

November 8, 2006

MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Andrew F. Robbins, Jr., M.D., President, called the meeting to order at 1:00 p.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Raymond J. Albert, Supervising Member; Nandlal Varyani, M.D.; Anquetette Sloan; Patricia J. Davidson, M.D.; Dalsukh Madia, M.D.; and Anita M. Steinbergh, D.O. The following joined the meeting at a later time: Carol L. Egner, M.D.; and R. Gregory Browning, Ph.D. The following did not attend the meeting: Deepak Kumar, M.D., Vice-President; Lance A. Talmage, M.D., Secretary; and David S. Buchan, D.P.M.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; Lori S. Gilbert, Assistant Executive Director; William J. Schmidt, Staff Attorney, Enforcement, Compliance & Investigations; Rebecca J. Marshall, Chief Enforcement Attorney; Mark R. Blackmer, Marcie P. Pastrick, David P. Katko, Karen H. Mortland, Kathleen S. Peterson, Angela Scott, Daniel S. Zinsmaster, and Lynn Zondorak, Enforcement Attorneys; Sheryl L. Maxfield, Damion M. Clifford, Steven C. McGann and Barbara J. Pfeiffer, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; Barbara Jacobs, Public Services Administrator; Jacqueline A. Moore, Disciplinary Information Assistant.

MINUTES REVIEW

MR. ALBERT MOVED TO APPROVE THE MINUTES OF OCTOBER 11-12, 2006. MS. SLOAN SECONDED THE MOTION. A vote was taken

VOTE:	Mr. Albert	- aye
	Dr. Varyani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

EXECUTIVE SESSION

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

VOTE:	Mr. Albert	- aye
	Dr. Varyani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

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

Dr. Egner and Mr. Browning joined the meeting during the Executive Session.

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

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Fred Andrew Brindle, M.D.; Sudheera Kalepu, M.D.; Kimberly Ann Lee, M.T.; Praveen Menon, M.D.; Charles M Momah, M.D.; Kolli Mohan Prasad, M.D.; Mark Robert Rosenberg, M.D.; and Mary Mei-Ling Yun, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

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

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. They may, however, participate in the matters of Dr. Menon and Dr. Kalepu, 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. Robbins stated that, if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

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

FRED ANDREW BRINDLE, M.D.

Dr. Robbins directed the Board's attention to the matter of Fred Andrew Brindle, M.D. He advised that objections were filed to Hearing Examiner Porter's Report and Recommendation and were previously distributed to Board members.

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

Dr. Brindle was represented at the meeting by his attorney, Eric J. Plinke. Dr. Brindle did not personally appear before the Board.

Mr. Plinke stated that Dr. Brindle could not be present today, but he had attached Dr. Brindle's statement to

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the objections he filed. Mr. Plinke stated that, in reviewing the Report and Recommendation, he really doesn't disagree with Mr. Porter's Findings. Dr. Brindle was not in compliance with the Board's previous Order, and he did try to give some insight into why that was the case. His objections refer to a request that really relates back to Dr. Brindle's request some years ago to be reinstated. When Dr. Brindle made that request, he wanted to be reinstated so that he could retire. His intentions were not to actively practice medicine. The Board addressed that request in the previous Order, of which Mr. Porter correctly found him to be in violation.

Mr. Plinke stated that his only request today is that the Board permit Dr. Brindle to retire. That's all he ever wanted to do. He didn't want to get into a huge legal debate with the Board, and he doesn't want to continue that. Mr. Plinke asked that, as an alternative to Mr. Porter's Proposed Order, the Board exercise its discretion and allow him to retire his medical license. Mr. Plinke stated that, at one point, Dr. Brindle had contemplated doing volunteer medicine abroad or using his services, not for monetary gain, but just to assist people in other countries. Mr. Plinke stated that he doesn't think that that is in Dr. Brindle's plans anymore, but he still does not intend to practice medicine in Ohio, and he has not for at least four years. His plans are not that much different from the last time they were in front of the Board. He just wants to retire.

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

Ms. Pfeiffer advised that, in this matter, the Board was represented by Assistant Attorney General Tara Berrien. Ms. Berrien's docket has been taken over by Assistant Attorney General Steve McGann. Based upon review, there was nothing he wished to present at this point in time.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF FRED ANDREW BRINDLE, M.D. MR. BROWNING SECONDED THE MOTION.

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

Dr. Egner stated that she thinks Dr. Brindle makes some points. His problems with the Board were not non-compliance from his addiction. Dr. Brindle had a mental illness and he self-medicated. She stated that she thinks that there are some things that the Board could have done better for him when he was trying to get his license reinstated. Dr. Egner stated that she doesn't really have a problem with Dr. Brindle making some admissions and allowing a mandatory permanent retirement of his license. Dr. Egner stated that she's not really sure how the Board does that. She talked with someone today and she's not sure whether it would get remanded to the Enforcement staff to work that out.

Concerning the Proposed Order of revocation, Dr. Egner stated that Dr. Brindle's not going to come back before the Board. She can understand where he was also non-compliant with an agreement. She commented that Dr. Brindle didn't feel that he was ever going to get reinstated. She again stated that she doesn't have a problem with doing what Dr. Brindle is asking the Board to do.

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Dr. Steinbergh stated that, in theory, she doesn't either; but since Dr. Brindle has been through a hearing, would the Board Order then be that his license be reinstated but immediately permanently retired? Is the Board considering a permanent surrender? She stated that it's not clear to her which direction that would take. It is clear that, because of his mental illness, the Board needs to be cautious that he understands what he's doing and that, at some point in his life, he doesn't decide that he's changed his mind. That was the piece of revocation that was appropriate. Should he ever desire to come back, he would have the ability to do so. She expressed concern that if the Board allowed Dr. Brindle to retire his license, he might come back some time in the future and say that he retired his license under duress, due to illness. A revocation is just that. He cannot practice, and if he is in good health at some point and wants to do that again, he can. Dr. Steinbergh asked what Dr. Brindle's age is.

Dr. Egner stated that she doesn't know, but he's been asking for this for years. She doesn't feel that this has been a recent decision on his part.

Dr. Varyani thought he was in his late 50s, according to the documentation that he's been reading.

Mr. Plinke stated that he thinks that Dr. Brindle is over 60.

Dr. Steinbergh stated that she could go either way, as long as someone would give the Board direction as to how to go about it.

Dr. Egner asked Mr. Whitehouse whether he knew if there's a way for the Board to do that.

Mr. Whitehouse stated that he was wondering whether there was any precedent for this, and he doesn't see anyone offering anything, which gives him pause. He stated that the suggestion sounds reasonable, and it may even work in this case, but he's just concerned about setting a precedent here, although he doesn't think that this is something that people will line up to do.

Dr. Varyani asked how you can retire a revoked license. He stated that he thinks the Board would have to reinstate Dr. Brindle with conditions. Once he's reinstated, in a month or so he can come back and surrender. That would be the simplest thing to do.

Mr. Browning stated that he doesn't want to cut off discussion, but he'd like to know if the Board can do what it's talking about doing and let Dr. Brindle retire. If the Board can't get an answer right now, he would move to table this and have people figure it out and come back to the Board later in the afternoon with an answer.

Ms. Pfeiffer stated that Ms. Thompson has some input on it. She added that there's also an administrative rule.

Ms. Thompson stated that her concern would be that the Board is acting under Section 4731.22(B), ORC,

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which gives the Board certain powers to take an action against a license. A forcible retirement is not in there. The Board can suspend, refuse to reinstate, revoke, or permanently revoke, but retirement is not one of those options. What the Board is now talking about is not putting out an Order and going back to try to negotiate a settlement. She stated that she's not sure that she's hearing the Board talking about a permanent retirement with admissions. That's not quite what Dr. Brindle is seeking. She stated that she understands, from Dr. Brindle's statement, that he wants his license reinstated so that he could retire. Ms. Thompson stated that she's not sure that everyone is talking about the same thing here.

Dr. Steinbergh stated that that's the piece that's not appropriate.

Ms. Thompson stated that, she believes, in order to achieve a retirement, the Board would have to go back and try to negotiate a settlement.

Mr. Whitehouse stated that that poses a number of other interesting issues. If there's a potential for more of this to occur down the road, it would be unwise for the Board to not take the action that is clearly set forth for it.

Ms. Pfeiffer stated that the Board has an administrative rule on the topic. Part of it states that a notice of dismissal may be entered any time prior to the Report and Recommendation. The Board already has the filed Report and Recommendation. She added that she thinks that, if the Board were to settle, it would ultimately have to dismiss the notice that it issued.

Dr. Egner asked Mr. Browning whether he made a motion to table.

Mr. Browning stated that he raised the question whether the Board needs to table.

Mr. Whitehouse stated that it doesn't appear that the staff really has anything to come back and provide to the Board. The staff could try to conjure something up, but it wouldn't be grounded in the statute.

Mr. Browning stated that that's not what he heard. He heard that if the Board wants to go back and negotiate something with this individual to have him voluntarily give up his license permanently, the Board could do that.

Mr. Whitehouse stated that, as he understands, the Board would end up with a consent agreement.

Mr. Browning asked whether that is a consent agreement.

Ms. Pfeiffer asked what the status of Dr. Brindle's license is today.

Dr. Steinbergh stated that his license is suspended, and Dr. Brindle has not been compliant with a previous Order.

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Ms. Pfeiffer asked Ms. Thompson whether the Board could remand this to the Hearing Examiner for some reason, for additional testimony, while it's held open.

Ms. Thompson stated she can't recall the Board ever doing that.

Mr. Browning stated that he thinks that the question is not whether or not the Board should do it or not do it. What can the Board do under current law? What's the answer to that question?

Ms. Pfeiffer referred to the following excerpts from Rule 4731-13-17:

- (B) Any matter which is the subject of a hearing may be settled by the parties. If settlement negotiations continue after the final day of hearing, the parties shall, within ten days of the final day of hearing, jointly present the hearing examiner with written notice specifying a period of time, not to exceed thirty days, during which the record shall be held open for purposes of negotiation.
- (1) If the hearing record has closed or closes during the period of time specified in the parties' joint notice, such notice shall toll the hearing examiner's thirty-day time period for issuance of findings of fact and conclusions of law pursuant to section 4731.23 of the Revised Code.
- (2) If, at the conclusion of the time period specified by the parties' joint notice, the hearing examiner has not received appropriate written notice that a settlement agreement has been executed, the tolling of the hearing examiner's thirty-day period for issuance of findings of fact and conclusions of law shall cease, no further settlement negotiations shall be undertaken, and no settlement agreement shall be executed in lieu of the filing of a report and recommendation by the hearing examiner and the issuance of a final order by the board.

* * *

- (F) A notice of dismissal may be entered at any time prior to the filing of the report and recommendation. If negotiations continue after the final day of hearing, the procedures in paragraph (B) of this rule shall be followed. A notice of dismissal shall be authorized and signed by the board's secretary and supervising member.

Ms. Pfeiffer stated that, as she reads the Board's rules, it sounds like the Board is at the point where it can't unring the bell and go back to negotiate a settlement.

Mr. Whitehouse indicated that the Board members may want to do this, and it sounds like a reasonable thing to do, but he thinks it would be a bad precedent to set.

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Dr. Davidson stated that it appears that the only option the Board has is to take the Hearing Examiner's recommendation and revoke Dr. Brindle's license, and then negotiate a settlement for reinstatement that includes the permanent surrender of his license. She stated that she heard some people say that the settlement would have to be with admissions or without. She stated that she doesn't know what the detriment would be of having admissions.

Ms. Marshall stated that, if the Board adopts the Proposed Order revoking Dr. Brindle's license, what would happen next is that, if he tried to come back, he would go through the normal reapplication process, and then he would have to come through the Enforcement section and they would have to make a determination of whether or not there could be a settlement.

Dr. Egner asked whether the staff would take this discussion into consideration in negotiating a settlement.

Ms. Marshall stated that the staff are just instruments of the Board's will, but she agrees with Ms. Thompson in that she doesn't procedurally see a way the Board could issue a permanent retirement Order because it's not statutorily permitted, and the Board is past the point, procedurally, where settlement negotiations can go on because the Hearing Examiner has already issued a Report and Recommendation.

At this time, after raising her hand and being acknowledged by Dr. Robbins, former Hearing Examiner Sharon Murphy addressed the Board. She advised that the Board could remand the matter to the Hearing Examiner. That would then anticipate a second Report and Recommendation being issued, in which case the parties could issue a notice saying that they wanted to hold the Report and Recommendation, which opens the opportunity for settlement negotiations. It puts the matter back within the limits Ms. Pfeiffer was discussing. The Board would have another period of time during which it could do settlement negotiations, and then the second Report and Recommendation would never be filed.

Ms. Pfeiffer stated that her initial response to Ms. Murphy's statement is that she thinks that the Board would have the ability to do that. The Board has the ability to remand the matter back to the Hearing Examiner to take additional testimony, if it can craft a way to do that.

Ms. Thompson stated that the question is, what are you remanding it for? The time for settlement negotiations appears to be past under the Board's rule. If the Board is remanding it, will the Board remand for purposes of settlement negotiations? She stated that that's going right back around again.

Dr. Varyani stated that there seems to be a lot of issues. He stated that he agrees that the matter should be tabled and revisited next month.

Dr. Steinbergh stated that this is a case of a physician who has been noncompliant with a consent agreement, went on to a hearing and was subsequently non-compliant with a Board Order. She stated that the Board has been told that it is limited as to what it can do once it commits itself to a Board Order. Dr. Steinbergh stated that she thinks that the Proposed Order is appropriate to adopt. What happens after

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that would be out of the Board members' hands until he should come back, if he comes back.

Ms. Pfeiffer advised that, procedurally, the statute says that the Board can order additional testimony to be taken or permit the introduction of further documentary evidence. Ms. Pfeiffer stated that, were the Board to do that and remand it back to the Hearing Examiner for that purpose, that would contemplate the Hearing Examiner issuing a new Report and Recommendation, which would give the Board that leeway if it chooses to do so.

Dr. Steinbergh asked whether there is new evidence. She stated that the Board has all the evidence before it.

Ms. Pfeiffer stated that Mr. Plinke might wish to address potential new evidence that Dr. Brindle might want to be presented.

Mr. Plinke stated that the Board might find it relevant to find out what Dr. Brindle has been doing over the last year since the hearing.

DR. EGNER MOVED TO REMAND THE MATTER TO THE HEARING EXAMINER FOR TESTIMONY AS TO WHAT DR. BRINDLE HAS BEEN DOING FOR THE PAST YEAR. MR. BROWNING SECONDED THE MOTION.

Dr. Egner stated that the Board has to find a way to come to a conclusion on this, and this is a way to do it.

Dr. Davidson stated that she hopes the Board isn't creating a precedent for anybody who doesn't like what's on the table to say that "I have new evidence, I want it remanded so we can go into settlement negotiations."

Dr. Egner commented that the doctor and his attorney didn't come up with this.

Dr. Davidson stated that she wants the minutes to clearly reflect that it is truly new evidence that is meritorious in its review.

Ms. Pfeiffer stated that Dr. Davidson raises a good point; it's almost like the second bite of the apple, but that's the Board's call.

Dr. Davidson stated that it may be an easier route in some ways to revoke Dr. Brindle's license and let him bring his application back.

Dr. Egner stated that she thinks that the Board needs legal guidance and suggested tabling it for that purpose. She stated that the Board may not have the foresight for what's going to happen down the road.

Dr. Steinbergh stated that going with the Proposed Order gives Dr. Brindle a legal remedy to negotiate a

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settlement agreement should Dr. Brindle decide that he wants to reapply for licensure.

Dr. Egner asked Mr. Whitehouse whether he has an opinion on which way would be a better way to go.

Mr. Whitehouse stated that what he hears some of the Board members talking about is steering toward a result and trying to find some way to construct a plausible way to get there. He's not sure that that's an appropriate thing to do. Mr. Whitehouse stated that he thinks that, pretty clearly, the Board has had a review of where it is legally. It knows what its options are. Mr. Whitehouse stated that the Board could probably do some administrative gymnastics and remand this back and get to where it might want to be, but he doesn't think it's the appropriate thing to do. He thinks it's a bad precedent. Mr. Whitehouse stated that he knows that Dr. Brindle didn't raise this, but the Board could arguably see more of these kinds of things coming back.

Ms. Pfeiffer asked whether, if the Board tables the discussion and does not enter an Order, the Board would be permitted in the interim to allow the doctor to permanently surrender with admissions to the initial cite, and then, when the Board comes back to discussing the Proposed Order, it could find the Hearing Examiner's report to support the Findings but take no further action, based upon the intervening surrender.

Dr. Steinbergh stated that she doesn't know that Dr. Brindle is looking for permanent surrender. That's her issue. He wants his license back and then he may retire. She stated that she doesn't think it's appropriate.

Mr. Whitehouse expressed concern about what someone whose license is intact might do should he or she become unhappy in retirement.

Dr. Steinbergh stated that she thinks that the Board should revoke Dr. Brindle's license. What happens after that will depend on Dr. Brindle.

Dr. Madia stated that he has been listening to this argument, and to him it seems clear that Dr. Brindle has violated the Board's Order. Dr. Brindle is non-compliant. His license should be revoked. Why is the Board going to create something with which none of the Board members are comfortable? Dr. Madia stated that the Board should revoke Dr. Brindle's license.

**AT THIS TIME, DR. EGNER WITHDREW HER MOTION TO REMAND THIS MATTER.
MR. BROWNING, AS SECOND, AGREED TO THE WITHDRAWAL.**

**MR. BROWNING MOVED TO TABLE THE MATTER OF FRED ANDREW BRINDLE, M.D.
DR. VARYANI SECONDED THE MOTION. A vote was taken:**

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Mr. Browning	- aye

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

The motion carried.

Later in the meeting, following the Personal Appearances, Dr. Robbins removed this matter from the table for further discussion or motion.

Dr. Robbins asked for a motion to remand this matter back to the Hearing Examiner, pursuant to the previous discussion.

MR. BROWNING MOVED TO REMAND THE MATTER OF FRED ANDREW BRINDLE, M.D., FOR TESTIMONY AS TO WHAT DR. BRINDLE HAS BEEN DOING FOR THE PAST YEAR. DR. EGNER SECONDED THE MOTION. A vote was taken:

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

The motion carried.

SUDHEERA KALEPU, M.D.

Dr. Robbins directed the Board's attention to the matter of Sudheera Kalepu, M.D. He advised that no objections were filed to Hearing Examiner Porter's Report and Recommendation.

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

Dr. Kalepu was represented by her attorney, Terri-Lynne B. Smiles.

Ms. Smiles stated that this is an application case. The Report and Recommendation Mr. Porter issued recommends that the application be granted. She stated that they didn't file objections to that Report and Recommendation. Ms. Smiles stated that they are asking that the Board adopt Mr. Porter's Order and grant Dr. Kalepu a license.

Ms. Smiles stated that this isn't quite the typical application case that you often see before the Board. She stated that there's no question that Dr. Kalepu is very knowledgeable and very well qualified. She referred to a letter from Richard E. Christie, M.D., who was her residency program director, who raves about her. She gets his highest recommendation regarding her competency, and also comments on the respect of her peers, as well as her superior communication skills.

Ms. Smiles stated that this is not a letter that Dr. Kalepu asked Dr. Christie to write and say certain things. Dr. Kalepu had never seen that letter prior to the hearing. That's Dr. Christie's honest assessment. She added that she believes that Dr. Christie includes quotes from Dr. Kalepu's residency evaluations. Dr. Kalepu is very well qualified.

Ms. Smiles stated that the issue in this case is that Dr. Kalepu did not pass U.S.M.L.E. Step 3 within seven years, or within three tries. Ms. Smiles stated that she wants to point out Dr. Kalepu's family situation which is, in essence, what this matter is about. Dr. Kalepu gave birth to three children during this period. She worked full-time during most of the period. At the end, she was enduring some very difficult and challenging personal family issues. Ms. Smiles commented that, throughout this period, Dr. Kalepu really tried to meet the Board's requirement to get her license. Getting her Ohio license is extremely important to Dr. Kalepu. In fact, the reason that she did not pass Step 3 within three tries is that she was trying to come within that seven-year time frame. She took the Step 3 on her third try a few months after she gave birth to her third child. She was working, taking care of her other two children, and she knew that these were not circumstances that would allow her to adequately prepare, but she took it anyway in the hope that she would pass and come within the Board's rule and not be before the Board today, asking for her license.

Ms. Smiles stated that she thinks that the Board will see very clearly from Dr. Kalepu that Dr. Kalepu is an extremely private person. It is extremely difficult for her to be here today. She stated that it was extremely difficult for Dr. Kalepu to go through this hearing. Dr. Kalepu doesn't want to make excuses for herself. She's really struggled with whether or not to go forward and seek her Ohio license, even though this is her home and she wants to stay here, because of the issues in front of her. The fact that she is here today speaks volumes, both to her commitment to practice medicine in Ohio, as well as to the support and encouragement that she has gotten from her family and her colleagues, who want her to continue to practice and be a physician in Ohio.

Dr. Kalepu at this time addressed the Board. She thanked the Board for allowing her to speak today. She stated that she appreciates the Board's careful attention to her request to be licensed in Ohio. She stated that she doesn't make any excuses for herself. This is why she pushed to take Step 3 for the third time so soon after the birth of her third child. She stated that she knew that it was unlikely that she would pass, but she hoped that she would so that she wouldn't have to appear before the Board to ask for an exception.

Dr. Kalepu stated that her dream, since she was a child, has been to be a physician in the United States. At that time she didn't care where she practiced in this country. Today she lives in Ohio. She came to Cleveland, Ohio, and has been there for the past 14 years. She doesn't know any other place here. All

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three of her children were born here. They go to school here. Her friends are here. Ohio is her home and her dream now is to practice medicine in Ohio. She recently completed her training at St. Vincent Charity Hospital in Cleveland. She was fortunate to get a license from the State of Kansas. Dr. Kalepu stated that she works for the Veteran's Administration in Ravenna, Ohio. It's given her the opportunity, but it's a long way from her home in Cleveland. Dr. Kalepu stated that she worries that, if something would happen to her position at the VA, she would have to choose between leaving her home and leaving the position which she has worked so hard to achieve.

Dr. Kalepu advised that many times over the last six months she has considered giving up on having an Ohio license, rather than ask the Board to make an exception for her. Several people have encouraged her to be here today, telling her that she's the kind of physician they would want to see practicing in Ohio. They tell her not to give up on her dream, having come so far. She asked the Board to grant her an Ohio medical license. She again thanked the Board for its consideration, and stated that she would answer any questions Board members might have.

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

Mr. Clifford stated that Dr. Kalepu is seeking an exception to Rule 4731-6-14 (C)(3) for health issues and for good cause. He stated that it is totally within the Board's discretion to make whatever determination it feels is appropriate.

MR. ALBERT MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF SUDHEERA KALEPU, M.D. DR. VARYANI SECONDED THE MOTION.

Dr. Steinbergh disagreed with the Proposed Order. She stated that she is certainly sensitive to this physician, and she agrees that Dr. Kalepu has had tremendous health and family issues, and that she has been persistent in her attempt to be licensed. Dr. Steinbergh noted that Dr. Kalepu is currently practicing at a VA hospital in Ohio, under her Kansas license. She also noted that Dr. Kalepu failed Step 3 more than three times. Dr. Steinbergh stated that she couldn't find a strong enough exception to grant a license in this case. She added that she thinks that Mr. Porter felt that the evidence was less clear that this was the reason for her failure of the U.S.M.L.E. Step 3. She does not find that the Board should make an exception in this case, and she disagrees with the Proposed Order. She commented that this is a tough one.

Dr. Egner stated that, if Dr. Steinbergh says that Dr. Kalepu has had significant health issues and the Board members agree that she has, then the Board should grant the exception.

Dr. Steinbergh stated that she didn't say "significant," she used the word "tremendous."

Dr. Egner stated that the Board has seen similar physicians before it on this issue. The rule says that, if a physician can produce some significant health problems, the physician will stand a chance to get an exemption from the rule. Dr. Egner stated that the Board has been lenient in the past and has allowed

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physicians to get their licenses over the seven-year-rule with some borderline health issues. Dr. Egner added that, in Dr. Kalepu's case, she feels that the health issues were borderline. However, if Dr. Steinbergh stated that they were tremendous and other Board members feel that they are beyond mild health issues, then, consistent with what the Board has done in the past, she should be granted a license. Dr. Egner added that she can't wait until the Licensure Committee resolves this issue.

Dr. Robbins stated that the Licensure Committee is working on this issue, but added that what makes this more difficult is that Dr. Kalepu failed a part of the exam three times. The rule says that the Board can go that extra mile, but they cannot fail any one part three times or more. When you look at this case, the worst that can happen is that she will have to take tests to ensure competency. Dr. Robbins stated that in this case, he would rather that Dr. Kalepu take the test, and then the public would be protected. Had she not failed the Steps three times, he thinks that there would be the possibility of the Board granting the license; but the Board has been consistent in cases where the applicant failed a Step three or more times. Dr. Robbins agreed with Dr. Steinbergh for that reason.

Dr. Davidson stated that she also agrees. She stated that Mr. Porter opens the window a little bit by saying that the Board has the ability to interpret its rule granting an applicant who suffers from a significant health condition which, by its severity, would necessarily cause a delay to the applicant's medical study or as the Board deems appropriate. She commented that the last part of that would indicate that, for whatever whimsy the Board feels, it can give anybody a license. Dr. Davidson stated that she hopes that the Board sees that piece of language go away. If that's how the Board interprets that part of the sentence, to apply to anything rather than to that piece, there's no point for the Board to meet.

Dr. Davidson stated that she doesn't think that Dr. Kalepu makes it based on the significant health condition. The bottom line is that she didn't pass the steps in three attempts. Dr. Davidson added that that's the part of the rule where the Board doesn't have an exemption. She stated that she believes that there has been one case in which the Board interpreted that rule narrowly.

Mr. Browning stated that the point is that the Board has the discretion.

Dr. Davidson stated that she thinks it's a way to interpret the rule that Mr. Porter put on the table. She disagrees with his interpretation.

Mr. Browning stated that he's asking a question about fact. Does the Board have the discretion to grant this or not. He stated that he can't vote on this unless he knows the answer to that.

Dr. Davidson stated that she doesn't think that anybody knows that.

Dr. Steinbergh disagreed with Dr. Davidson. She referred the Board to Conclusion of Law 2 of the Report and Recommendation, where Mr. Porter reviews Rule 4731-6-14 (C)(3), which provides for certain exceptions to the seven-year requirement. She quoted, as follows:

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[A] limited exception to this rule may also be granted by the board to an applicant who passes all three steps within a ten-year period if the applicant shows good cause for why he or she did not complete the examination sequence in a seven-year period and has not failed any step of the USMLE three times or more.

Dr. Steinbergh stated that she doesn't find an exception to that in this case. She stated that the Board can assess a health condition.

Mr. Browning stated that, in other words, the Board has a system that has given it a Report and Recommendation by a Hearing Examiner, that shouldn't have happened, as a matter of law. That's a problem.

Dr. Davidson stated that she thinks it's a matter of semantics. She stated that it never occurred to her that the argument would be made that the portion of the sentence could be applied to give the Board carte blanche for licensure.

Mr. Browning stated that, in his history, this would be the first time that the Board has had a Hearing Examiner that gave the Board a Report and Recommendation that the Board could not support legally. He stated that this is the case Dr. Davidson and Dr. Steinbergh are making. Legally, the Board does not have the discretion to support the recommendation of the Board's own hearing examiner.

Dr. Steinbergh agreed. She added that she doesn't think that the Board can license in this case.

Mr. Browning stated that he would like input from the Attorney General's office on this. He asked whether his interpretation is right or wrong.

Ms. Pfeiffer stated that she has two thoughts on this case: the first relates to the section from which Dr. Davidson was reading, which, in the rule, follows the wording "that all three steps must have been passed within a seven-year period." The rule continues: "Limited exceptions to this rule may ... be granted to an applicant who suffered from a significant health condition which by its severity would necessarily cause a delay to the applicant's medical study, or as the Board deems appropriate." Ms. Pfeiffer stated that, the way she reads it, prior to it, this doesn't talk about having not failed it more than three times. As you go on further it discusses that issue and ties it in. Ms. Pfeiffer stated that she thinks that there is, arguably, some wiggle room to have that wide discretion that Dr. Davidson discussed.

Mr. Whitehouse stated that the addition of that language about two years ago did kind of kick open the door. Since that time, the Board has exercised that discretion. He stated that the Board has considered things beyond the original rule by using those words. The Board has talked about competency and all kinds of things in the Licensure Committee meetings. He added that, at the end of the day, he thinks that the Board does, as the Hearing Examiner suggested, have the discretion because of those few extra words added on to this language and based upon past practice.

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Dr. Steinbergh disagreed. She stated that rule says you cannot fail any step more than three times.

Dr. Davidson added that the Board never has made that exception.

Dr. Varyani agreed, stating that, since he's been on the Licensure Committee, the Board has never bypassed that rule.

Dr. Steinbergh stated that the Board has made the exception for people who passed by the third attempt within the ten-year period. She added that, when they should have passed within a seven-year period, the Board has excused that for health reasons. She stated that, to her knowledge, the Board has never crossed this boundary. She added that the Board shouldn't be seeing this and having this discussion. This person does not meet the Board's criteria, at this point, for licensure in the state.

Mr. Browning stated that he's not talking about what the Board should do. He's trying to clarify the law. He added that the Board's Director does not agree with what Dr. Steinbergh just said, and the Hearing Examiners don't agree with that. They are presenting the Board with the Report and Recommendation where they assume that the Board has the discretion to grant the request. He noted that Mr. Whitehouse agrees that the Board has the discretion, whether they use it or not.

Mr. Whitehouse and Ms. Pfeiffer both agreed with that standing.

Dr. Robbins stated that he will call for a vote on the motion, but added that, in his term on the Board and the Licensure Committee, he is unaware of the Board having ever granted an exemption when someone has failed one of the three steps three or more times within the period of time the Board is discussing.

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

Vote:	Mr. Albert	- nay
	Dr. Egner	- nay
	Dr. Varyani	- nay
	Mr. Browning	- nay
	Ms. Sloan	- nay
	Dr. Davidson	- nay
	Dr. Madia	- nay
	Dr. Steinbergh	- nay

The motion failed.

Dr. Robbins asked whether any Board member wished to make a motion for a substitute Order.

DR. STEINBERGH MOVED TO DENY DR. KALEPU'S REQUEST FOR AN EXEMPTION OF THE SEVEN-YEAR RULE. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

KIMBERLY ANN LEE, M.T.

Dr. Robbins directed the Board's attention to the matter of Kimberly Ann Lee, M.T. He advised that objections were filed to Hearing Examiner McNeil's Report and Recommendation and were previously distributed to Board members.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF KIMBERLY ANN LEE, M.T. DR. EGNER SECONDED THE MOTION.

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

Dr. Steinbergh stated that this is the case of a massage therapist who has been found guilty of a felony. Ms. Lee participated in the robbery of a bank. Dr. Steinbergh stated that she agrees with the Proposed Order of permanent revocation. Dr. Steinbergh stated that she doesn't feel that this felony can be excused, and added that the public expects the profession to be above this type of act.

Dr. Madia agreed with Dr. Steinbergh that permanent revocation is appropriate.

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

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

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The motion carried.

PRAVEEN MENON, M.D.

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

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF PRAVEEN MENON, M.D. MR. BROWNING SECONDED THE MOTION.

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

Dr. Steinbergh stated that this is a matter of a physician who fails to meet the requirement of Rule 4731-6-14, OAC, in that he did not pass all three steps of the U.S.M.L.E. within seven years. He did finish them within ten years. Dr. Menon reported that he had visa problems in coming to the United States.

Dr. Steinbergh stated that she doesn't feel that Dr. Menon showed good cause for why he didn't complete the exam within the proper time.

Dr. Varyani stated that Dr. Menon's problems with obtaining a visa may not be good cause for not completing the sequence, but it is a cause. He noted that Dr. Menon applied multiple times to get a visa to the United States. He's shown proof that he couldn't get a visa. By the time he got to the United States, it was too late for him to complete the sequence within the seven-year period. Dr. Varyani stated that despite that, he feels that the Board should do what it has done in other similar cases.

Dr. Steinbergh commented that the Board doesn't know why Dr. Menon was denied a visa earlier in the process.

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

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

The motion carried.

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CHARLES M. MOMAH, M.D.

Dr. Robbins directed the Board's attention to the matter of Charles M. Momah, M.D. 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, AND PROPOSED ORDER IN THE MATTER OF CHARLES M. MOMAH, M.D. DR. VARYANI SECONDED THE MOTION.

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

Dr. Egner stated that this is probably the most straightforward Report and Recommendation today. There is no question that a permanent revocation is appropriate in this case. If Dr. Momah's legal problems are overturned on appeal, he has avenues to redress it with the Board. At this time he needs to be permanently revoked.

Mr. Browning and Dr. Madia agreed with Dr. Egner.

Dr. Steinbergh referred the Board to the Findings of Fact, which indicate that Dr. Momah was found guilty in the State of Washington of the following charges: Count I: Rape in the Third Degree; Count II: Indecent Liberties; Count III: Indecent Liberties; and Count IV: Rape in the Second Degree. Dr. Momah was sentenced to serve a 20-year to life prison term. Dr. Steinbergh stated that she agrees with the Report and Recommendation.

Dr. Davidson noted that there was a handout in this matter in the agenda binder.

Mr. Wilcox explained that what was distributed was an amicus motion for the Board to delay its action in this case until the appeals on Dr. Momah's criminal conviction have ended. It was provided to the Board for information only. Mr. Wilcox noted that the Board in the past has not granted such motions. He added that, although the motion indicates that Mr. Wilcox is in support of the request, he is not.

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

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

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The motion carried.

KOLLI MOHAN PRASAD, M.D.

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

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

Dr. Prasad was accompanied by attorney Terri Lynne Smiles, who explained that Dr. Prasad's attorney, Elizabeth Y. Collis, was unable to attend this meeting. Ms. Smiles stated that they did not file objections on behalf of Dr. Prasad, because they agree with the Hearing Examiner's recommendation.

Ms. Smiles stated that she would like to address two matters. She stated that, as the Board knows, Dr. Prasad has been monitored by the Board for a number of years. His license was indefinitely suspended, for a minimum of three years, in 1998 due to a relapse on alcohol. He was reinstated on probation in 2003 and has been working under those terms. In 2005, Dr. Prasad's license was suspended for 30 days due to paperwork problems in compliance. That suspension was not based upon a relapse. In fact, Dr. Prasad has been sober since April 1997.

Ms. Smiles stated that they are here today on the notice letter that was sent in April 2006. This was based on the fact that Dr. Prasad failed to submit some of his compliance paperwork and he failed to set up random urine screens for a few weeks that he worked in Illinois in 2006. Ms. Smiles stated that Dr. Prasad recognizes that this is a problem, but there are no allegations that Dr. Prasad has relapsed on alcohol. Dr. Parran, his monitor, testified that he shows no signs of relapse and believes that Dr. Prasad is safe to return to practice at any time.

Ms. Smiles advised that, over the past year, Dr. Prasad has had hundreds of random drug screens. They have all come back clean. She stated that Dr. Prasad understands that these screens are a very important piece for the Board to know that he is staying clean. He is willing to provide the Board with all of the documentation and all of the screens that are required to continue to maintain his license in Ohio. She advised that Dr. Prasad also recognizes that he has had problems with compliance with paperwork and has gotten himself in some unfortunate situations with respect to his compliance. Dr. Prasad has reached out for help in that respect. His sons have stepped forward to help him submit all of his paperwork on a timely basis and to make sure that all that's happening, and, if he again moves to a new town, to make sure that he gets his screens set up right away so that there isn't any issue with his missing screens for a few weeks. Ms. Smiles continued that Dr. Prasad has also retained her firm to help him through this process and to be another check that he is submitting everything on a timely basis.

Ms. Smiles stated that, given that he did not relapse and that he has been sober since 1997, and that he's now taken some firm steps to make sure that he can continue to comply with this Board's terms, they ask

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that Dr. Prasad be given the opportunity to continue to practice medicine.

Dr. Prasad at this time addressed the Board. He thanked the Board for the opportunity of appearing before it. He stated that he would like to apologize to the Board. He stated that he has been sober for more than nine years. He's not here before the Board because of a relapse, but he did have significant problems with paperwork and setting up screens when he moved to a new place. He has now made himself, his health and his family top priority. By taking this approach, he has been able to remain sober for the past nine years.

Dr. Prasad stated that, although he appears before the Board for failure to submit certain compliance documentation on time, and for failing to set up the random screens when he was in Illinois during January and March of this year, he wants the Board to know that he doesn't take his agreement with the Medical Board lightly. He takes it very seriously, with as much seriousness as he takes his sobriety.

Dr. Prasad stated that over the past few years he has not only had to work hard to maintain his sobriety, but he also has been faced with the failing health and ultimate death of his brother on November 3, 2005. He has had to endure problems with his own health recently. It has not been easy for him since he has not been employed as a physician. In the middle of 2005, he was offered temporary employment in Danville, Illinois, to work as a radiologist at a V.A. Hospital. He fully informed his employers of his history of alcoholism and his relationship with the Ohio State Medical Board. His three colleagues in Illinois each sent a letter to the Medical Board advising that they worked with him on a daily basis and that all those times he was clean and sober. Dr. Prasad stated that taking the job in Illinois was difficult for him; he had not worked in many years and he had to really work hard to learn a new system, new developments, and the procedures in place. He also had to move to Illinois and live in a hotel during that time.

Dr. Prasad stated that he knew that he had to set up screens by contacting different people at the V.A. Hospital, and they told him that they don't do urine screens; they only do blood screens. That does not satisfy the requirements of the Medical Board, so he had to look for a place. There's only one other lab in the town, and they don't do urine screens either. He stated that, after six weeks, he finally found a place where they do urine screens, and they took him. After that, he began to submit those reports to the Medical Board.

Dr. Prasad stated that he does understand that, to continue to maintain his Ohio license, he has to do random urine screens, as required by the Board. Dr. Prasad stated that he came to Ohio in 1974 and he hasn't moved from Youngstown, Ohio. This is a home to him. He's spent more years in Youngstown than he spent his whole life in India. In the past few months he did acknowledge that he cannot handle all these compliance issues on his own. He retained legal counsel for the first time, and one of his sons agreed to take some responsibility. He could get help, but until now he has refused it. Now, he knows that he does need help and he'll find the right way. Dr. Prasad stated that this is a humbling experience and he continues to learn from it. He does understand the importance of the documentation required by the Ohio State Medical Board. Dr. Prasad stated that Dr. Parran testified on his behalf and said that it's not only the screens that are keeping him sober, but it's the meetings that he attends and his faith in a Higher Power.

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Dr. Prasad stated that he's finally at a point where he's healthy and has returned to work. He asked that the Board adopt the Hearing Examiner's proposal. He stated that he's already spent seven months without work. He asked that the Board make any suspension time retroactive. He stated that he would like to return to the practice of medicine, adding that it's the only thing he knows.

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

Mr. Wilcox stated that he won't spend a lot of time going over Dr. Prasad's history; it was well documented in the Report and Recommendation. Dr. Prasad has a lengthy history with this Board, and he has a lengthy history of not following through with what he's supposed to do. He's failed to ensure the paperwork requirements of his consent agreement were met on numerous occasions. What the Board must decide today is whether the Board can effectively monitor this physician.

Mr. Wilcox stated that he doesn't think that Dr. Prasad has demonstrated that this Board can monitor him. He's come before this Board and has expressed that he's had financial problems or family-related problems that have hampered his ability to comply. Mr. Wilcox commented that Dr. Prasad's attitude seems to be that as long as he's sober, everything's fine – it doesn't matter that he doesn't turn in the paperwork. Mr. Wilcox stated that the paperwork in this case is how the Board makes sure that Dr. Prasad remains sober. That's how this Board is able to monitor him; it's the key. Mr. Wilcox stated that he doesn't think that Dr. Prasad understands that. He added that he doesn't know how many times Dr. Prasad can come before this Board and makes excuses for not following through with what he's required to do.

Mr. Wilcox stated that this is a sad case because Dr. Prasad is a nice gentleman. He stated that he met Dr. Prasad's family at the hearing, and they're nice people. He added, however, that, in this situation, Dr. Prasad is not following through with what he has to do for this Board to effectively monitor him. Mr. Wilcox stated that the Board has shown great patience and diligence in trying to help Dr. Prasad through the difficult times. He doesn't feel that the Board has been rewarded with similar patience or commitment from Dr. Prasad.

Mr. Wilcox advised that he disagrees with the recommendation of another 30-day suspension and additional year probation. He questioned what an additional year of probation will do in this case. At this time, he believes that the only decision the Board should make is to permanently revoke Dr. Prasad's license.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF KOLLI MOHAN PRASAD, M.D. DR. VARYANI SECONDED THE MOTION.

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

Dr. Egner stated that she would like to go through Dr. Prasad's history with the Board, and then comment on it. She advised that in 1995 Dr. Prasad underwent treatment for impairment. He first relapsed in July

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1996, and again in October 1996. Dr. Prasad entered into a consent agreement in February 1997. He had a third relapse in July 1997, and a fourth relapse in September 1997. In March 1998, he underwent a Board Order that included a three-year suspension. In July 2002, Dr. Prasad was granted a decrease in his urine screens. In November 2003, his license was reinstated. In November 2004 he was noncompliant with the Board's Order, was given a 30-day suspension, but not related to relapse. In May 2005, he was again non-compliant with documentation and drug testing for a variety of reasons. Dr. Egner commented that Dr. Prasad should have had better communication with the Board.

Dr. Egner stated that the recommendation before the Board at this time was to add another year of probation to the eight years of probation he previously was under and order another 30-day suspension. Dr. Egner stated that the Board needs to re-look at Dr. Prasad in 2006 and not how the Board looked at him in 1997. She stated that, if the Board looked at this physician today, he would argue, and the Board would agree, that he did not have four relapses; that in a 14-month period of time he never really got adequate treatment. Now, he has not relapsed since 1997 and the Board won't let him go. Dr. Egner stated that, today, the Board would not be holding onto a physician this long. This is a person who has been sober for nine years and has a very low incidence of relapse. The Board now usually puts such physicians on probation for some time between three and five years. If they have not had a relapse, the Board lets them go. Dr. Egner stated that the Board won't let this poor man go. He keeps coming back before the Board, not because the Board is protecting the public so well. Dr. Egner stated that the Board doesn't need to protect the public from a man who has been sober since 1997. According to the way the Board does things today, Dr. Prasad would have been free of the Board in 2002, and now the Hearing Examiner is recommending that the Board keep him around until 2012. Dr. Egner stated that she would go crazy if she had to be under this kind of surveillance, if she had this kind of history.

Dr. Egner stated that she feels the complete opposite of the Attorney General's presentation. She doesn't think that Dr. Prasad should be permanently revoked. She thinks that the Board should quit monitoring Dr. Prasad so closely. He has not given the Board cause to show that he needs to be monitored this closely. She added that now it becomes a power struggle between the rules that the Board has and protecting the public.

Dr. Steinbergh stated that one of the things the Board has not had on a regular basis is proper monitoring, because Dr. Prasad doesn't do it. He has failed to communicate with the Board if he's going to be moving, if he has a hardship. There's been no communication about that. Dr. Steinbergh agreed that it's been a very, very long time. Dr. Steinbergh stated that one thing she's not certain of is whether he has been sober since April 1997 as he says. She stated that the reason she says that is because one of the things that chemically dependent physicians or others do is lie. The Board doesn't have an ongoing record to support that he was sober. Dr. Prasad says that he was sober. If she's to believe he's sober, she doesn't disagree with Dr. Egner; however, Dr. Prasad has been noncompliant. Dr. Steinbergh stated that those physicians who come before the Board and are compliant, when they finish their term, it's clear. They're done. What drags this out and has dragged others out is the fact that they've been non-compliant and the Board doesn't know for sure that he's been sober. Dr. Prasad says that he's been sober, his attorney says that he's been sober, but how does the Board know that? He has clearly been noncompliant for the number of times Dr.

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Egner outlined. Dr. Steinbergh stated that she has a problem with that. She added that she thinks that Dr. Prasad is his own worst enemy. He hasn't been compliant and the Board doesn't have that usual picture that it sees when it monitors a physician for five years and can appropriately say, "He's done." Dr. Steinbergh stated that she'd like to agree with Dr. Egner that Dr. Prasad is done. But she's unsure because of his record of non-compliance. Dr. Prasad has asserted sobriety, but the Board hasn't had the appropriate monitoring to document that.

Dr. Egner stated that she thinks that that's part of the reason that the Board also has in place the requirement of personal appearances. The probationers meet with the Secretary and Supervising Member. If sobriety were an issue and not just non-compliance with the screens and paperwork, that would come out in his conferences. She noted that Mr. Albert has a personal relationship with these people.

Dr. Steinbergh again expressed concern about the periods of time when Dr. Prasad didn't submit required urine screens.

Dr. Egner agreed that those can be signs that a physician has relapsed, but there's nothing in here that leads her to believe that he has had relapses that the Board has not caught. If there are, that evidence should have been presented. Dr. Egner again stated that the Board should let this man go.

Dr. Davidson stated that the fact that, in 1998, the Board did a stayed permanent revocation means a lot to her. She agrees that times change and this Board may look at things differently and that the Board may not look at these as relapses now, or as never really attaining any sobriety. She definitely disagrees with the Proposed Order that would permanently revoke him again and stay that again. She stated that "permanent revocation," whether it's stayed or not, has got to be a very significant place to go and the Board shouldn't just choose to try it again.

Dr. Davidson added that she doesn't feel comfortable with more probation. She doesn't think it's worked in the past either. Dr. Davidson stated that, as set forth in the Report and Recommendation, Dr. Prasad has given some of the most ridiculous excuses for non-compliance: he didn't have a phone book; there's an hour time difference in Indiana. She stated that these were reasons she just can't buy. There is the fact that everybody says that they're not aware that he's been drinking, but that happens quite a bit. Even Dr. Parran says he has "no concerns about Dr. Prasad's sobriety," but the Board has seen him be wrong, too. Dr. Davidson stated that compliance is the only way the Board has of getting people back to practice. Dr. Davidson stated that she doesn't know where to go, but she doesn't think that another permanent revocation that the Board stays is appropriate.

Dr. Varyani asked whether Dr. Davidson is suggesting that the Board just abandon Dr. Prasad.

Dr. Davidson stated that that's the way she was leaning. She was interested to see if anybody read this differently. How many times has the Board said that somebody ought to know that they can contact the Board to assist with compliance, but all of the sudden it's saying, "not here."

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Dr. Varyani stated that this is Dr. Prasad's second visit before the full Board since he joined the Board. He feels like Dr. Davidson. Dr. Prasad is an adult, a physician, a radiologist, and he's supposed to be responsible. If a responsible person doesn't submit paperwork, which is the Board's way of looking at whether he is or he isn't using his favorite poisons, Dr. Varyani stated that he doesn't know. He doesn't know whether the Board has a process whereby it could suspend Dr. Prasad for a period of time and then he would apply and it would be up to him to tell the Board, rather than the State and the Board keeping him on probation. Dr. Varyani stated that, under the Proposed Order, Dr. Prasad will have six more years under Board monitoring, and he doesn't know how many times Dr. Prasad will come back. Dr. Varyani stated that he wishes that the Board could modify the Proposed Order in a way to say, "Dr. Prasad, you give us the reports and you're licensed, but the day you don't, goodbye." Dr. Varyani stated that that's what he would like to do, but he doesn't know if there's a means of doing that.

Dr. Davidson suggested a straight revocation.

Dr. Varyani stated that that's really what he means. The Board could revoke Dr. Prasad's license, and he can reapply. It will then be up to him to prove to the Board that he has not been drinking.

Dr. Steinbergh stated that, historically, in 1998 the Board did tend to use the language of permanent revocation, and they would stay that permanent revocation. It was significant to the Board. On the other hand, in this time frame, what does the Board do if it has impaired physicians who have relapsed? The Board tends to revoke in a non-permanent way so that they have the option to come back after a marked period of sobriety and can prove that. Otherwise, the Board has permanently revoked those physicians who simply are non-compliant, where the Board has no means of regulating and no means of assuring itself.

Dr. Steinbergh stated that she does understand where Dr. Egner is coming from in terms of public protection and so forth. You can feel sorry for this physician, but he has failed so many times to be compliant with his consent agreements and Board Orders, she doesn't see that the Board is regulating him at all. He doesn't take the Board's discipline seriously. That's the piece of impairment she wonders about: the poor decision making, the decision that you would take your license so lightly that you would not comply with a Board order, that you would not communicate, that you would not find a way to make your way through this piece if you were really sober and really managing well. When you talk about the ability to practice medicine, it's this judgment that concerns her. The issue is what to do.

Dr. Egner stated that he does say today that he sees the errors of his ways and that he has taken steps to make sure that these things aren't going to happen again. He has employed counsel, he will have his sons involved. If you believe him, he has taken steps to ensure that this isn't going to happen again.

Mr. Browning stated that he's heard that permanent revocation and then a stay doesn't make sense, and that the probationary period until the end of 2012 doesn't make sense. He suggested suspending Dr. Prasad for 30 days and giving him one year of probation. If he doesn't make it, the Board can do the right thing and stop this process and be done with it, based upon the merits of the case. That will round out a ten-year experience from the last time he drank, and the Board will be done.

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MR. BROWNING MOVED TO AMEND THE PROPOSED ORDER BY ELIMINATING THE PROPOSED STAYED PERMANENT REVOCATION, SUSPENDING DR. PRASAD'S LICENSE FOR 30 DAYS AND PLACING HIM ON ONE-YEAR OF PROBATION INSTEAD OF NINE YEARS. DR. EGNER SECONDED THE MOTION.

Dr. Steinbergh stated that, if she were an impaired physician, that Order would mean that, if she's non-compliant, the Board will shorten her probationary term.

Mr. Browning stated that that is not the message here. The message is that one more incident where he doesn't meet the standard, then that's it.

Dr. Steinbergh stated that she doesn't disagree with the suspension, but she doesn't think that one year of probation is enough for that.

Mr. Browning stated that the point is: what is enough? Fifteen years?

Dr. Steinbergh stated that that's where Mr. Browning believes that he's been sober.

Mr. Browning stated that he didn't say that. He's saying that he doesn't see any difference between having him on probation until 2007 or 2012 at this point in his life.

Dr. Varyani asked whether 24 months would make it okay with Dr. Steinbergh.

Dr. Steinbergh stated that she doesn't know.

Dr. Varyani stated that Dr. Steinbergh needs to suggest a number. He added that he is in agreement that the Board should suspend Dr. Prasad's license for 30 days and give him one last chance. He'd go with one year to two years.

Dr. Steinbergh stated that she would agree to two years of probation.

MR. BROWNING AGREED TO THE FRIENDLY AMENDMENT OF A TWO-YEAR PROBATION.

Dr. Steinbergh stated that she understands about the removal of the permanent revocation language but, in 2006 when we have physicians who are non-compliant with their consent agreements or Board orders, this is a serious thing. The language of permanent revocation is a serious thing. She stated that she doesn't disagree with keeping that language in the Proposed Order. Dr. Prasad needs to know that if this happens, he has got to be done. There has got to be an end to it. You cannot just keep excusing away your behavior. She would go back to the permanent revocation language. She does agree that the monitoring term is long. She added that this is not an easy issue. The Board has to expect that physicians are making good

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judgments and are not making excuses, and that the Board can fully expect them to comply with their orders. To remove the language of permanent revocation at this point would be a mistake.

Ms. Sloan stated that in 2005 the Board actually gave Dr. Prasad the opportunity to comply. The Board also stated that he was on 30-day suspension, and this would send Dr. Prasad a clear message. That was in May. It gave him another shot. What's the difference now?

Dr. Varyani stated that he does not have conclusive evidence that Dr. Prasad is still dependent. He is taking Dr. Prasad's word. Dr. Varyani stated that the non-compliance is, basically, paperwork. He is giving Dr. Prasad the chance on that. That is why he would permanently revoke, suspend the license for 30 days, and then put him on two years of probation. The Board needs to develop language that, if any reports are returned as positive, the revocation will go into effect.

Dr. Davidson asked Dr. Varyani what reports he's talking about.

Dr. Varyani stated that if Dr. Prasad is non-compliant, that is like a positive screen.

Dr. Davidson asked whether that isn't the case today.

Dr. Varyani stated that he understands, but he doesn't know if the Board should give up. He does see that Dr. Prasad's attitude today is a little bit different from the way it was last year. Today he has his family with him. Maybe he will be successful. Dr. Varyani stated that the whole object of giving people chances is that you are hoping that not only the physicians and colleagues help you, but his or her family is now with him or her. This is it; this is the last time. Dr. Varyani stated that if Dr. Prasad ever comes in front of him again, he won't agree to anything other than permanent revocation, even if it's for non-compliance with his paperwork.

Mr. Browning agreed.

Dr. Steinbergh stated that the years and the time and the resources that the Board has spent on this one physician are incredible. Where's the value?

Dr. Varyani stated that the only other thing is to give up and permanently revoke. If most of the Board would go along with that, he will go along with that. Dr. Varyani stated that he's never seen Dr. Prasad's family with him before, and he's just saying that he would give Dr. Prasad a last chance. Dr. Varyani stated that he's heard Dr. Prasad state that the urine screens are ridiculous and that he has to pay a lot of money, things like that. If Dr. Prasad doesn't do what he's told to do, the Board will come after him.

Dr. Robbins commented that he likes what Ms. Sloan said. He referred the Board to page 5, paragraph 10 of the Report and Recommendation, which reads in part:

With respect to the appropriate sanction, several Board members noted that a 90-day

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suspension would prevent Dr. Prasad from accepting work and could effectively end his career. However, it was also noted that the Board should not “tolerate defiance or lack of compliance” with its requirements.

Dr. Robbins stated that that sounds very similar to what the Board is talking about today. What happened was defiance and non-compliance.

Dr. Varyani stated that he sees non-compliance, but he feels that Dr. Prasad’s behavior is different from what it was the last time. He thinks the Board should give him a last chance.

Dr. Steinbergh asked to clarify the motion for amendment. She asked whether the amendment is to modify the Proposed Order to retain the proposed stayed permanent revocation and the proposed 30-day suspension, and then go back to the probationary terms of the February 1998 Board Order, as have been set, for a period of two years.

Mr. Browning noted that Dr. Davidson did not want the permanent revocation language. He stated that if the Board wants that language in, he will be fine with that.

Dr. Varyani asked Ms. Schmidt to recite the motion.

Ms. Schmidt advised that Dr. Browning has moved to amend the Proposed Order to delete the permanent revocation language, to impose a 30-day suspension, and to place Dr. Prasad on probation under the terms of the Board’s February 1998 Order for a two-year period.

MR. BROWNING AGREED TO RETAIN THE STAYED PERMANENT REVOCATION LANGUAGE OF THE PROPOSED ORDER.

A vote was taken on Mr. Browning’s motion to amend:

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

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON’S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF

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KOLLI MOHAN PRASAD, M.D. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

MARK ROBERT ROSENBERG, M.D.

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

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

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

Mr. Byers stated that, as he and Dr. Rosenberg had the benefit of sitting and watching the Board deliberate the prior six cases, they were talking about how significant it is the way this Board works so hard to "separate the wheat from the chaff". He stated that in the fourteen years he's been representing physicians, he's dealt with 35 other State Medical Boards, and this Board has the reputation of doing this kind of work.

Mr. Byers stated that he hopes that the Board members have looked at the objections and the totality of this record, and as part of that "separating wheat from chaff," realizes that there are many grains of wheat in this case and a little bit of chaff that could be taken out of context and given more weight than it should be given. That chaff, obviously, is the restitution that Dr. Rosenberg paid for the corporate and the joint and several liability imposed. It was the corporate defendant that was convicted of a felony. Dr. Rosenberg is not sitting here as a felon. He's sitting here having admitted to \$159.28 of money he shouldn't have received because of two misbillings. The record is clear about the chronology, and Dr. Rosenberg should touch on that a bit once he speaks to the Board. Mr. Byers stated that he needs to make it clear to the Board that Dr. Rosenberg is not here on a health care fraud case. He's not even here having been convicted of theft. He admitted culpability in criminal court for receiving stolen property. As ironic as it is, this record shows no one ever took the property, but it was two receiving stolen property convictions that bring Dr. Rosenberg here.

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Mr. Byers stated that other significant factors that are grains of wheat that distinguish Dr. Rosenberg from other physicians who have had the misfortune to have some kind of billing issues brought before this Board are that he was not pursued civilly by the Government, by the Office of the Inspector General, which typically the Board is familiar with the treble damages division. Mr. Byers stated that Dr. Rosenberg has not been excluded by any provider, even the ones who were involved in this misbilling. The government didn't use the extrapolated figure against him. Mr. Byers stated that Dr. Rosenberg's criminal culpability was clearly set at two charges totaling \$159.28. The government did not choose to criminally pursue Dr. Rosenberg for the corporate misdeeds. Mr. Byers stated that he is concerned that the Report and Recommendation, as it is on the table, blurs the line between the corporate entity, which is a person under law, and this person, sitting here breathing, who will now address the Board.

Dr. Rosenberg thanked the Board for taking the time to meet with him. Dr. Rosenberg stated that he can't apologize enough about the \$159.00 error in billing that he made. That's something that will follow him the rest of his life, and it's pretty horrible. Dr. Rosenberg stated that he was the president of the corporation, but it was a large corporation. It wasn't him, by himself, with one employee. They had 70 employees. There were five physicians. About a year after he left the corporation – he wasn't actively practicing anymore, but he was still a shareholder – the government came in and did an extensive investigation. They heard nothing for years and years. He stated that he and his attorneys spent a lot of time looking through everything, and they really felt that the corporation did everything right. They thought they were clear. Four years after the fact, they came to his attorney and offered the plea of a \$159 misdemeanor, basically. Dr. Rosenberg struggled with it because he knew, as little as that dollar amount is, he's admitting to having stolen property, whether it's a penny or \$159. Through his discussions with his attorneys and with his family, he chose to accept the plea. One of the big reasons is that he would spend way more money defending that \$159 than the restitution, potentially even double that amount. Obviously, he didn't have that money and he doesn't have it now.

Dr. Rosenberg stated that they also spent a little bit of time talking about Board implications, and understanding that he just never thought it was going to springboard into what's happening currently. Dr. Rosenberg stated that he appreciates the Board's obligation to look into this matter on his status, and just because of the process of going through this, a permanent record is being made. The public has, obviously, been put on notice about his wrongdoing.

Dr. Rosenberg asked that the Board have a fair and proportionate outcome. He stated that he will answer any questions the Board members may have.

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

Mr. Clifford stated that he keeps hearing this dollar amount coming up, the \$159.00, and the other dollar amount, which is what the corporation paid. He stated that, honestly, Mr. Byers is a little bit right in the fact that the dollar amounts don't matter. Mr. Clifford stated that the Board should look at what actually occurred. Dr. Rosenberg committed two misdemeanor convictions in the course of practice. That is the focus. Dr. Rosenberg admitted to knowingly receiving stolen property with the intent to convert the money

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for his own use. Mr. Clifford stated that, to him, the characterization that this was simply a billing error is insulting. He added that he thinks that the Hearing Examiner's recommendation is a gift, considering that the Board's Disciplinary Guidelines lists a minimum penalty of a stayed revocation, indefinite suspension for a minimum of one year, with five years' probation for a misdemeanor in the course of practice. The Hearing Examiner recommended an indefinite suspension. Mr. Clifford stated that he doesn't think that there should be anything saying that the Proposed Order is disproportionate or that consideration was incorrectly given to the amount that the corporation paid. He would agree that that is not relevant. The relevant portion is two guilty pleas in the course of practice. That's the proper focus. The \$159 should be immaterial. What is relevant is what Dr. Rosenberg was convicted of, i.e., two counts of receiving stolen property in the course of practice. Mr. Clifford stated that, therefore, the appropriate remedy is, at a minimum, what the Hearing Examiner proposed and, in fact, that may be below the Disciplinary Guidelines.

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

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

Dr. Egner stated that she looked at this case differently from the way it was presented today. She looks at Dr. Rosenberg, who is a graduate of Duke Medical School's M.D./Ph.D. program, a board-certified psychiatrist. Dr. Rosenberg was found guilty of improper billing, stating that services were rendered by impaneled physicians when services were rendered by somebody else. She understands exactly what he did. Dr. Rosenberg was the sole shareholder in the corporation and was responsible for how they were billing. Dr. Rosenberg was the recipient of the receipts for services rendered. She commented that she does not know why he wasn't charged with fraud. She questioned it. Dr. Egner stated that Dr. Rosenberg has two misdemeanors and then one felony. She stated that she's not sure that she makes the distinction that this was a felony by the corporation and not by Dr. Rosenberg. Dr. Egner stated that she takes exception with Mr. Byers' objections, stating that he minimizes all of this down to \$159 when there is this felony out there that she doesn't ignore. Dr. Rosenberg was charging for services and receiving payment for services he did not render.

Dr. Egner stated that the other issue she has with the Proposed Order is that it's way outside the Disciplinary Guidelines. She stated that, generally speaking, when the Board goes outside the Disciplinary Guidelines, she likes to see something within the Report and Recommendation explaining the reason why the Hearing Examiner is going outside of it, giving the mitigating circumstances. She's not sure that the two paragraphs below the stars after the Conclusions of Law really tell her the reason. The minimum penalty says that Dr. Rosenberg should have a stayed revocation, a one-year suspension and five years of probation. The Proposed Order is for an indefinite suspension, no minimum time, requirements to show proof of an unrestricted license, taking courses in ethics, management and billing, and no probation. She stated that she thinks that that is way too light for what Dr. Rosenberg has done. She stated that she would like to make an amendment, but she would first like to hear what other Board members say.

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Dr. Steinbergh and Dr. Varyani agreed with Dr. Egner.

Dr. Steinbergh stated that the Board has seen this before – the physician makes this decision; it's not a billing error. When a physician puts his name on a bill and sends it out, and signs it, essentially, it means that the physician has provided the service. He didn't provide the service. Not only did he not provide the services being discussed, but he had other physicians who were not appropriately credentialed by the insurance company. Those physicians were not on the insurance company's list of panel physicians, and he was billing for them as a panel physician. Dr. Steinbergh stated that she appreciates that Dr. Rosenberg pled guilty. She stated that she listened to Dr. Rosenberg's reason for pleading guilty and that's a reason the Board hears all the time. The bottom line is that she would guess that he had no defense; this is what it was. He had to plead guilty to it. Dr. Steinbergh agreed that this particular order is clearly outside the Board's guidelines. She stated that the Board could craft another Order and suggested tabling the matter. She added that she would first like to hear what other Board members have to say.

Dr. Varyani stated that when someone sits down and tells him that it's only \$159, two bills, and that he had discussions and conferences with his attorney, and he did mention today that they talked about the Board, why would someone with an M.D./Ph.D. sign two misdemeanors. This confirms what Dr. Egner just said.

Ms. Sloan also agreed with Dr. Egner, stating that she would like to see an amendment with no less than the minimum guidelines.

Dr. Egner suggested an Order that would include a stayed permanent revocation, a one-year license suspension, with the same things being asked in the other portions of the proposed order to be accomplished prior to reinstatement of his license, and a five-year probation. She stated that the probationary term doesn't need to be onerous. He would have to submit quarterly affidavits saying that he's complied with the probationary terms, and he would be required to notify people about the Board Order, and he would have to stay out of trouble for five years. That's basically all she wants to know.

Dr. Steinbergh suggested tabling the matter for preparation of an alternative order so that Board members are clear on the newly proposed order.

DR. STEINBERGH MOVED TO TABLE THE MATTER OF MARK ROBERT ROSENBERG, M.D. MS. SLOAN SECONDED THE MOTION. A vote was taken:

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

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Dr. Steinbergh - aye

The motion carried.

Following the Personal Appearances held later in the meeting, Dr. Robbins removed this matter from the table for further discussion.

While copies of her alternative order were being distributed, Dr. Egner again stated that she is offering this amendment because she feels that this is a case that should be within the Disciplinary Guidelines. She does not see mitigating circumstances that would make it fall outside of those Guidelines. This alternative is within the minimum amount, and she feels it is a compromise solution. What Dr. Rosenberg did was serious, and the Board needs to take it seriously.

DR. EGNER MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF MARK ROBERT ROSENBERG, M.D., BY SUBSTITUTING THE FOLLOWING.

It is hereby ORDERED, that:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Mark Robert Rosenberg, M.D., to practice medicine and surgery in the State of Ohio, shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Rosenberg's certificate shall be SUSPENDED for an indefinite period of time, but not less than one year.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Rosenberg's certificate to practice medicine and surgery in Ohio until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Rosenberg shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Certification of Compliance with any Order of the Agencies Responsible for Regulating the Practice of Medicine and Surgery in Kentucky, Maryland, Missouri and North Carolina:** At the time he submits his application for reinstatement or restoration, Dr. Rosenberg shall submit to the Board certification from the agencies responsible for regulating the practice of medicine and surgery in Kentucky, Maryland, Missouri and North Carolina (dated no earlier than 60 days prior to Dr. Rosenberg's application for reinstatement or restoration) indicating that Dr. Rosenberg has maintained full compliance with any Orders of those state agencies.

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3. **Evidence of Unrestricted Licensure in Other States:** At the time he submits his application for reinstatement or restoration, Dr. Rosenberg shall provide written documentation acceptable to the Board verifying that Dr. Rosenberg otherwise holds a full and unrestricted license to practice medicine and surgery in all other states in which he is licensed at the time of application or has been in the past licensed, or that he would be entitled to such license but for the nonpayment of renewal fees.
4. **Professional Ethics Course:** At the time he submits his application for reinstatement or restoration, Dr. Rosenberg shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in 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. Rosenberg submits the documentation of successful completion of the course or courses dealing with professional ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

5. **Professional Billing Course:** At the time he submits his application for reinstatement or restoration, Dr. Rosenberg shall provide acceptable documentation of successful completion of a course or courses dealing with professional billing. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in 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. Rosenberg submits the documentation of successful completion of the course or courses dealing with professional billing, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

6. **Office Management Course:** At the time he submits his application for

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reinstatement or restoration, Dr. Rosenberg shall provide acceptable documentation of successful completion of a course or courses dealing with office management. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in 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. Rosenberg submits the documentation of successful completion of the course or courses dealing with office management, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

7. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Rosenberg has not been engaged in the active practice of medicine and surgery for a period in excess of two year prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.
- C. **PROBATION:** Upon reinstatement or restoration, Dr. Rosenberg's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Obey the Law:** Dr. Rosenberg shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in the state in which he is practicing.
 2. **Declarations of Compliance:** Dr. Rosenberg shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which Dr. Rosenberg's certificate is restored or reinstated. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Personal Appearances:** Dr. Rosenberg shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which his certificate is restored or

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reinstated, or as otherwise directed by the Board. Dr. Rosenberg shall also appear upon his request for termination of the probationary period, and/or as otherwise requested by the Board.

4. **Notification of Action Taken by Another State**: Dr. Rosenberg shall notify the Board of any action taken against a certificate to practice held by Dr. Rosenberg in any other state. Moreover, Dr. Rosenberg shall provide acceptable documentation verifying the other state boards' actions.
- D. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Rosenberg's certificate will be fully restored.
- E. **REQUIRED REPORTING TO EMPLOYERS AND HOSPITALS**: Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Rosenberg shall provide a copy of this Order to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Rosenberg shall provide a copy of this Order to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Rosenberg receives from the Board written notification of his successful completion of probation.
- F. **REQUIRED REPORTING TO OTHER STATE LICENSING AUTHORITIES**: Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Rosenberg shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Rosenberg shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement or restoration or restoration of any professional license. Further, Dr. Rosenberg shall provide this Board with a copy of the return receipt as proof of notification within 30 days of receiving that return receipt, unless otherwise determined by the Board. This requirement shall continue until Dr. Rosenberg receives from the Board written notification of his successful completion of probation.

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

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

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

The motion carried.

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

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

The motion carried.

Dr. Robbins stated that this type of situation is a slippery slope for physicians, and he suggested that an article warning physicians about it in a future newsletter would be appropriate. He stated that he would guess that there are a lot of physicians who fall into this slope, not to this extent. If the Board highlights the problem, maybe it can keep someone out of trouble.

Dr. Steinbergh stated that when a physician signs contracts for insurance companies, it's clear what they can do and what they can't do. She stated that she doesn't see that as a defense.

Dr. Robbins agreed that there is no defense.

Dr. Steinbergh indicated that she doesn't see how anyone wouldn't understand that.

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Following further discussion, the Board agreed that a newsletter article would be appropriate.

MARY MEI-LING YUN, M.D.

Dr. Robbins directed the Board's attention to the matter of Mary Mei-Ling Yun, M.D. He advised that objections and a clarification statement were filed to Hearing Examiner McNeil's Report and Recommendation and were previously distributed to Board members.

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

Mr. Plinke addressed the Board on Dr. Yun's behalf. He stated that she has been involved with the Medical Board for a long time, almost eight or nine years. The Board has always treated her appropriately and fairly. The staff has been helpful and supportive to her.

Mr. Plinke stated that Dr. Yun has had periods of compliance and periods of non-compliance. It's a period of non-compliance that brings this matter to the Board today. Dr. Yun now lives in California, where her parents reside, and is in a supportive environment, which is important to her. Mr. Plinke stated that he believes the record reflects that this instance of non-compliance likely occurred because Dr. Yun lost that family support network. Now that she's in California and not in North Carolina, and is in a supportive framework, she can succeed.

Mr. Plinke continued that he understands that the Board doesn't give people a thousand chances. It gives them a reasonable number of chances. The Proposed Board Order is a revocation of Dr. Yun's license. Mr. Plinke stated that he would request something that is not legally that much different, but perhaps might have some symbolic impact to Dr. Yun. That is, he would request that, instead of revoking Dr. Yun's license, the Board indefinitely suspend her license, with no terms during the duration. It would effectively be the same thing as a revocation. The Board could then ask that she demonstrate her fitness to practice, were she to seek reinstatement.

Mr. Plinke stated that his request is not legally very different, but is appropriate for someone in Dr. Yun's position, where she is trying to maintain her health status and appears to be doing well since she relocated to California. Mr. Plinke stated that he would ask that the Board kindly exercise its discretion to change those terms so that it would provide for an indefinite suspension rather than revocation. Other than that, the Hearing Examiner's report is accurate and is a correct reflection of what transpired in this case. In that regard, he would not disagree with it.

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

Mr. Wilcox disagreed with Dr. Yun's position that, in this case, the Board should issue an indefinite suspension until she potentially controls her illness through medication and becomes stable. Mr. Wilcox

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stated that Dr. Yun has had a long struggle with mental illness and has not demonstrated any lengthy period of stability. She has been under Board supervision since her first consent agreement in 1998. She has been diagnosed with mental illness, including schizoaffective disorder, bipolar type. She's had numerous psychiatric hospitalizations, including, most recently, in November 2005 through January 2006. Throughout this period, Dr. Yun has entered into various agreements with this Board, all with the view of eventually, and hopefully, getting her back into practice.

Mr. Wilcox stated that at this point, it doesn't appear that continued efforts to monitor Dr. Yun will be fruitful. She has not shown an ability to stay mentally stable for any lengthy period. She has not been able to stay in compliance with any Board agreement. Dr. Yun's problems have made it virtually impossible for the Board to effectively monitor her.

Mr. Wilcox continued that, at this point, basically, it's a question of Board resources. Does the Board want to continue to monitor someone under an indefinite suspension, or revoke her and, perhaps, in years down the line, she'll have everything together and will be able to reapply. Mr. Wilcox stated that he thinks that the Hearing Examiner was on point with his recommendation for revocation. Mr. Wilcox stated that that's the way the Board should proceed in this case.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. MCNEIL'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF MARY MEI-LING YUN, M.D. DR. VARYANI SECONDED THE MOTION.

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

Dr. Steinbergh stated that the Report and Recommendation is very clear, and she agrees with it. There's nothing else to be done except to revoke the license and allow Dr. Yun at some point, if she becomes well again, to present herself. She expressed concern about the Board pouring its resources into an indefinite suspension, where there would need to be terms for reinstatement, and so forth. Dr. Steinbergh noted that Dr. Yun has not been able to comply with previous agreements and orders. It's clear that the language is appropriate to revoke Dr. Yun's license.

Dr. Egner stated that Dr. Yun has been before the Board, and the Board members know who she is. She added that she thinks that Dr. Yun knows that the Board empathizes with her condition and has tried on many occasions. Dr. Egner stated that she understands that Dr. Yun's episodes of non-compliance are truly related to her illness. She added that she understands Dr. Yun's and Mr. Plinke's feelings that an indefinite suspension sounds better; it has a better feel to it. Hopefully Dr. Yun will read the minutes of this meeting and that Mr. Plinke will convey to her that the Board truly wants her to succeed and get well. A non-permanent revocation does give Dr. Yun the means to come back to the Board and show that her illness is under control. The Board will certainly consider that.

Dr. Egner added that she is going to vote for the Report and Recommendation, as written, but she wants the record to reflect that she does understand where Dr. Yun is coming from. Dr. Yun's written statements

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touch you. She is a knowledgeable physician and a wonderful person who has a terrible mental illness.

Dr. Davidson agreed with Dr. Egner. She stated that, having seen Dr. Yun and how effectively she comes across as an individual, she hopes that Dr. Yun doesn't see this as punishment or anything like that. It's not meant to be that way. It's just the Board's best way to handle a difficult situation. Dr. Davidson stated that she agrees that Dr. Yun's non-compliance was a function of her mental illness. It's just kind of a vicious cycle, but the Board isn't punishing her for that. It's just trying to handle the situation the best it can, and it's a terrible loss. She stated that she wishes Dr. Yun well.

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

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

The motion carried.

FINDINGS, ORDERS AND JOURNAL ENTRIES

MERCER TRUETT BRIDGES, JR., M.D.

Dr. Robbins advised that on September 13, 2006, the Board issued a Notice of Opportunity for Hearing to Mercer Truett Bridges, Jr., M.D., based upon a series of disciplinary actions taken by the Georgia Composite State Board of Medical Examiners against Dr. Bridges' Georgia medical license. Signed certified mail receipts were returned to the Medical Board documenting proper service of the notice. No hearing request has been received from Dr. Bridges and more than 30 days have elapsed since the mailing of the notice. The matter was before the Board for final disposition.

Dr. Steinbergh noted that this is a case of chemical impairment and multiple relapses.

Mr. Albert and Mr. Browning left the meeting at this time.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE SEPTEMBER 13, 2006 NOTICE AND TO ENTER AN ORDER OF REVOCATION, EFFECTIVE IMMEDIATELY. DR. MADIA SECONDED THE MOTION.

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

Dr. Steinbergh again stated that Dr. Bridges is chemically dependent and has had multiple relapses. He voluntarily surrendered his Georgia license in February 2005. There is a history of a number of consent orders, and so forth in Georgia.

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

Vote:	Dr. Egner	- aye
	Dr. Varyani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

Mr. Browning returned to the meeting at this time.

LAWRENCE J. HARRIS, D.P.M.

Dr. Robbins advised that on August 9, 2006, the Board issued a Notice of Opportunity for Hearing to Lawrence J. Harris, D.P.M., based upon Dr. Harris' conviction of one felony count of Conspiracy to Defraud the United States, nine felony counts of Health Care Fraud in violation of 18 U.S.C. Section 1347 & 2, two felony counts of Health Care Fraud in violation of 18 U.S.C. Section 1001, and two felony counts of False Statements. Said notice was mailed via certified mail, return receipt requested, to Dr. Harris' address of record and the correctional facility where Dr. Harris is currently incarcerated. A signed acknowledgement of receipt was returned to the Medical Board documenting proper service of the notice to Dr. Harris at the correctional facility. No hearing request has been received from Dr. Harris and more than 30 days have elapsed since the mailing of the notice. The matter was before the Board for final disposition.

DR. STEINBERGH MOVED TO FIND THAT THERE IS RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE TO SUPPORT THE ALLEGATIONS CONTAINED IN THE AUGUST 9, 2006 NOTICE AND TO ENTER AN ORDER OF PERMANENT REVOCATION, EFFECTIVE IMMEDIATELY. DR. VARYANI SECONDED THE MOTION.

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

Mr. Albert returned to the meeting at this time.

Dr. Egner stated that the proposed order is appropriate in view of Dr. Harris' felony convictions.

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A vote was taken:

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

The motion carried.

NORMAN RICHARD JOHNSON, M.D.

Dr. Robbins advised that on August 1, 2006, the Board notified Dr. Johnson that it proposed to approve his application for a certificate to practice medicine and surgery provided that he take and pass the Special Purpose Examination (SPEX) or specialty board recertification examination due to the fact that Dr. Johnson has not engaged in the active practice of medicine for more than two years. Said notice was mailed via certified mail, return receipt requested, to Dr. Johnson's address of record. A signed certified mail receipt was returned to the Medical Board documenting proper service of the notice from the second mailing. No hearing request has been received from Dr. Johnson and more than 30 days have elapsed since the mailing of that notice. The matter was before the Board for final disposition.

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

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

Dr. Steinbergh stated that this matter was discussed by the Board at a previous meeting, at which time the Board moved to approve Dr. Johnson's application subject to his passing the SPEX or recertification examination. Dr. Johnson did not request a hearing. The proposed order is appropriate.

A vote was taken:

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

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

The motion carried.

The Board took a break at 3:20 p.m. The meeting reconvened at 3:38 p.m. with Dr. Varyani out of the room.

ORDERS OF SUMMARY SUSPENSION AND NOTICES OF OPPORTUNITY FOR HEARING

STEVEN FRANKLIN GREER, 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. EGNER MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF STEVEN FRANKLIN GREER, M.D., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

The motion carried.

Dr. Varyani returned to the meeting at this time.

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JEFFREY VAUGHN MEYER, M.D. – ORDER OF SUMMARY SUSPENSION AND 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 JEFFREY VAUGHN MEYER, M.D., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

RATIFICATION OF SETTLEMENT AGREEMENTS

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

ELLIS DAVID AVNER, M.D. – SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

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

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

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

The motion carried.

SHERIF ANWAR AZIZ, M.D. – WITHDRAWAL OF APPLICATION

DR. STEINBERGH MOVED TO RATIFY THE WITHDRAWAL OF DR. AZIZ' APPLICATION TO PRACTICE MEDICINE AND SURGERY. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DANIEL JOHN MARAZON, D.O. – SURRENDER OF CERTIFICATE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY

DR. MADIA MOVED TO RATIFY THE SURRENDER OF MARAZON'S LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY IN THE STATE OF OHIO. DR. STEINBERGH SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

JAMES W. LIPSCOMB, M.D. – SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

DR. STEINBERGH MOVED TO RATIFY THE SURRENDER OF LIPSCOMB'S LICENSE TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF OHIO. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DONALD EUGENE SHOUP, D.O. – SURRENDER OF CERTIFICATE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY

DR. STEINBERGH MOVED TO RATIFY THE SURRENDER OF SHOUP'S LICENSE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY IN THE STATE OF OHIO. DR. EGNER SECONDED THE MOTION. A vote was taken:

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

The motion carried.

CHRISTOPHER T. HUNNICUTT, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

FRED ROBERT, MOSS, M.D. – CONSENT AGREEMENT

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

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

The motion carried.

PERSONAL APPEARANCES

MOUNIR B. EL-BADEWI, M.D.

Dr. El-Badewi appeared before the Board pursuant to his request for release from the terms of Board's Order of October 10, 2001.

In response to Board members' questions, Dr. El-Badewi stated that he has completed the ethics course required by the Board's Order. He added that he was also required to meet with another physician for a couple of sessions, and he did that as well. He met with Dr. Levine in Cleveland.

Ms. Bickers advised that those materials were in the agenda materials.

Dr. Steinbergh asked Dr. El-Badewi to report on the ethics course.

Dr. El-Badewi stated that it was a very useful course. He added that he wishes that some of the information was taught to physicians in medical school. He stated that he thinks that it would be prudent for the Board to notify medical students about the rules and regulations of the Board. He stated that he had no clue before this incident happened that this would lead him here. He was under the understanding when

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he was in medical school that, if you violate the rules within the medical profession, whether you use drugs or solicit patients, whatever, there is a punishment. His case did not involve any of that. He didn't know that the Board would have jurisdiction to punish him for acts outside the practice of medicine. Dr. El-Badewi stated that he researched this and he could not find a single case in the entire United States history of medical boards where a doctor was punished in a case such as his, as he was. Dr. El-Badewi stated that he's spent hours and hours researching this, and he could not find a case. He added that not even in the arguments between the Board's attorneys and his was a case similar to his mentioned.

Dr. Steinbergh stated that Dr. El-Badewi was found guilty of a misdemeanor, which gives the Board the authority to take action.

Dr. El-Badewi stated that that is true, but even at that time, the case could have been reduced to disorderly conduct, and he wouldn't even have to report it. This has cost him seven years of his life, going through this. He commented that it was horrible. He stated that he never did anything unethical with patients. He's a very honest person, and he only posted this because he was honest. He thought he should do the right thing. He didn't realize that he was going to be punished. Otherwise, he would have fought this in the court, and easily could have been reduced to disorderly conduct and he wouldn't even have to report it here.

Dr. Steinbergh noted that Dr. El-Badewi has indicated that he found his ethics course instructional. She stated that she will presume that, once the Board releases him from the terms of its Order, the Board won't see him again.

Dr. El-Badewi stated that he hopes not. The hardest part is trying to get back into his field of practice because he's tried to get a residency, but he has a problem with this issue. They won't give you a residency. If he tries to get work, he won't get work because he's been out of work for so long. He asked what he could do.

Dr. Varyani asked Dr. El-Badewi how long he's been out of work.

Dr. El-Badewi stated that he has been out of work for seven years. He stated that he fought this for seven years, thinking it would go away. It didn't go away. Now, trying to get into a residency and trying to get his skills back, no one wants to take him because of his age and some discrimination, obviously. He's trying to find a job, but nobody would give him a job because he didn't practice for seven years. He's lost his career, basically.

Dr. Madia asked Dr. El-Badewi what he is planning to do.

Dr. El-Badewi stated that he's an anesthesiologist. He did a year of headache management. He stated that he's a very, very skilled doctor. He stated that he's extremely skilled, very good at what he does, and he can't find a job because of this mess. He fought this for seven years and the judge took four years to decide on it. He stated that he's also a dentist, so right now he's practicing dentistry for a living. Dr. El-Badewi

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stated that he really wants to get out of dentistry. It wasn't his plan to stay in dentistry, but he's stuck.

Dr. Steinbergh stated that the Board will be releasing him today, and it wishes him well.

DR. STEINBERGH MOVED TO RELEASE DR. EL-BADEWI FROM THE TERMS OF THE BOARD'S ORDER OF OCTOBER 10, 2001. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

DAVID B. AXELSON, M.D.

Dr. Axelson made his initial appearance before the Board, pursuant to the terms of his August 9, 2006 Consent Agreement.

In response to Board members' questions, Dr. Axelson stated that he's doing pretty well. He's obviously not working, so he has a lot of time to devote to going to meetings and working with his sponsor and so forth. He's also trying to help his dad out. Dr. Axelson stated that his father is elderly with significant health problems. He acknowledged that his license is suspended for six months. He stated that he feels that he's making the best use of his time out of practice. He stated that compared to the income he was making, what he would make from a regular job wouldn't be all that significant. He stated that this is a good time for him to work on himself.

Dr. Axelson stated that he has been sober for several years and he assumed he was doing okay and tapered off his recovery program to the point that he wasn't doing anything. He still did okay for a while, and then a variety of things happened and he resumed drinking.

Dr. Davidson stated that the Board issued a stayed permanent revocation in this case. She stated that she believes that Dr. Axelson was in the room during the Board's earlier discussion about how seriously the Board takes those. Part of the Board's mission is to help doctors get back into practice that need rehabilitation. Hopefully that will be Dr. Axelson, and that he'll get back into practice. She added that it's an uphill road for him, but she believes that he can do it.

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Dr. Steinbergh asked whether Dr. Axelson was practicing psychiatry in a group or solo practice.

Dr. Axelson stated that he was working in the prison system in Chillicothe. He'd been there for about nine and a half years. He stated that, as far as he knows, he will be able to return to that practice. Dr. Axelson added that he was getting rather burned out with that, and he's not really sure if returning there would be the best thing for him to do. He probably will return, at least temporarily, but he thinks he would like to do something else. He will remain in psychiatry, but will get out of correctional work.

In response to further questions, Dr. Axelson stated that he's working on trying to let things go. He stated that it's all out of his control right now. He is working the steps, and he's concentrating on the first three steps for now. He stated that he does have a good relationship with his sponsor. As far as his family support, he advised that he and his wife are currently separating, and he's been living with his father in the Dayton area for the past couple of months. He has two children, ages 12 and 7. He advised that his children are having a hard time right now.

Dr. Steinbergh wished Dr. Axelson well, advising that the Board is here to support him.

Mr. Albert asked whether Dr. Axelson and his wife are getting a divorce.

Dr. Axelson stated that they're working towards that.

Mr. Albert recommended that Dr. Axelson needs to work to get himself into a position to restore his wife's confidence in him.

Dr. Axelson stated that he's trying to work toward that, but he doesn't think that he will be successful.

Mr. Albert encouraged Dr. Axelson to work on his marriage, stating that he has children and they need both their mother and their father.

DR. STEINBERGH MOVED TO CONTINUE DR. AXELSON UNDER THE TERMS OF HIS AUGUST 9, 2006, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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The motion carried.

WILLIAM L. HOPPES, M.D.

Although scheduled to make his initial appearance before the Board, pursuant to the terms of his September 13, 2006 Consent Agreement, Dr. Hoppes did not appear. Ms. Bickers advised that Dr. Hoppes' attorney has informed her that Dr. Hoppes is still in treatment.

PHILLIP T. NORTH, M.D.

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

In response to Board members' questions, Dr. North stated that things are going very well for him. He has been out of practice since November 1, and he can get his license back in 60 days. Dr. North stated that he thinks that he has learned his lesson. He will be going back to work with Dr. Kevin Lake at Columbus Southern Medical Center once his license is returned. He stated that the practice is very busy. Dr. North added that Dr. Lake has been very supportive.

Dr. North stated that he works on his sobriety every day, but he has been sober for more than 21 months. He has worked all twelve steps. He still has occasional urges. He stated that if someone says that they don't, they're lying.

Mr. Albert commented that, in his experience, alcohol is the hardest addiction to deal with.

Dr. North stated that tobacco may be a little bit harder.

Dr. North stated that he owes the Board amends for bringing himself back here. He stated that he formally and humbly apologizes for that.

Mr. Albert stated that Dr. North has to live by his consent agreement. If he gets his paperwork in, as required, he'll have a much easier time of it.

Dr. Steinbergh stated that one of her concerns is that during one probationary appearance, Dr. North mentioned that, when he worked at Columbus Southern Medical Center, he was uncomfortable with treating pain patients the way they're being treated there. She asked how he will modify his behavior that will allow him to practice in a way in which he feels comfortable and which doesn't stress him.

Dr. North stated that, since that discussion many months ago, they have a lab now and are drug screening everyone. He's much more comfortable dealing with those issues. Dr. North stated that he's never had a problem personally with narcotics. He was, at one time, a medical director of a hospice for eleven or twelve years. He's very familiar with the use of narcotics in the management of chronic pain, at least in the

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cancer population. Dealing with it is always a struggle when you're dealing with patients who have other pain issues; but like it or not, narcotics are all they have right now. Dr. North commented that he wishes there was something better. There's always an issue of trying to separate those that really need them from those that really don't need them. He will feel comfortable in that job when he goes back to work.

DR. STEINBERGH MOVED TO CONTINUE DR. NORTH UNDER THE TERMS OF HIS OCTOBER 12, 2006 CONSENT AGREEMENT, WITH FUTURE APPEARANCES BEFORE THE BOARD SECRETARY OR DESIGNEE. DR. MADIA SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Mr. Browning had left the room at some point during the discussion, and returned after the vote.

EXECUTIVE SESSION

DR. MADIA MOVED THAT THE BOARD DECLARE EXECUTIVE SESSION TO CONSIDER THE DISCIPLINE OF A PUBLIC EMPLOYEE. MR. BROWNING SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Varyani	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

Pursuant to Section 121.22(G)(1), Ohio Revised Code, the Board went into executive session at 4:13 p.m. The Board returned to open session at 5:09 p.m.

MR. ALBERT MOVED TO ADJOURN. MR. BROWNING SECONDED THE MOTION. All members

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voted aye. The motion carried.

Thereupon at 5:09 p.m. the November 8, 2006 session of the State Medical Board of Ohio was duly adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on November 8, 2006, as approved on December 13, 2006.



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



Lance A. Talmage, M.D., Secretary

(SEAL)



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MINUTES

THE STATE MEDICAL BOARD OF OHIO

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Andrew F. Robbins, Jr., M.D., President, called the meeting to order at 8:07 a.m., at the Vern Riffe Center for Government and the Arts, 77 S. High St., Columbus, Ohio 43215, Room #1932, with the following members present: Lance A. Talmage, M.D., Secretary; Raymond J. Albert, Supervising Member; Nandlal Varyani, M.D.; R. Gregory Browning, Ph.D.; Anquetette Sloan; Patricia J. Davidson, M.D.; and Dalsukh Madia, M.D. The following joined the meeting at a later time: Carol L. Egner, M.D. The following did not attend the meeting: Deepak Kumar, M.D., Vice-President; David S. Buchan, D.P.M.; and Anita M. Steinbergh, D.O.

Also present were: Richard A. Whitehouse, Executive Director; Diann K. Thompson, Assistant Executive Director; William J. Schmidt, Staff Attorney, Enforcement, Compliance & Investigations; David P. Katko, Enforcement Attorney; Barbara J. Pfeiffer, Damion M. Clifford and Kyle Wilcox, Assistant Attorneys General; Eileen M. Schmidt, Executive Assistant to the Director; Joan K. Wehrle, Executive Staff Coordinator; Sallie J. Debolt, Executive Staff Attorney; Michael K. Miller, Public Policy & Government Affairs Officer; Danielle Bickers, Compliance Supervisor; Jean Gillman, Compliance Officer; and Barbara Jacobs, Public Services Administrator.

ADMINISTRATIVE REPORT

Mr. Whitehouse referred the Board to his written report, a copy of which shall be maintained in the exhibits section of this journal. He stated that there are a couple of items he will address in addition to those contained in the written report.

Mr. Whitehouse reported on the audit finding concerning reconciliations, and advised that the staff has constructed a policy to address the problems found. Mr. Whitehouse stated that the Medical Board is not alone in this. All of the Boards and Commissions are experiencing like difficulties. Mr. Whitehouse advised that staff had a meeting with the Treasurer's office and have volunteered to be the Treasurer's pilot project. That office has offered to assist boards and commissions in achieving reconciliation. The expectation is that by January the Treasurer will be able to provide the boards with the means for reconciliation.

Dr. Egner arrived during Mr. Whitehouse's report.

Mr. Whitehouse stated that Executive Committee reviewed a request by the State Board of Chiropractic Examiners for the Medical Board to review its Policy Statement with respect to electromyography (EMG) tests. Current Medical Board policy recognizes the performance of EMGs as the practice of medicine and does not permit the procedure to be delegated to nonphysicians. The Chiropractic Board is advising their licensees that they can delegate this to nonphysicians. Mr. Whitehouse asked Board members to review the

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information gathered for them by staff for discussion by the Board in December. The Board will have to make a decision as to whether or not it wants to stand by its policy or to have discussions with the Chiropractor Board to make sure that the message is clear to everyone on this issue.

Mr. Whitehouse advised that the Board's Standards Review and Intervention Unit should be up and running by the end of the year. Interviews are being conducted to fill the final slots.

Mr. Whitehouse reported on the TAP project, advising that Ms. Thompson would be involved in a conference call regarding the project later that day. He advised that they are very close to completing this project.

Ms. Wehrle stated that a meeting of the Midwest Regional Boards will be held on Saturday, December 2. The meeting will take place from 10:00 a.m. to 2:30 p.m. at the Columbus Marriott Northwest. She asked Board members to notify her if they intend to attend.

Dr. Robbins advised that the Board will host the annual Christmas get-together with the staff. He asked that Board members attempt to fit that into their Thursday schedules. The lunch will be around 11:30 to 12:30. He added that entertainment is being arranged.

CITATIONS AND LETTERS OF PROPOSED DENIAL

VENU GOPAL MENON, 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. DAVIDSON MOVED TO SEND THE CITATION LETTER TO DR. MENON. DR. EGNER SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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MICHAEL GREGORY STRAYER, MASSAGE THERAPY 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. STRAYER. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

The motion carried.

LICENSURE, PROBATION AND REINSTATEMENT CONSENT AGENDA

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

DR. MADIA MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES ON OCTOBER 10 AND 12, 2006 WITH: ASHFAQ T. AHMED, M.D.; MARK D. BALDWIN, D.O.; MARK E. BLAIR, M.D.; GREGORY X. BOEHM, M.D.; RICHARD G. DAY, M.D.; DIXIE A. DOOLEY, D.P.M.; JANICE ELECTA GREEN DOUGLAS, M.D.; PAUL E. DUNCAN, M.D.; JEFFREY J. FIERRA, M.D.; STEPHEN R. GIORDANO, D.O.; DARRELL A. HALL, M.D.; JEFFREY V. MEYER, M.D.; NYKOLAI V. PIDHORODECKYJ, M.D.; DAVID A. RATH, M.D.; ROBERT S. REEVES, JR., M.D.; MARK A. RENZ, M.D.; LEROY P. RISE, M.D.; AHMAD SHAHAMAT, M.D.; ALAN B. STORROW, M.D.; JAMES E. STURMI, M.D.; GARY W. WALTZ, M.D.; AND JEFFREY W. WINHOLT, M.D. DR. MADIA FURTHER MOVED TO ACCEPT THE COMPLIANCE STAFF'S REPORTS OF CONFERENCES AND THE SECRETARY AND SUPERVISING MEMBER'S RECOMMENDATIONS AS FOLLOWS:

- **TO GRANT MARK L. ALLEN, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO EVERY SIX MONTHS, AND A REDUCTION IN HIS DRUG SCREEN REQUIREMENT FROM ONE A WEEK TO**

TWO A MONTH;

- **TO GRANT ROBERT A. BERKMAN, M.D.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO ANNUALLY;**
- **TO APPROVE BETH T. TRANEN, D.O., TO SERVE AS KEVIN W. BOWERS, D.O.'S SUPERVISING PHYSICIAN;**
- **TO GRANT ROBERT R. BRIGHTWELL, D.O.'S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO EVERY SIX MONTHS;**
- **TO APPROVE STEVEN R. SCHNEIR, M.D., TO SERVE AS JASON V. CHURCH, M.D.'S TREATING PSYCHIATRIST;**
- **TO APPROVE CHARLES WELLMAN, M.D., TO SERVE AS DANN WILLIAM GANZHORN, M.D.'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO GRANT TAMMY M. HABERBERGER, D.O.'S REQUEST FOR A REDUCTION IN HER APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO EVERY SIX MONTHS;**
- **TO APPROVE GREGORY B. COLLINS, M.D., TO SERVE AS BYRON C. LEAK, M.D.'S SUPERVISING PHYSICIAN;**
- **TO GRANT BRUCE JEFFREY MERKIN, M.D.'S REQUESTS FOR: A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO EVERY SIX MONTHS, A REDUCTION IN DRUG SCREEN REQUIREMENT FROM ONCE A WEEK TO TWICE PER MONTH, AND TO DISCONTINUE HIS CONTROLLED SUBSTANCE LOG REQUIREMENT;**
- **TO APPROVE MICHAEL K. KIM, M.D., TO SERVE AS WILLIAM O. MURTAGH, JR., M.D.'S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**
- **TO APPROVAL PUTTAGUNTA RANGA, M.D.'S REQUEST TO CHANGE HIS MONITORING PHYSICIAN FROM RAJENDRA P. KAKARLA, M.D., TO JAYANTH K. GUTTA, M.D.;**
- **TO GRANT MITCHELL E. SIMONS, M.D.'S REQUEST TO COMMENCE PRACTICE IN THE STATE OF OHIO, AND TO APPROVE THE FOLLOWING AS CHAPERONES, PURSUANT TO PARAGRAPH A.2.A. OF THE BOARD'S ORDER OF JULY 12, 2006: LATOYA RICKS, MICHELE LITTLE, MARGARET SCHWEINZER, AMY RARRICK, SABRINA HEARD, ANNA BARRETT, LISA STROUD, EDITH RIDDELL, LORI SLOAN,**

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AND RAVIN ORRENDER,

- **TO GRANT WILLIAM C. STEVENSON, M.D.’S REQUEST TO CHANGE HIS SUPERVISING AND MONITORING PHYSICIAN FROM DAVID D. GOLDBERG, D.O., TO GREGORY W. SCHALL, D.O.;**
- **TO GRANT SCOTT THOMAS STEWART, P.A.’S REQUEST FOR A REDUCTION IN HIS APPEARANCE SCHEDULE FROM EVERY THREE MONTHS TO EVERY SIX MONTHS;**
- **TO GRANT DAVID E. SUBLER, M.D.’S REQUEST TO CHANGE HIS MONITORING PHYSICIAN FROM MICHAEL G. STIFF, M.D., TO CRAIG B. CAIRNS, M.D., AND TO DISCONTINUE HIS CHART REVIEW REQUIREMENT;**
- **TO APPROVE MATTHEW DEMORE, III, D.P.M., TO SERVE AS JAMES F. ZIMMERMAN, D.P.M.’S MONITORING PHYSICIAN, WITH TEN CHARTS REVIEWED PER MONTH;**

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

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

The motion carried.

FINDINGS AND ORDER IN THE MATTER OF ADOPTION OF PROPOSED RULES 4731-26-01, 4731-26-02, AND 4731-26-03, OHIO ADMINISTRATIVE CODE

Ms. Debolt advised that the above-captioned rules are now ready for the Board’s adoption.

MR. ALBERT MOVED THAT THE FINDINGS AND ORDER IN THE MATTER OF ADOPTION OF RULES 4731-26-01, 4731-26-02 AND 4731-26-03 OF THE OHIO ADMINISTRATIVE CODE, AS CONSIDERED AND INCORPORATED INTO THE JOURNAL OF THE STATE MEDICAL BOARD OF OHIO FOR THIS 9TH DAY OF NOVEMBER 2006, BE ADOPTED AS THE

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FINDINGS AND ORDER OF THE BOARD IN RELATION TO THE RULES CITED THEREIN, AND THAT THE STAFF PROCEED TO FILE FINAL RULES 4731-26-01, 4731-26-02 AND 4731-26-03 IN ACCORDANCE WITH THE PROVISIONS OF SAID FINDINGS AND ORDER, WITH AN EFFECTIVE DATE OF NOVEMBER 30, 2006. DR. TALMAGE SECONDED THE MOTION.

A vote was taken:

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

The motion carried.

PROPOSED MEETING DATES FOR 2008

At this time the Board considered a list of dates for meetings to be held in 2008.

DR. MADIA MOVED TO APPROVE THE FOLLOWING DATES FOR MEETING IN 2008:

January 9-10	July 9-10
February 13-14	August 13-14
March 12-13	September 10-11
April 9-10	October 8-9
May 14-15	November 12-13
June 11-12	December 10-11

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

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

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The motion carried.

REPORTS BY ASSIGNED COMMITTEES

IMPAIRMENT COMMITTEE

Ms. Bickers advised that the Committee reviewed an application for a certificate of good standing from Metro Atlanta Recovery Residences [MARR], located at the following locations: Doraville, Georgia – Men’s Recovery Center; Lawrenceville, Georgia – Women’s Recovery Center; and College Park, Georgia – South Recovery Men’s Center. She noted that one of the Board’s licensees has already gone through treatment at one of these locations, and it appears that the program does a good job. All three locations meet the Board’s requirements.

Mr. Albert explained that occasionally one of the Board’s licensees goes to a non-approved program. Rather than making the license go through treatment again, the Board staff will contact the treatment provider and attempt to get them to apply for Board approval.

Mr. Albert stated that the Committee is also reviewing the Impairment Rules for necessary changes. Those changes will be brought to the Board in December for approval.

Mr. Albert advised that the Board currently has 300 probationers, most of whom are impaired by alcohol or drugs. The Board does occasionally have a probationer who has engaged in fraud or writing prescriptions for family members. Mr. Albert stated that he can’t see the value in the latter two groups making Board appearances every three months. He commented that there’s not a lot to say to them. He and Dr. Talmage will start to negotiate agreements in such cases that won’t include appearances during the probationary period.

Dr. Egner commented that she trusts Mr. Albert’s and Dr. Talmage’s judgment.

Mr. Albert stated that he would rather spend time dealing with people who are impaired. The others will still be on probation and will have to submit quarterly declarations of compliance.

MR. ALBERT MOVED TO GRANT METRO ATLANTA RECOVERY RESIDENCES [MARR] A CERTIFICATE OF GOOD STANDING AS A TREATMENT PROVIDER. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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Dr. Madia - aye
Dr. Robbins - aye

The motion carried.

LEGISLATIVE LIAISON & RULES COMMITTEE

Mr. Browning noted that, following the recent elections, there will be a new Legislature. He stated that the Board will have to keep a sharp eye out for changes.

LICENSURE COMMITTEE

Dr. Robbins advised that the Committee reviewed a number of licensure matters:

Crystal Bennett, M.T. Applicant

Dr. Robbins advised that Ms. Bennett applied to sit for the December 5, 2006, Massage Therapy examination. She is requesting special accommodations under the Americans with Disabilities Act of 1990 (A.D.A.). Ms. Bennett has been diagnosed with a seizure disorder and attention deficit disorder.

Dr. Robbins advised that the Committee recommends granting Ms. Bennett's request.

DR. VARYANI MOVED TO APPROVE MS. BENNETT'S ACCOMMODATION REQUEST FOR A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. MS. SLOAN SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Robbins	- aye

The motion carried.

Alisa Feingold, L.M.T.

Dr. Robbins advised that Ms. Feingold applied for restoration of her license to practice massage therapy in Ohio. Ms. Feingold has indicated on her application for restoration that she has not actively practiced massage therapy since 2000. The Committee recommends approval, subject to her passing an examination.

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DR. MADIA MOVED TO APPROVE MS. FEINGOLD'S REQUEST FOR OHIO LICENSURE SUBJECT TO HER SUCCESSFUL COMPLETION OF THE LIMITED BRANCH PORTION OF THE MASSAGE EXAMINATION. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Ruth Friddle, L.M.T.

Dr. Robbins advised that Ms. Friddle applied for restoration of her license to practice massage therapy in Ohio. Ms. Friddle has indicated on her application for restoration that she has not actively practiced massage therapy since 1999. Dr. Robbins advised that the Committee recommends approval, subject to her passing an examination.

DR. VARYANI MOVED TO APPROVE MS. FRIDDLE'S REQUEST FOR OHIO LICENSURE SUBJECT TO HER SUCCESSFUL COMPLETION OF THE LIMITED BRANCH PORTION OF THE MASSAGE EXAMINATION. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Ryan Karr, M.T. Applicant

Dr. Robbins advised that Mr. Karr applied to sit for the December 5, 2006, Massage Therapy examination.

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He has requested special accommodations under the A.D.A., due to a traumatic brain injury in December of 1999. Dr. Robbins advised that the Committee recommends approval.

DR. MADIA MOVED TO APPROVE THE ACCOMMODATION REQUEST FOR A TAPED EXAM , EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Jennifer Scheler, MD.

Dr. Robbins advised that Dr. Scheler has applied for an exemption to the Board's 7-year rule for taking the U.S.M.L.E. Dr. Scheler is over the 7-year time limit by 1 month. She passed Steps 1, 2 and 3 on the first attempt with scores of 88, 84 and 93. Dr. Scheler graduated from the University of Louisville School of Medicine in Louisville, Kentucky in May 2000. Dr. Scheler completed a preliminary year of Internal Medicine at the University of Cincinnati from July 2000 through June 2001, and then entered the Diagnostic Radiology program at the University of Cincinnati in July 2001. She completed four years at that residency program, and then completed a Nuclear Radiology fellowship in June 2006. Dr. Scheler received American Board certification in Diagnostic Radiology in June 2005.

Dr. Robbins advised that the Committee recommends approving Dr. Scheler's request.

DR. MADIA MOVED TO APPROVE THE LIMITED EXCEPTION OF THE 7-YEAR RULE AS OUTLINED IN 4731-6-14(C)(3), AND TO ACCEPT DR. SCHELER'S EXAMINATION SEQUENCE IN ORDER TO GRANT HER AN OHIO LICENSE TO PRACTICE MEDICINE AND SURGERY. MR. BROWNING SECONDED THE MOTION. A vote was taken:

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

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

The motion carried.

Yalaunda M. Thomas, M.D.

Dr. Robbins advised that Dr. Thomas has applied for an exemption to the Board's 7-year rule for taking the U.S.M.L.E. Dr. Thomas is over the 7-year time limit by 9 months. She passed Steps 1 and 2 on the first attempt with scores of 77 and 78, and passed Step 3 on the second attempt with a score of 80. Dr. Thomas graduated from the University of North Carolina at Chapel Hill in May 2000. According to the Medical School verification from FCVS, Dr. Thomas was on approved leave from June 1997 until June 1998, participating in medical research. Dr. Thomas completed a preliminary year of General Surgery at the University of Illinois from June 2000 through June 2001, and then entered the General Surgery program at the University of Illinois in July 2001. She completed four years at that residency program. Dr. Thomas then entered a Critical Care Fellowship at the University of Maryland Medical Center from July 2005 to the present. Dr. Thomas holds a license in Illinois.

Dr. Robbins advised that the Committee recommends granting Dr. Thomas' request for an exemption.

Dr. Talmage asked whether the Committee, when making its recommendations, compares what it recommends this month to what it recommended last month.

Dr. Robbins stated that it does. He added that there was discussion on this case. The Committee noted that, had Dr. Thomas passed Step 3 on the first attempt, she would have been okay. The Committee felt that it was reasonable to grant her an exemption.

Dr. Talmage asked whether it wouldn't be reasonable to reconsider some of the cases discussed the previous month.

Dr. Davidson stated that this case was different in that Dr. Thomas was doing research for a period of time. Had she not done the research, she would have been okay.

Dr. Talmage stated that he is concerned with consistency in granting and denying exemptions.

Dr. Robbins stated that in December the Committee will bring a proposal to the Board to clarify this so that the Committee and Board don't have to go through these cases anymore.

DR. VARYANI MOVED TO APPROVE THE LIMITED EXCEPTION OF THE 7-YEAR RULE AS OUTLINED IN 4731-6-14(C)(3), AND ACCEPTING DR. THOMAS' EXAMINATION SEQUENCE IN ORDER TO GRANT HER AN OHIO LICENSE TO PRACTICE MEDICINE AND SURGERY. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Robbins	- aye

The motion carried.

Sonia Varner, L.M.T.

Dr. Robbins advised that Ms. Varner applied for restoration of her L.M.T. license in Ohio. Ms. Varner has indicated on her application for restoration that she has not actively practiced Massage Therapy since 2003. Dr. Robbins stated that the Committee recommends approving her restoration request subject to her passing an examination.

DR. MADIA MOVED TO APPROVE MS. VARNER'S REQUEST FOR OHIO LICENSURE SUBJECT TO SUCCESSFUL COMPLETION OF THE LIMITED BRANCH PORTION OF THE MASSAGE EXAMINATION. DR. VARYANI SECONDED THE MOTION. A vote was taken:

Vote:

Mr. Albert	- aye
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Varyani	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Robbins	- aye

The motion carried.

Kristy Benedek, M.T. Applicant

Dr. Robbins advised that Ms. Benedek applied to sit for the December 5, 2006 Massage Therapy examination. She has requested special accommodations under the A.D.A. She has indicated that she has a specific learning disability in reading comprehension. Dr. Robbins stated that the Committee recommends approval.

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MR. ALBERT MOVED TO APPROVE MS. BENEDEK'S ACCOMMODATION REQUEST FOR A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Sonya Comer, M.T. Applicant

Dr. Robbins advised that Ms. Comer applied to sit for the December 5, 2006 Massage Therapy examination. She has requested special accommodations under the A.D.A. She has been diagnosed with Adult Attention Deficit Disorder. Dr. Robbins stated that the Committee recommends approving Ms. Comer's request.

DR. VARYANI MOVED TO APPROVE MS. COMER'S ACCOMMODATION REQUEST FOR A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Saraswanti Karri, M.D.

Dr. Robbins advised that Dr. Karri has requested an exemption of the seven-year rule for the U.S.M.L.E. Dr. Karri is over the 7-year time limit by 1 month. She passed Steps 1, 2 and 3 on the first attempt with

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scores of 95, 82, and 85. Dr. Karri graduated from the Osmania Medical College in Andhra Pradesh, India in December 1992. She completed a preliminary year of internship at the Osmania Medical College until January 1994. She practiced in India until February 1995, and then immigrated to the United Kingdom. She worked in the United Kingdom until May 2001, when she immigrated to the United States. Dr. Karri then entered an anesthesiology residency at the Cleveland Clinic and has been training there since October 2002 to the present.

Dr. Robbins advised that the Committee recommends granting Dr. Karri's request.

DR. VARYANI MOVED TO APPROVE DR. KARRI'S REQUEST FOR A LIMITED EXCEPTION TO THE 7-YEAR RULE AS OUTLINED IN 4731-6-14(C)(3), AND TO ACCEPT HER EXAMINATION SEQUENCE IN ORDER TO GRANT THE OHIO LICENSE. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

Lauren Reed, M.T. Applicant

Dr. Robbins advised that Ms. Reed applied to sit for the December 5, 2006 Massage Therapy examination. She has requested special accommodations under the A.D.A. Ms. Reed has a visual comprehension disability and lacks the resources to be evaluated formally regarding her disability. Her Massage Therapy school (National Institute of Massotherapy) has been providing her testing accommodations while attending massage school, and they report seeing a great improvement in her progress.

Dr. Robbins stated that the Committee recommends approving Ms. Reed's request.

MR. ALBERT MOVED TO APPROVE MS. REED'S ACCOMMODATION REQUEST FOR A TAPED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. DR. MADIA SECONDED THE MOTION. A vote was taken:

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

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Dr. Varyani	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Robbins	- aye

The motion carried.

Dana Richcreek, M.T. Applicant

Dr. Robbins advised that Mr. Richcreek applied to sit for the December 5, 2006 Massage Therapy examination and has requested special accommodations under the A.D.A. Mr. Richcreek has been diagnosed with coloboma of the iris and retina. Dr. Robbins stated that the Committee recommends approving his request.

DR. MADIA MOVED TO APPROVE MR. RICHCREEK'S ACCOMMODATION REQUEST FOR A TAPED EXAM, ENLARGED EXAM, EXTENDED TESTING TIME OF TIME AND A HALF, AND A SEPARATE TESTING AREA. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

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

The motion carried.

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

Thereupon at 8:37 a.m. on November 9, 2006, the November 8-9, 2006 meeting of the State Medical Board of Ohio was duly adjourned.

November 9, 2006

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio, meeting on November 8-9, 2006, as approved on December 13, 2006.



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



Lance A. Talmage, M.D., Secretary

(SEAL)

