed rule amendments and can be viewed at <http://www.state.oh.us/med/rules/proprules.htm>.

**DO WE KNOW WHERE YOU ARE?**

**State law requires that you notify the Medical Board of a change of address within 30 days.**

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# Adverse Events Reporting System

## FDA's MedWatch is a Partnership Waiting to Happen

The Internet is jammed with resources for physicians, but perhaps none with such potential importance as the FDA's MedWatch Web site, which serves as a gateway for medical product safety information and provides a service that sends out urgent safety alerts in the flash of an e-mail. Surprisingly, many professionals remain unaware of this free service. "It's free, it's easy to subscribe, it's private and confidential," says Norman Marks, M.D., medical director of the MedWatch program. "We don't share names. All one has to do is go to [www.fda.gov/medwatch](http://www.fda.gov/medwatch) and there on the homepage they will see the box that says 'join the MedWatch e-list.' Just click on it, fill in the blanks, and that's it."

"The FDA wants to get any important safety information out to the practitioners, ideally at the point of care, so they can use it when they are making decisions with their patients," says Marks. "Their part, we hope, would be to appreciate the value of the safety alerts and recognize that their spontaneous voluntary reporting of serious adverse events is what lets us generate that medical product safety information."

"It's common knowledge," says Marks, "that certain rare but serious adverse events won't have been identified during the pre-marketing phase of drug and device development. While these pre-approval studies are evaluated rigorously, there may not have been a sufficient number of patients in the study, or perhaps the study did not cover a long enough time period to identify the rare harm or injury. At any rate, in the real world, new adverse events will emerge over time. Each adverse event or product quality problem for a drug goes into a computerized database called the

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Norman Marks, M.D.

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Adverse Event Reporting System (AERS). The post-marketing drug-risk assessment staff of safety evaluators and epidemiologists use that data to develop a more formal investigation, a science-based process where the outcome, whether it follows an evaluation of several weeks to several months, may lead to FDA action that results in recommendations for safer use of that product."

Once a modified use strategy and labeling change has been agreed upon by the FDA and the manufacturer, MedWatch gets that information out to physicians immediately in the form of MedWatch Alerts. "These alerts are important information that the physician would want to know now rather than waiting for the PDR to come out a year later, or waiting for a letter to show up on their desk. We want all physicians to know that they can get that important safety information now just by signing up for our e-list," says Marks.

About 12,000 individual practitioners have signed up for the MedWatch Alerts e-mail distribution list. In addition, MedWatch has 190 partner organizations such as the Texas State Medical Society and the American Academy of Family Physicians. The partners distribute the MedWatch Alerts to their members by posting the information on their websites, sending it out through their own distribution lists, or putting the information in their newsletters or bulletins. The MedWatch Alerts also are posted on the MedWatch Web site.

*Future plans:* Marks says MedWatch is hoping to tailor the Alerts soon so that each branch of

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**PRESIDENT** (continued from page 1)

been unable or unwilling to exercise their responsibilities to assuage their patients' fears through education, generate a certain level of sympathy. But they are nonetheless in violation of their professional ethics and the standard of care.

They are in violation of the standard of care because, while they may be "seeing" their patients prior to prescribing, they are authorizing future self-medication that may well take place without the benefit of medical judgment.

They are in violation of their ethical responsibilities because, as the Ohio Department of Health, in conjunction with the State Medical Board of Ohio, the State Pharmacy Board, the Ohio Emergency Management Agency, and a number of professional medical societies, has stated, "Antibiotics are not harmless medications." The risk of antibiotic-resistant strains of bacteria, dangerous drug interactions, and delayed evaluation and treatment of diseases incorrectly assumed to be treatable by antibiotics on hand are but three of the "harms" they may do. They may also be responsible for the unavailability of certain medications for patients with conditions that need to be treated here and now.

The State and Federal governments have offices working non-stop to ensure that procedures and materials are in place to address even the most severe of terrorist-related biological threats, and as each day passes, the response capacity increases. Medical professionals have a responsibility to rise above the rhetoric of fear and to respond to these vague and unlikely threats with rational medical judgment.



Anant R. Bhati, M.D., President

## Governor & Medical Board Honor Veterans

In October 2001, Ohio Governor Bob Taft and the State Medical Board joined in formally recognizing the lifetime achievements of **Hubert Amstutz, M.D.**, a retired ophthalmologist from Lancaster, Ohio. Born on December 9, 1901, Dr. Amstutz has the distinction of being Ohio's oldest living World War II veteran. While a member of the U.S. Army, he served with the surgical section of the 975<sup>th</sup> Evaluation Hospital, the first hospital to land at Normandy. Dr. Amstutz was awarded five bronze stars, one Silver Star and the WWII Victory Medal for his service, as well as a Certificate of Merit for his skill and judgment as an army surgeon. Following WWII, Dr. Amstutz practiced in Lancaster until his retirement in 1986.

The Medical Board also honored two of its own, Board Members **Raymond J. Albert** and **Lance Talmage, Sr., M.D.**, as they were inducted into the Ohio Veterans Hall of Fame at ceremonies held November 8, 2001 in Columbus. In his remarks, Governor Taft acknowledged Mr. Albert, Dr. Talmage and other honorees for their service to the country and their communities.

Mr. Albert, a consumer representative and Supervising Member of the Medical Board from Amanda, is a U.S. Navy veteran of WWII and the Korean Conflict. He was recognized for his active involvement with the Congressional Medal of Honor Society, as well as for having become the first non-physician President of the State Medical Board (1991). Dr. Talmage, a retired U.S. Army Brigadier General who practices obstetrics and gynecology in Toledo, was recognized for his leadership and meritorious service both stateside and abroad. Dr. Talmage has been a member of the Medical Board since 1999.

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# New Exemptions to Test of Spoken English

**Ohio law permits applicants to demonstrate English proficiency through channels other than the traditional Test of Spoken English.**

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The State of Ohio requires, as outlined in Section 4731.142, Ohio Revised Code, that to qualify for a license to practice medicine or surgery, osteopathic medicine or surgery, or podiatric medicine, an applicant who graduated from a medical school outside the United States and Canada must demonstrate proficiency in spoken English. The minimum requirement, as stated in the statute, is a score of 40 or higher on the Test of Spoken English (TSE) conducted by the Educational Testing Service.

The Medical Board is often asked if it is possible to waive the requirement of demonstrating minimal proficiency in spoken English. The answer to that question is an unqualified “No.” Where there *is* some flexibility, however, is in the manner in which that proficiency may be demonstrated. Ohio law provides several exemptions to the TSE, all four of which are listed below with the Revised Code section under which they are authorized.

1. Completion of two years of undergraduate work in the United States, 4731.142 (A) and 4731.09, ORC.
2. Possession of a license in the United States AND actively practicing medicine in the United States for the last five years. A new section of the Revised Code, 4731.29 (E) (2) (a) through (c), ORC recognizes that participation in Graduate Medical Education can be substituted for the practice requirement on a year-for-year basis.

3. Completion of a Fifth Pathway program, 4731.091(B)(3), ORC.
4. Passing the Educational Commission for Foreign Medical Graduates (ECFMG) exam and receiving ECFMG certification after July 1, 1998, 4731.142 (B), ORC. July 1, 1998 is the date on which the ECFMG began requiring a demonstration of proficiency in spoken English as a condition of their certification.

An exploration of this issue can also be found in the new ***Frequently Asked Questions*** section of the Medical Board’s website. The discussion of TSE requirements appears under the “Medical and Osteopathic Licensure” section of the ***FAQ***, located at <http://www.state.oh.us/med/faq/mdlicqs.htm>.

## **Adverse Events** (continued from page 5)

medicine can choose which category of safety alert they would like to receive and which they would not. Right now, everyone on the list gets all Alerts.

Another innovation for the near future will be to put the MedWatch information into a format compatible with the hand-held computer devices. “My sense, from talking to doctors and other professionals, is that the Palm Pilots and the hand-held devices are being used by residents, medical students and even physicians,” says Marks. “These little devices are small enough, powerful enough and portable enough that they can be carried around in pockets, so we’re working on arrangements to have our safety update information available on their hand-held devices for access at the bedside, the operating suite and the office exam room.”

*This article was reprinted with permission from the Medical Board of California’s October 2001 Action Report.*

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# STATE MEDICAL BOARD OF OHIO

## DISCIPLINARY ACTIONS

*April 2001 - September 2001*

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**BANIEWICZ**, Francis John, Jr. (MD #59412) – Colorado Springs, CO

**Board Order** - Medical license revoked based on prior action against doctor's North Carolina license by that state's medical board. (Journal Entry – hearing not timely requested) Order mailed 4/12/01; Order eff. 4/12/01.

**Court Action** - Notice of appeal of Board's 4/11/01 revocation Order filed by doctor with Franklin County Court of Common Pleas on 4/26/01.

**BARRETT**, Warrick Lee (MD #42010) – Indianapolis, IN

**Board Order** - Medical license permanently revoked based on doctor's prescribing of drugs to specified patients without having first personally examined them, in violation of Board rule; and his permitting an on-line pharmacy to use his Ohio certificate in an offer to prescribe dangerous drugs in a manner that violated Board rule. Order mailed 8/13/01; Order eff. 9/13/01.

**Court Action** - Notice of appeal of Board's 8/8/01 permanent revocation Order filed by doctor with Franklin County Court of Common Pleas on or about 8/28/01.

**BELMONTE**, Rogel (MD #36804) – Fairborn

**Interim Agreement** - Pursuant to interim agreement effective 2/21/01, Board agreed not to oppose continuance of hearing in exchange for doctor's agreement not to practice medicine in the state of Ohio until 12/14/00 allegations have been fully resolved, and to comply in all respects with terms of 12/6/89 Board Order.

**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor having been found guilty of six felony counts of Deception to Obtain Dangerous Drugs. Notice mailed 6/14/01.

**BOEHM**, Gregory Xavier (MD #41394) – Shaker Heights

**Board Order** - Medical license suspended for one year; subsequent probationary terms, conditions, and limitations established for at least five years. Based on doctor's plea of guilty in U.S. District Court to one felony count of Health Care Fraud, the acts underlying which involved his knowingly and willfully executing a scheme to defraud Medicaid and Medicare by submitting numerous billing claims for services he had not actually provided. Order mailed 7/31/01; Order effective 8/31/01. **Court**

**Action** - Notice of appeal of Board's 7/11/01 suspension Order filed by doctor with Franklin County Court of Common Pleas on or about 8/10/01. **Consent Agreement** - Appeal of Board's 7/11/01 Order to be withdrawn by doctor; additional interim monitoring and subsequent

probationary terms established to run concurrently with those set out in 7/11/01 Board Order, whereby doctor's license was suspended for one year. Agreement based on doctor's admission that he was treated with Ritalin and Adderall for Attention Deficit Hyperactivity Disorder; and that he was subsequently diagnosed with amphetamine dependence and Attention Deficit Hyperactivity Disorder, for which he has received treatment and aftercare through a Board-approved provider. Agreement effective 9/12/01; agreement to run concurrently with terms of 7/11/01 Board Order.

**BRINDLE**, Fred Andrew (MD #52438) – Sandusky

**Consent Agreement** - Medical license indefinitely suspended; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he has been diagnosed with and treated for bipolar disorder and chemical dependency, for which he continues to receive treatment. Effective 8/8/01.

**BROCK**, David Todd (DO #7161) – Columbus

**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations to monitor practice based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care provided that appropriate treatment and monitoring requirements are in place, including limitation of his practice to a residency training program and related activities. Agreement eff. 5/9/01; agreement to remain in effect for a minimum of five years prior to any request for termination.

**BRONER**, Cynthia W. (MD #58575) – Columbus

**Board Order** - Medical license indefinitely suspended; conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Order entered due to doctor's failure to comply with Board-ordered examination for possible inability to practice according to acceptable and prevailing standards of care due to mental illness (Journal Entry). Order mailed 4/12/01; Order eff. 4/12/01.

**BRUCE**, Marguerite D. (MD #72745) – Cleveland

**Board Order** - Doctor reprimanded and probationary terms, conditions, and limitations imposed for at least three years. Based on prior action against privileges by

the Naval Hospital, Charleston, following peer review findings that doctor had breached standards of care and exercised questionable clinical judgment in her practice of obstetrics and gynecology; and doctor's failure to advise Ohio medical board of that action on application for license renewal. Order mailed 10/2/01; Order effective 10/2/01.

**BRUNO**, Angel L. (MD #70348) – Lawton, OK  
**Board Order** - Medical license limited and restricted such that doctor shall not commence practice in Ohio without prior Board approval; conditions for such approval established, including requirement that doctor enter into consent agreement to monitor practice if deemed necessary by the board. Based on prior action against doctor's Oklahoma license by that state's medical board following its conclusion that doctor was guilty of unprofessional conduct in that he engaged in gross or repeated negligence in the practice of medicine. Order mailed 6/14/01; Order effective 6/14/01.

**CHEN**, Christopher (MD #61288) – Pleasanton, CA  
**Board Order** - Medical license limited and restricted such that doctor shall not commence practice in Ohio without prior Board approval; conditions for approval established, including requirement that doctor enter into subsequent consent agreement to monitor practice. Based on prior action against doctor's California license in resolution of allegations by that state's medical board, the acts underlying which concerned doctor's pain management treatment of a specified patient. Order mailed 8/23/01; Order effective 8/23/01.

**CIANCI**, Patricia Lynn (MT #8601) – Rocky River  
**Board Order** - Massage therapy certificate indefinitely suspended; conditions for reinstatement established, including requirement that massage therapist enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Order entered due to massage therapist's failure to comply with Board-ordered examination for possible impairment of ability to practice because of habitual or excessive use or abuse of drugs (Journal Entry). Order mailed 9/13/01; Order effective 9/13/01.

**CLEMENCY**, Karen Alice (MD #53771) – Columbus  
**Consent Agreement** - Medical license suspended for at least thirty days; conditions for reinstatement and subsequent probationary terms, conditions and limitations for at least five years established. Based on doctor's admissions that she provided pre-signed blank prescriptions to employees, resulting in the issuance of six unauthorized controlled substance prescriptions by her physician assistant; and that she had engaged in a sexual relationship with her P.A. during a period when she was also treating him as a patient. Agreement eff. 4/11/01.  
**Reinstatement** - Doctor's request for reinstatement granted by vote of the Board on 5/9/01, effective 5/11/01,

subject to probationary terms, conditions and limitations established by 4/11/01 consent agreement.

**CLOUSE**, George Dixon (MD #13659) – Columbus  
**Voluntary Surrender** - Permanent revocation of medical license authorized by doctor effective 3/29/01.

**COLLIER**, Bert David, Jr. (MD #79929) – Milwaukee, WI  
**Board Order** - Application for medical licensure granted subject to probationary terms, conditions and limitations for at least three years based on applicant's plea of guilty to one felony count of making false statements and misrepresentations to the U.S. Dept. of Health and Human Services; and prior action against doctor's medical license in Wisconsin and California based on that guilty plea. Order mailed 7/5/01; Order effective 7/5/01.

**CURTIS**, Boyd D. (MD #59531) – Columbus  
**Consent Agreement** - Medical license suspended for at least six months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he obtained hydrocodone for his own use by purchasing tablets from a pharmacy for the stated purpose of distributing it to patients, by taking samples from his office, and by completing prescriptions for himself that had been pre-signed by another physician, without authorization from that physician; and based on doctor's admission that he undertook treatment for chemical abuse and dependency through a Board-approved provider after being notified that he was under investigation by the Medical Board. Effective 9/12/01.

**DAIBER**, Robert Raymond (MD #64194) – Toledo  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care provided that treatment and monitoring requirements are in place. Agreement effective 6/13/01; agreement to remain in effect for at least five years prior to any request for termination.

**DAVIES**, Brian William (MD #49895) – Akron  
**Board Order** - Medical license permanently revoked based on doctor having been found guilty of eighteen felony counts of Aggravated Trafficking in Drugs. Order mailed 8/13/01; Order effective 8/13/01. **Court Action** - Notice of appeal of Board's 8/8/01 permanent revocation Order filed by doctor with Franklin County Court of Common Pleas on or about 8/28/01.

**DESHMUKH**, Minakshi B. (MD #70751) – Oregon, OH  
**Consent Agreement** - Medical license indefinitely suspended; conditions for reinstatement established, including requirement that doctor enter into subsequent

consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on summary suspension of doctor's Michigan license by that state's medical board following allegations that she suffers from a mental illness that could adversely affect her ability to practice. Effective 8/8/01.

**DE LA FLOR**, Richard Roberto (MD #47505) – Toledo **Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor's plea of guilty to one felony count of Unlawful Distribution of a Controlled Substance. Notice mailed 8/9/01.

**DELLIQUADRI**, Thomas Joseph (MT #5548) – Girard **Board Order** - Permanent revocation of massage therapy license stayed subject to indefinite suspension for at least two years; conditions for reinstatement and subsequent probationary terms, conditions, and limitations for at least five years established. Based on massage therapist's failure to advise Board on application for license restoration that he had been found guilty of one count of Disorderly Conduct; Intoxication, a minor misdemeanor; and his having been found eligible for treatment in lieu of conviction following his pleas of guilty to two misdemeanor counts of Drug Abuse and one count of Possession of Drug Abuse Instruments, the acts underlying which involved his having been found unconscious due to an overdose on heroin. Order mailed 7/5/01; Order effective 7/5/01.

**DINTIMAN**, Peter Evans (MD #48364) – Damascus **Board Order** - Permanent revocation of medical license stayed, subject to suspension for at least three years; interim monitoring conditions, conditions for reinstatement and subsequent probationary terms, conditions and limitations for at least ten years established. Based on doctor's failure to comply with conditions of limitation imposed on license by 1/99 consent agreement due to relapse and provision of false information to Board regarding same. Order mailed 4/12/01; Eff. 4/12/01.

**DOMINGUEZ**, Steven (MD #60798) – Laguna Niguel, CA **Board Order** - Medical license revoked based on prior action against doctor's Iowa license by that state's medical board, which cited doctor for knowingly making misleading representations in the practice of medicine. (Journal Entry – no hearing requested) Order mailed 7/12/01; Order effective 7/12/01.

**DOUGHERTY**, David Andrew (DO #6330) – Akron **Consent Agreement** - Medical license suspended for at least thirty days; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he has been diagnosed with alcohol

dependence, major depression, opioid dependence, and cannabis dependence; and that he has sought treatment through a Board-approved provider. Agreement effective 3/14/01; suspension effective 3/24/01. **Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care provided that appropriate treatment and monitoring requirements are in place. Agreement effective 5/9/01; agreement to remain in effect for a minimum of five years prior to any request for termination. **Pre-hearing Suspension** - Pursuant to Section 4731.22(G), O.R.C., medical license summarily suspended based on Board's determination that there is clear and convincing evidence that doctor violated conditions of limitation imposed on his license by a 5/9/01 consent agreement and that his ability to practice is impaired; and that doctor's continued practice presents a danger of immediate and serious harm to the public. Notice mailed 8/9/01; suspension effective upon service of notice on doctor on 8/11/01.

**ESPINOZA**, Nicholas Gerard (DO #5306) – Toledo **Consent Agreement** - Medical license permanently limited and restricted to prohibit doctor from prescribing, administering or personally furnishing controlled substance anorectic medications; medical license suspended for at least 90 days; conditions for reinstatement and subsequent probationary terms, conditions and limitations established for at least three years. Based on doctor's admission that he failed to comply with laws governing the utilization of Schedule III and IV controlled substances for purposes of weight reduction in the treatment of obesity. Agreement effective 9/12/01; agreement to remain in effect for a minimum of three years prior to any request for termination.

**FLEMING**, James Edward (MD #29707) – Bratenahl **Board Order** - Permanent revocation of medical license stayed, subject to indefinite suspension; interim monitoring conditions, conditions for reinstatement and subsequent probationary terms, conditions and limitations for at least five years established. Based on doctor having been found guilty of two felony counts of Possession of Drugs; one felony count of Deception to Obtain Dangerous Drugs; and two felony counts of Illegal Processing of Drug Documents, the acts underlying which involved his issuance, while employed as a plant physician, of false controlled substance prescriptions to plant employees who filled the prescriptions and purveyed them to the doctor for his personal use. Order mailed 4/12/01; Order effective 4/12/01.

**FLEMING**, Mark S. (MD #58145) – Columbus **Consent Agreement** - Medical license suspended for at least three months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent

agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he has been diagnosed as alcohol dependent and has sought treatment through a Board-approved provider. Effective 4/11/01. **Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care provided that treatment and monitoring requirements are in place. Agreement effective 9/12/01; agreement to remain in effect for at least five years prior to any request for termination.

**FOOTE**, Mary Jo (PA #864) – Martin's Ferry  
**Consent Agreement** - Certificate of registration to practice as a physician assistant suspended for at least one year; interim monitoring conditions and conditions for reinstatement established, including requirement that P.A. enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on P.A.'s admission that her ability to practice according to acceptable and prevailing standards of care is impaired; and that she violated conditions of limitation imposed on her certificate by 10/98 consent agreement due to drug relapse. Effective 7/11/01.

**FREED**, John Douglas (MD #37748) – Wheeling, WV  
**Consent Agreement** - Application for restoration of medical license granted, subject to probationary terms, conditions and limitations to monitor practice. Based on doctor's history of chemical dependency for which he received treatment, and prior action against doctor's West Virginia license by that state's medical board based on that impairment. Agreement effective 9/12/01; agreement to remain in effect for a minimum of four years prior to any request for termination.

**GARCIA**, Daniel Xavier (MD #48318) – Battle Creek, MI  
**Board Order** - Doctor reprimanded and medical license suspended for thirty days based on doctor's failure to advise Board on license renewal application that he had been charged by Michigan's medical board with negligence or failure to exercise due care for having performed surgery on the wrong knee of a specified patient. Order mailed 8/13/01; Order effective 8/13/01; suspension effective 8/13/01 through 9/11/01.

**GOODEN**, Timothy Alwyn (MD #48868) – Mentor  
**Consent Agreement** - Medical license suspended for at least three months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he has received treatment through a Board-approved provider for alcohol addiction; and that he failed to advise the Medical Board on his application

for license renewal that, since the prior renewal, he had been found guilty of Driving Under the Influence, a misdemeanor. Agreement effective 8/8/01.

**HALL**, Darrell Andre (MD #72948) – Toledo  
**Consent Agreement** - Medical license suspended for at least six months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he is chemically dependent, with his drugs of choice including alcohol, Oxycontin and Phenergan. Effective 4/11/01.

**HANES**, David Corey (DO training certificate #532) – Toledo  
**Consent Agreement** - Medical training certificate suspended for at least six months; interim monitoring conditions and conditions for consideration for renewal/reissuance of certificate established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on history of chemical dependency and relapse, and failure to provide complete and accurate information regarding that history on training certificate application. Effective 4/11/01.

**HO-A-LIM**, Frederick G. (MD #55690) – Beachwood  
**Child Support Default Suspension** - Pursuant to determination by Jefferson County Child Support Enforcement Agency that doctor is in default under a child support order, medical license immediately suspended until such time as Board receives notice from Jefferson County Child Support Enforcement Agency that doctor is no longer determined to be in default. Notice mailed 3/2/01; suspension effective upon doctor's receipt of notice on 3/12/01. **Reinstatement** - License reinstated effective 4/4/01 pursuant to *Notice to Reinstate/Reissue a Professional License* from Jefferson County Child Support Enforcement Agency.

**JAMES**, Justice Harold (DO #895) – Little Egg Harbor, NJ  
**Board Order** - Medical license indefinitely suspended; conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Order entered due to doctor's failure to comply with board-ordered examination for possible inability to practice according to acceptable and prevailing standards of care by reason of mental or physical illness (Journal Entry). Order mailed 3/15/01; Order effective 3/15/01.

**KESSLER**, Michael W. (MD #42553) – Columbus  
**Consent Agreement** - Medical license suspended for at least six months; interim monitoring conditions and conditions for reinstatement established, including

requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he has been diagnosed as chemically dependent and has sought treatment through a Board-approved provider. Agreement effective 5/9/01.

**KORZEP**, Johanna May (MD #72101) – Flatwoods, KY  
**Board Order** - Medical license revoked based on prior action against doctor's Kentucky license by that state's medical board due to chronic alcohol abuse; and prior action by South Carolina's medical board based on Kentucky board action. (Journal Entry – no hearing requested) Order mailed 6/14/01; Order eff. 6/14/01.

**KRIVITSKY**, Leonard (MD #46896) – Allentown, PA  
**Board Order** - Application for restoration of previously revoked medical license denied based on grounds that had served as a basis for prior board disciplinary actions, to wit: improper prescribing to an undercover investigator, and felony convictions for Trafficking in Drugs, Medicaid Fraud and Theft. Order mailed 6/14/01; Effective 6/14/01.

**LAX**, Frederic (MD #67534) – Parma  
**Child Support Default Suspension** - Pursuant to determination by Summit County Child Support Enforcement Agency that doctor is in default under a child support order, medical license immediately suspended until such time as Board receives notice from Summit County Child Support Enforcement Agency that doctor is no longer determined to be in default. Notice mailed 5/25/01; suspension effective upon service of notice on doctor on 5/29/01. **Reinstatement** - License reinstated effective 5/30/01 pursuant to *Notice to Reinstated/ Reissue a Professional License* from Summit County Child Support Enforcement Agency. (**NOTE:** By Entry filed 5/30/01, Summit County Domestic Relations Court issued an order staying the Summit County Child Support Enforcement Agency's *Notice to Suspend a Professional License* until further order of the court.)

**LEVENTHAL**, Mitchell W. (MD #36605) – Cleveland  
**Consent Agreement** - Probationary terms, conditions and limitations established based on history of alcohol abuse and dependence, for which he has received evaluation and treatment through Board-approved providers, who have opined that doctor is capable of practicing according to acceptable and prevailing standards of care. Agreement effective 3/14/01; agreement to remain in effect for at least three years prior to any request for termination.

**LIANG**, Guang (Acupuncture applicant) – Seven Hills  
**Consent Agreement** - Certificate of registration to practice acupuncture granted subject to reprimand and probationary terms, conditions and limitations for at least three years based on applicant's admission that he practiced acupuncture in Ohio from 1994 until 11/00

without either a medical license or acupuncture certificate, and that he used the title "doctor" in conjunction with his name. Agreement effective 3/14/01.

**MARSH**, Lonnie II (MD #38543) – Cleveland  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor's plea of guilty to three felony counts of Illegal Processing of Drug Documents. Notice mailed 5/9/01.

**MICHAEL**, Sami Issac (MD #42310) – Columbus  
**Board Order** - Medical license permanently revoked based on doctor having been found guilty of 7 felony counts of mail fraud and 35 felony counts of making false statements relating to health care matters, the acts underlying which were based on a scheme to defraud health care benefit programs. Order mailed 6/14/01; Order effective 7/15/01.

**MOLISKY**, Jon Alan (DO #3447) – Boardman  
**Board Order** - Medical license suspended for at least thirty days; interim monitoring conditions, conditions for reinstatement, and subsequent probationary terms, conditions, and limitations for at least five years established. Based on doctor's failure to provide complete and accurate information on license renewal application about criminal action that had been taken against him; and impairment of ability to practice according to acceptable and prevailing standards of care due to diagnosed alcohol dependence for which doctor failed to undertake the individual counseling which had been recommended by board-approved treatment providers. Order mailed 10/2/01; Order effective 10/2/01.

**MORROW**, Paul (PA #856) – Sheffield  
**Board Order** - No further action taken and matter dismissed following Board's determination that, although P.A.'s conviction of domestic violence for administering excessive discipline to his minor child constituted commission of a misdemeanor involving moral turpitude, P.A. has actively sought to address difficult family circumstances and poses no threat to the public at this time. Order mailed 4/12/01; Order effective 4/12/01.

**MCALLISTER**, Mark S. (MD #72741) – Rocky River  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations to monitor practice based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care. Agreement effective 5/9/01; agreement to remain in effect for at least seven years prior to any request for termination.

**NALABOLU**, Dasharathram Reddy (MD #51238) – Centerville  
**Board Order** - Medical license permanently revoked based on doctor's improper touching of seven specified

patients; allegations pertaining to two patients referenced in 9/00 notice of opportunity for hearing dismissed without prejudice to future action. Order mailed 5/10/01; Order effective 6/10/01. Prior to effective date of Order, doctor ineligible to take new patients, and required to have a third party present when examining female patients.

**Court Action** - Notice of appeal filed by doctor with Franklin County Court of Common Pleas on or about 5/14/01. **Court Action** - By Decision and Order filed 6/8/01, Franklin County Court of Common Pleas granted doctor's motion for stay of Board's 5/9/01 permanent revocation Order, subject to requirements that doctor not undertake the care of any new patients; that he provide written notice to each female patient that his license has been revoked and that such action is under appeal; and that he not examine any female patient without a third party present. By Decision and Entry filed 6/28/01, Franklin County Court of Common Pleas partially granted State's motion to reconsider terms of 6/11/01 stay Order by adding requirement that doctor obtain signatures from all female patients to verify their receipt of required notice prior to being examined.

**NEPTUNE-CERAN**, Regine (DO #4898) – Sunnyvale, CA  
**Board Order** - Medical license limited and restricted such that doctor shall not commence practice in Ohio without prior Board approval; conditions for such approval established, and subsequent probationary terms, conditions, and limitations for at least five years set forth. Based on prior denial of doctor's licensure application by California's osteopathic medical board due to doctor having been convicted of domestic violence, obstructing official business, and resisting arrest; her making of false statements on California's licensure application; and her failure to demonstrate to the California board that issuance of a probationary license without further psychological evaluation and/or treatment was warranted. Order mailed 9/13/01; Order effective 9/13/01.

**OHIO COLLEGE OF MASSOTHERAPY**/Jeffrey Scott Morrow, President – Akron

**Consent Agreement** - School's certificate of good standing renewed effective 12/7/98, subject to probationary terms, conditions and limitations. Based on school's violation of Medical Board rules due to failure to issue transcripts to some students upon appropriate request and attempting to unilaterally alter terms of enrollment agreement. Agreement effective 3/14/01; agreement to remain in effect for at least one year prior to any request for termination.

**ORRA**, Mahmood Mike Mohamed (DO #3130) – Cleveland

**Consent Agreement** - Doctor reprimanded; probationary terms, conditions and limitations imposed for at least one year. Based on doctor's admission that he knowingly submitted improper billings for \$12,207.55 to the Ohio Dept. of Human Services for reimbursement to which he

knew he was not entitled, which constituted publication of a false, fraudulent, deceptive or misleading statement in violation of the Ohio Medical Practices Act. Agreement effective 5/9/01.

**PANCOAST**, Paul Edward (MD #48028) – Toledo  
**Reinstatement** - Doctor's request for reinstatement granted by vote of the Board on 5/9/01, subject to probationary terms, conditions and limitations established by 3/11/98 Board Order. Board further agreed to reduce required drug screens to two sample collected and two tested per month.

**PHILLIPS**, David Chaffee (MD #60818) - Lima  
**Voluntary Surrender** - Doctor's voluntary surrender of medical license accepted on behalf of Medical Board; doctor ineligible for Ohio licensure in the future. Action taken in lieu of formal disciplinary proceedings based on §4731.22(B)(6), O.R.C. (failure to conform to minimal standards of care of similar physicians under the same or similar circumstances) and §4731.22(B)(18), O.R.C. (violation of a provision of a code of professional ethics, to wit: AMA Current Opinion 8.14). Effective 10/1/01. **[NOTE:** Doctor's license lapsed due to non-renewal on 10/1/98]

**POLITO**, Anthony Gerard (DPM #2626) – Medina  
**Consent Agreement** - License to practice podiatric medicine suspended for thirty days, such suspension to be effective from 4/14/01 through 5/13/01; subsequent probationary terms, conditions and limitations imposed for at least three years. Based on doctor having been found guilty of one misdemeanor count of Theft, the act underlying which involved his having billed a patient's insurer for a specified procedure under an incorrect CPT code. State's allegation that underlying acts involved fraudulent upcoding of insurance claims from 1994 to 1996 were dismissed. Agreement effective 4/11/01.

**RIVERA, Lenin (MD #30466) – Pioneer**  
**Voluntary Surrender** - Permanent revocation of medical license authorized by doctor in lieu of formal disciplinary proceedings based on his plea of guilty to one felony count of Attempted Aggravated Trafficking in Drugs. Effective 3/12/01.

**ROBERTS**, John A. (MD #65308) – St. Catherines, Ontario, CANADA  
**Reinstatement** - Doctor's request for reinstatement granted by vote of the Board on 9/12/01, subject to terms of 8/9/00 Board Order.

**ROJAS VILLEGAS**, Cesar Humberto aka **ROJAS**, Cesar (MD #50243) – Highland Heights  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor's plea of guilty to four felony counts of Trafficking in Drugs. Notice mailed 5/9/01.

**Voluntary Surrender** - Permanent voluntary surrender of medical license authorized by doctor in lieu of further formal disciplinary proceedings based on his 3/16/01 plea of guilty to four fourth degree felony counts of Trafficking in Drugs. Effective 5/24/01.

**ROLFE**, Stephen J. (MD #51023) – Columbus  
**Consent Agreement** - Medical license suspended for at least nine months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he has been diagnosed as opioid and benzodiazepine dependent; that he wrote prescriptions in the names of others for his own use and signed the names of other physicians to prescription forms; that he was arrested and charged with illegal processing of drug documents; and that he has sought treatment through a Board-approved provider. Agreement effective 3/14/01.

**ROMER**, William Anthony (MD #49062) – Centerville  
**Board Order** - Permanent revocation of medical license stayed, subject to indefinite suspension for at least two years, such suspension to be retroactive to 2/14/01, the date of the summary suspension of doctor's certificate; interim monitoring conditions, conditions for reinstatement and subsequent probationary terms, conditions, and limitations for at least seven years established. Based on doctor's violation of the conditions of limitation imposed on his certificate by 2/11/99 consent agreement by relapsing, providing false information to the Board in controlled substance prescription logs and declarations of compliance, obtaining controlled substance cough syrup from patients by adulterating those patients' prescriptions, and failing to report his relapse to the Board. Order mailed 9/13/01; Order effective 9/13/01.

**ROTHSTEIN**, Lawrence Brian (MD #57342) – Westerville  
**Consent Agreement** - Medical license suspended for at least three months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he was diagnosed with substance abuse, for which he has received treatment through a Board-approved provider. Agreement effective 9/12/01.

**SCHULTE**, Gregory Todd (MD #63923) – Columbus  
**Consent Agreement** - Medical license suspended for at least three months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he has been diagnosed with chemical abuse or dependency, for which he has sought treatment through a Board-approved provider. Effective 10/1/01.

**SKORA**, Alan P. (DO applicant) – Dewitt, IA  
**Board Order** - Application for Ohio medical license denied based on prior action against doctor's Iowa license by that state's medical board; applicant's failure to update his Ohio application to reflect that action; and his failure to provide Ohio Board with complete and accurate information concerning the status of his hospital privileges. Order mailed 8/13/01; Order effective 8/13/01.

**STARR**, Philip Andrew III (DO #7632) – Warren  
**Board Order** - Application for medical licensure granted subject to probationary terms, conditions, and limitations for at least three years. Based on suspension by the U.S. Navy of doctor's privileges to diagnose and treat patients, and issuance of a punitive letter of reprimand by the U.S. Marine corps based on doctor's plea of guilty to narcotics violations and his admitted intentional falsification of documents reflecting purported narcotic prescribing. Order mailed 7/31/01; Order effective 7/31/01.

**STARR**, Tom Reutti (MD #26557) – Dayton  
**Board Order** - Medical license indefinitely suspended; interim monitoring conditions, conditions for reinstatement, and subsequent probationary terms, conditions, and limitations for at least five years established. Based on impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs/alcohol. Order mailed 8/23/01; Order effective 8/23/01. **Court Action** - Notice of appeal of Board's Order filed by doctor with Franklin County Court of Common Pleas on or about 8/31/01. By Decision and Entry filed on 9/12/01, Common Pleas Court granted doctor's request for a stay of Board's Order during the pendency of this action, conditioned upon doctor's compliance with requirements that he (1) complete a 28 day treatment program at Greene Memorial Hospital in Xenia, Ohio; (2) submit to daily random urine screens and test negative for drugs and alcohol during the pendency of this action; and (3) provide the court with the treatment program's aftercare recommendations and follow those recommendations.

**STEIN**, Larry Nathan (MD #49322) – Baltimore, MD  
**Consent Agreement** - Medical license indefinitely suspended; conditions for reinstatement and subsequent probationary terms, conditions and limitations for five years established. Based on doctor's admission that he suffers from depression and is unable to practice according to acceptable and prevailing standards of care by reason of mental or physical illness. Agreement effective 4/11/01.

**STONE**, Susan M. aka **FESUS**, Susan M. (MD #48304) – Dayton  
**Pre-hearing Suspension** - Pursuant to Section 4731.22(G), O.R.C., medical license summarily suspended based on Board's determination that there is



**WILLIAMSON**, Victoria Ann (MD #49905) – Toledo  
**Voluntary Surrender** - Doctor's permanent voluntary surrender of license accepted by Board in resolution of requirements of 12/3/97 consent agreement; doctor ineligible for reinstatement in the future. Eff. 6/11/01.

**WOLF**, Leslie Rae (MD #56829) – Kettering  
**Consent Agreement** - Medical license suspended for at least six months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that she has been diagnosed with opiate dependence, alcohol abuse and depression, for which she has sought treatment through a Board-approved provider. Effective 4/11/01. **Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor having been found guilty of seven felony counts of Deception to Obtain a Dangerous Drug. Notice mailed 9/13/01; suspension effective upon service of notice on doctor on 9/15/01.

**WOOD**, Dirk Gregory (MD #50320) – Springfield  
**Board Order** - Medical license permanently revoked based on doctor's plea of guilty to 19 felony counts of Illegal Processing of Drug Documents, one felony count of Attempted Possession of Drugs, and five felony counts of Unlawful Possession of Dangerous Ordnance, to wit: two firearm mufflers or silencers, two automatic firearms, and one sawed-off firearm. Order mailed 8/13/01; Order effective 8/13/01. **Court Action** - Notice of appeal of Board's 8/8/01 permanent revocation Order filed by doctor with Franklin County Court of Common Pleas on or about 8/17/01.

**WU**, Ching-Cheng *aka* **WU**, Kenneth C. (MD #39244) – Allegany, NY  
**Board Order** - Medical license revoked based on prior action against doctor's New York license by that state's medical board following doctor's admission that he committed professional misconduct by reason of practicing medicine negligently on more than one occasion in his treatment of three specified patients, and his specific admission that he failed to obtain adequate diagnostic tests during their pre-natal care; and prior action by California and Pennsylvania medical boards based on New York board action. (Journal Entry – no hearing requested) Order mailed 6/14/01; Order effective 6/14/01.

**YUN**, Mary Mei-Ling (MD #72128) – Loveland  
**Pre-hearing Suspension** - Pursuant to Section 4731.22(G), O.R.C., medical license summarily suspended based on Board's determination that there is clear and convincing evidence that doctor violated conditions of limitation imposed by 10/98 consent agreement and that her ability to practice according to

acceptable and prevailing standards of care is impaired due to mental illness; and that doctor's continued practice presents a danger of immediate and serious harm to the public. Notice mailed 7/12/01; suspension effective upon service of notice on doctor on 7/14/01. **Consent Agreement** - 7/11/01 summary suspension terminated; medical license suspended for at least three months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement for at least ten years, such agreement to incorporate probationary terms, conditions and limitations to monitor practice. Based on doctor's admissions that she violated conditions of limitation imposed on her license by 10/98 consent agreement by failing to follow all of her psychiatrist's treatment recommendations; and that she is unable to practice medicine according to acceptable and prevailing standards of care due to mental illness. Agreement effective 9/12/01.

## Continuing Medical Education

**ALQUIZOLA**, Florenda Canoy (MD #43435) Odessa, FL  
**Voluntary Retirement** - Doctor's permanent voluntary retirement accepted by Board in lieu of formal disciplinary proceedings based on her representation on license renewal application that she had complied with Continuing Medical Education requirements when she had not, in fact, done so. Effective 4/10/01.

**ARO**, Edgardo R. (MD #39351) – Mayfield Village  
**Board Order** - Medical license suspended for at least thirty days; conditions for reinstatement established; subsequent to reinstatement, doctor subject to audits of compliance with continuing medical education requirements for three C.M.E. acquisition periods. Based on doctor's failure to comply with continuing medical education requirements. (Journal Entry – no hearing requested) Order mailed 5/9/01; Order effective 6/9/01.

**BRAY**, Earl Dean (MD #58636) – Agra, KS  
**Board Order** - Medical license suspended for at least thirty days; conditions for reinstatement established; subsequent to reinstatement, doctor subject to audits of compliance with continuing medical education requirements for three C.M.E. acquisition periods. Based on doctor's failure to comply with continuing medical education requirements. (Journal Entry – no hearing requested) Order mailed 5/9/01; Order effective 6/9/01.

**CHRISTMAN**, Janet Butte (MD #22965) – Schenectady, NY  
**Board Order** - Medical license suspended for at least thirty days; conditions for reinstatement established; subsequent to reinstatement, doctor subject to audits of compliance with continuing medical education requirements for three C.M.E. acquisition periods. Based on doctor's failure to comply with continuing medical

education requirements. (Journal Entry – No hearing requested) Order mailed 4/12/01; Order eff. 4/12/01.

**DEMPSEY**, James Everard (MD #68022) – Phoenix  
**Board Order** - Medical license suspended for at least 30 days; conditions for reinstatement for reinstatement established; subsequent to reinstatement, doctor subject to audits of compliance with continuing medical education requirements for three C.M.E. acquisition periods. Based on doctor's failure to comply with continuing medical education requirements. (Journal Entry – no hearing requested) Order mailed 9/13/01; Order eff. 10/14/01.

**FRANCE**, Aaron McKenneth (DPM #2383) – Westfield, NC  
**Board Order** - License to practice podiatric medicine suspended for at least thirty days; conditions for reinstatement established; subsequent to reinstatement, doctor subject to audits of compliance with continuing medical education requirements for three C.M.E. acquisition periods. Based on doctor's failure to comply with continuing medical education requirements. (Journal Entry – no hearing requested) Order mailed 4/12/01; Order effective 4/12/01.

**MANUEL**, Timothy Scott (MD #65764) – Beavercreek  
**Consent Agreement** - Doctor reprimanded; subject to audits of compliance with continuing medical education requirements for three C.M.E. acquisition periods. Based on doctor's failure to timely submit documentation of continuing medical education hours in response to Board audit, although required hours had been timely completed. Effective 7/11/01.

**NICIFOROS**, Peter John (MD #26672) – Alto Loma, CA  
**Board Order** - Medical license suspended for at least thirty days; conditions for reinstatement established; subsequent to reinstatement, doctor subject to audits of compliance with continuing medical education requirements for three C.M.E. acquisition periods. Based on doctor's failure to comply with continuing medical education requirements. (Journal Entry – no hearing requested) Order mailed 6/14/01; Order eff. 6/14/01.

**SARAMPOTE**, Rolando Verdote (MD #37670) – Ravenna  
**Board Order** - Medical license suspended for at least thirty days; conditions for reinstatement established; subsequent to reinstatement, doctor subject to audits of compliance with continuing medical education requirements for three C.M.E. acquisition periods. Based on doctor's failure to comply with continuing medical education requirements. (Journal Entry – no hearing requested) Order mailed 6/14/01; Order eff. 6/14/01.

#### **Court Action Update**

**CLEMENS**, Peter Conover (DO #5416) – Lima  
**Court Action** - By Decision and Entry filed on 4/11/01,

Franklin County Court of Common Pleas affirmed Board's 5/10/00 probationary Order.

**GODESELL-STYTZ**, Gayl Marie (DO #5500) – Beavercreek  
**Court Action** - By Decision and Judgment Entry filed 7/14/01, Franklin County Court of Common Pleas affirmed Board's 7/12/00 permanent revocation Order. Notice of appeal to Tenth District Court of Appeals filed by doctor on or about 7/17/01.

**HAMADEH**, Mazen B. (MD #73816) – Orlando, FL  
**Court Action** - By Journal Entry filed 2/20/01, Tenth District Court of Appeals dismissed doctor's appeal based on his failure to timely file a brief.

**HERMAN**, Michael Lee (MD #54884) – Youngstown  
**Court Action** - Notice of appeal to Ohio Supreme Court filed by doctor on or about 1/12/01. By Entry filed on 4/4/01, Ohio Supreme Court declined to accept jurisdiction of doctor's appeal.

**LIVINGSTON**, Michael Francis (MT #6877) – Cleveland  
**Court Action** - Notice of dismissal of appeal without prejudice filed on behalf of massage therapist on 1/26/01.

**SMITH**, Larry Lee (DO #1724) – Canfield Village  
**Court Action** - By Decision and Judgment Entry filed 6/27/01, Franklin County Court of Common Pleas reversed Board's 9/13/00 reprimand Order.

**SMITH**, Leonard K. (MD #36580) – Kenton  
**Court Action** - By Opinion and Entry filed on 7/19/01, Tenth District Court of Appeals affirmed 10/17/00 Decision of Court of Common Pleas, which had affirmed Board's 6/9/99 suspension Order. By Entry filed 11/21/01, Ohio Supreme Court declined to accept jurisdiction of doctor's appeal. NOTE: Previously granted stay terminated upon filing of Ohio Supreme Court Entry, which terminated appeal. Allowing for 30 day period provided by Board's original Order, suspension eff. 12/22/01 through 4/20/02.

**WALKER**, Ferieda M. (MD #60910) – Dayton  
**Court Action** - By Decision and Judgment Entry filed 6/13/01, Franklin County Court of Common Pleas affirmed Board's 6/14/00 permanent revocation Order. Notice of appeal to Tenth District Court of Appeals filed by doctor on or about 7/10/01.

**WEBB**, Delano H., III (MD #37883) – Huntington, WV  
**Court Action** - By Decision and Entry filed 3/16/01, Franklin County Court of Common Pleas affirmed Board's Order, but remanded it for technical correction. Technical correction made by Entry and Order of the State Medical Board on 4/19/01. Suspension deemed eff. on 4/19/01 upon issuance of Board's Entry and Order. Notice of appeal to Tenth District Court of Appeals filed by doctor on 4/25/01.

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## Delegating Medical Tasks: Statute and Rules

A new Ohio law permitting physicians to delegate certain medical tasks to unlicensed individuals became effective on April 10, 2001. A summary of the law, Section 4731.053, Ohio Revised Code, appears on page 3 of this issue of *Your Report*. The full text of the law is printed below, accompanied by rules adopted by the Board in compliance with the statute.

[§ 4731.05.3] § 4731.053 Rules for physician's delegation of medical task.

### Text of Statute

(A) As used in this section, "physician" means an individual authorized by this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(B) The state medical board shall adopt rules that establish standards to be met and procedures to be followed by a physician with respect to the physician's delegation of the performance of a medical task to a person who is not licensed or otherwise specifically authorized by the Revised Code to perform the task. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(C) To the extent that delegation applies to the administration of drugs, the rules adopted under this section shall provide for all of the following:

(1) On-site supervision when the delegation occurs in an institution or other facility that is used primarily for the purpose of providing health care, unless the board establishes a specific exception to the on-site supervision requirement with respect to routine administration of a topical drug, such as the use of a medicated shampoo;

(2) Evaluation of whether delegation is appropriate according to the acuity of the patient involved;

(3) Training and competency requirements that must be met by the person administering the drugs;

(4) Other standards and procedures the board considers relevant.

(D) The board shall not adopt rules that do any of the following:

(1) Authorize a physician to transfer the physician's responsibility for supervising a person who is performing a delegated medical task to a health professional other than another physician;

(2) Authorize an individual to whom a medical task is delegated to delegate the performance of that task to another individual;

(3) Except as provided in divisions (D)(4) to (8) of this section, authorize a physician to delegate the administration of anesthesia, controlled substances, drugs administered intravenously, or any other drug or category of drug the board considers to be inappropriate for delegation;

(4) Prevent an individual from engaging in an activity performed for a handicapped child as a service needed to meet the educational needs of the child, as identified in the individualized education program developed for the child under Chapter 3323. of the Revised Code;

(5) Prevent delegation from occurring pursuant to section 5126.356 [5126.35.6] of the Revised Code within the programs and services offered by a county board of mental retardation and developmental disabilities;

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(6) Conflict with any provision of the Revised Code that specifically authorizes an individual to perform a particular task;

(7) Conflict with any rule adopted pursuant to the Revised Code that is in effect on the effective date of this section, as long as the rule remains in effect, specifically authorizing an individual to perform a particular task;

(8) Prohibit a perfusionist from administering drugs intravenously while practicing as a perfusionist;

(9) Authorize a physician assistant, anesthesiologist assistant, or any other professional regulated by the board to delegate tasks pursuant to this section.

HISTORY: 148 v H 585. Eff 4-10-2001.

The provisions of § 4 of HB 585 (148 v —) read as follows:

SECTION 4. Not later than August 31, 2001, the State Medical Board shall complete its initial adoption of rules under section 4731.053 of the Revised Code with respect to physician delegation of medical tasks to persons who are not licensed or otherwise specifically authorized by the Revised Code to perform medical tasks.

### Text of Rules

#### **4731-23-01 Definitions.**

As used in Chapter 4731-23 of the Administrative Code:

(A) “Administer” means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person.

(B) “Delegate” means to transfer authority for the performance of a medical task to an unlicensed person.

(C) “On-site supervision” means that the physical presence of the physician is required in the same location (e.g., the physician’s office suite) as the unlicensed person to whom the medical task has been delegated while the medical task

is being performed. “On-site supervision” does not require the physician’s presence in the same room.

(D) “Physician” means an individual authorized by Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(E) “Task” includes, but is not limited to, the administration of drugs in accordance with this Chapter of the Administrative Code.

(F) “Unlicensed person” means an individual who is not licensed or otherwise specifically authorized by the Revised Code to perform the delegated medical task.

(G) “Drug” means the same as in section 4729.01(E) of the Revised Code.

Effective: 9/30/01

#### **4731-23-02 Delegation of medical tasks.**

(A) A physician shall not delegate the performance of a medical task unless that physician has complied with all of the requirements of this Chapter of the Administrative Code and the delegation otherwise conforms to minimal standards of care of similar physicians under the same or similar circumstances.

(B) Prior to a physician’s delegation of the performance of a medical task, that physician shall determine each of the following:

(1) that the task is within that physician’s authority;

(2) that the task is indicated for the patient;

(3) the appropriate level of supervision;

(4) that no law prohibits the delegation;

(5) that the person to whom the task will be delegated is competent to perform that task; and,

(6) that the task itself is one that should be appropriately delegated when considering the following factors:

- (a) that the task can be performed without requiring the exercise of judgment based on medical knowledge;
- (b) that the results of the task are reasonably predictable;
- (c) that the task can safely be performed according to exact, unchanging directions;
- (d) that the task can be performed without a need for complex observations or critical decisions;
- (e) that the task can be performed without repeated medical assessments; and,
- (f) that the task, if performed improperly, would not present life threatening consequences or the danger of immediate and serious harm to the patient.

(C) When a physician delegates the administration of drugs, that physician shall provide on-site supervision, except in the following situations:

- (1) When the physician has transferred responsibility for the on-site supervision of the unlicensed person who is administering the drug to another physician and that physician has knowingly accepted that responsibility on a patient-by-patient basis;
- (2) In the routine administration of a topical drug, such as a medicated shampoo.
- (3) When delegation occurs pursuant to 5126.356 of the Revised Code within the programs and services offered by a county board of mental retardation and developmental disabilities.

(D) This Chapter of the Administrative Code shall not apply if the rules contained herein:

- (1) Prevent an individual from engaging in an activity performed for a handicapped

child as a service needed to meet the educational needs of the child, as identified in the individualized education program developed for the child under Chapter 3323. of the Revised Code;

(2) Prevent delegation from occurring pursuant to section 5126.356 of the Revised Code within the programs and services offered by a county board of mental retardation and developmental disabilities;

(3) Conflict with any provision of the Revised Code that specifically authorizes an individual to perform a particular task;

(4) Conflict with any rule adopted pursuant to the Revised Code that is in effect on the effective date of this section, as long as the rule remains in effect, specifically authorizing an individual to perform a particular task;

(5) Prohibit a perfusionist from administering drugs intravenously while practicing as a perfusionist.

Effective: 9/30/01

**4731-23-03 Prohibitions.**

(A) A physician shall not delegate the practice of medicine as defined in section 4731.34 of the Revised Code. Nothing in this chapter of the Administrative Code shall prohibit the performance of emergency medical tasks.

(B) A physician shall not delegate a task to an unlicensed person if the task is beyond that person's competence. In a hospital, as defined in section 3727.01 of the Revised Code, or an ambulatory care center affiliated with the hospital (if the center meets the same credentialing, quality assurance, and utilization review standards as the hospital) wherein unlicensed persons are employed or otherwise authorized by the governing authority of the institution to perform specific medical tasks, One factor the physician shall take into account

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is the policies by which the employer or the governing authority of the institution seeks to ensure that competent persons will be performing the delegated tasks.

(C) A physician shall not delegate a medical task that is not within the authority of that physician or is beyond the physician's training, expertise, or normal course of practice.

(D) A physician shall not transfer his or her responsibility for supervising an unlicensed person in the performance of a delegated medical task, except to another physician who has knowingly accepted that responsibility.

(E) A physician shall not authorize or permit an unlicensed person to whom a medical task is delegated to delegate the performance of that task to another person.

(F) Except as provided in divisions (D)(4) to (8) of section 4731.053 of the Revised Code, a physician shall not delegate to an unlicensed person the administration of anesthesia, controlled substances, or drugs administered intravenously.

(G) The supervising physician retains responsibility for the manner in which the delegated task is carried out.

Effective: 9/30/01

**4731-23-04 Violations.**

(A) A violation of any provision of any rule in this chapter of the Administrative Code, as determined by the board, shall constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

(B) A violation of any provision of any rule in this chapter of the Administrative Code that pertains to the administration of drugs, as determined by the board, shall constitute "failure to maintain minimal standards applicable to the selection or administration of drugs," as that clause is used in division (B)(2) of section 4731.22 of the Revised Code.

Effective: 9/30/01

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