



# YOUR REPORT

FROM THE STATE MEDICAL BOARD OF OHIO

SUMMER 2001

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## A WORD FROM THE PRESIDENT

This is my inaugural report to you, as I was honored to be elected by my colleagues on the Board to serve as President during 2001. The Medical Board has an ambitious agenda for the year. Defining the scope of functions that may be safely delegated to non-physician extenders and setting practice guidelines for office-based surgery are two issues being studied by Board committees. We plan to promulgate administrative rules on both topics later this year.

I'm pleased to report that Governor Bob Taft reappointed **Anand G. Garg, M.D.**, to serve another five year term on the Medical Board. As the Board's Secretary, Dr. Garg works with Supervising Member **Raymond J. Albert** to determine the disposition of the over 2500 complaints filed with our office each year. Their efforts contribute to the Ohio Board's status as a leader among licensing authorities across the country.

On the national level, Board member **Ronald C. Agresta, M.D.**, was selected to serve as President-Elect of the Federation of State Medical Boards at the Federation's annual meeting held April 19-21, 2001 in Atlanta, Georgia. In this position, he is poised to become President of the Federation in 2002—the first time an Ohioan has led this internationally recognized organization since 1981. **Pitambar (Peter) Somani, M.D.**, was elected at the Atlanta meeting to a one year term on the Federation's Nominating Committee. **Ray Q. Bumgarner**, our former Executive Director, was the recipient of the Distinguished Service Award, the Federation's highest honor. The award recognizes outstanding service and leadership to the Federation and to the field of medical licensure and discipline.

Anant R. Bhati, MD, President

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## From the Secretary & Supervising Member

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

Last year, the number of disciplinary actions taken against Medical Board licensees reached a new high: 166 sanctions were imposed, ranging from reprimand to permanent license revocation. Board members and staff who speak to professional organizations, hospital groups and students throughout the state are often questioned about the steady rise in Medical Board disciplinary actions over the past decade. "Are there really more problem doctors than there used to be?" they want to know. What do the numbers really tell us?

From our vantage point, with years of regulatory experience between us, we don't see an increase in the number of problem practitioners so much as we do an improvement in the Board's ability to identify and deal with practitioners who are headed for or are already immersed in trouble. This is particularly true with respect to impaired practitioners. If you look more closely at our disciplinary statistics, you'll find that 28% of the Board's actions in 2000 were based on drug or alcohol impairment. Most of those sanctions include suspension of the professional license pending appropriate treatment through a Board-approved provider (for a current provider listing, see page 4) and verification of the licensee's fitness to resume practice, followed by extensive probationary monitoring by the Board and its staff. Currently, about 160 impaired practitioners are being monitored. While we know that the Board's strict oversight is often the subject of derisive discussion at support group meetings, we are heartened by those probationers who, at the end of their stint with us, credit the Board's intervention and scrutiny with saving their careers.

The Board has long been on record as recognizing addiction as a disease. Thus, we will work with an impaired practitioner to support his or her successful recovery and return to practice,

provided that the practitioner has not engaged in acts that result in a criminal conviction or that might have an adverse impact on others. Ohio law also recognizes addiction as a treatable disease, providing a one-time alternative route to recovery for those who would prefer to avoid the Medical Board altogether. This "one-bite rule," adopted as statute by the Ohio General Assembly in 1987, permits licensees who become drug or alcohol impaired to avoid being reported to the Board if they comply with recommended treatment by a Board-approved provider, commit no other reportable violations and maintain sobriety.

To every rule, of course, there is an exception. The Board has never read the "one-bite rule" as applying in the case of a new licensure applicant. An applicant who has received treatment for chemical dependency must disclose that fact on the application, and will generally receive a license only with probationary terms unless he or she is able to document five years of continuous sobriety at the time of application.

Since the implementation of the mandatory training certificate law in 1999, applicants for new training certificates, like full licensure applicants, have been required to disclose any diagnosis of or treatment for chemical dependency. While these physicians have been permitted to refrain from disclosing a history of chemical dependency (with no relapses) when they renew their training certificates, the Board has treated them like new licensure applicants—requiring full disclosure of chemical dependency diagnoses and treatment—when they elect to trade in their training certificates for full licenses. Recognizing that the safeguards underlying the "one bite rule" would still be present in those situations, the Board decided to extend those benefits to these physicians at its February 2001 meeting by adopting the position statement on page 3.

The regulatory process is a dynamic one. As a Board, we continually strive to improve our processes and develop new approaches to better serve the interests of the public and our licensees.



**STATE MEDICAL BOARD OF OHIO - POLICY STATEMENT**

**LICENSURE OF  
CHEMICALLY IMPAIRED RESIDENT PHYSICIANS**

**February 14, 2001**

A physician licensed by the State Medical Board who suffers from impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice is in violation of Section 4731.22(B)(26), Ohio Revised Code, and subject to Board disciplinary action. Any Board licensee having knowledge of such a violation is required by Section 4731.224(B) to report that information to the Board. In 1987, however, the Ohio General Assembly carved out a one time "one bite" exception, whereby an impaired physician may escape Board intervention, and the physician's colleagues may be excused from reporting the physician's impairment, so long as the physician has completed treatment with a Board approved treatment provider and maintained uninterrupted sobriety, and violated no other provisions of the Ohio Medical Practice Act. In addition, the physician must adhere to all other statutory requirements. The One Bite Rule is codified in Sections 4731.22, 4731.224 and 4731.25, Ohio Revised Code, and Rules 4731-15-01, 4731-16-04, 4731-16-07, and 4731-16-13, Ohio Administrative Code.

The State Medical Board recognizes that resident physicians practicing under training certificates are entitled to the protection of the One Bite Rule to the same extent as are fully licensed physicians. Both fully licensed physicians and residents practicing under training certificates are excused from reporting their impairment when renewing their certificates so long as they continue to adhere to the requirements of the statutes and rules. Physicians seeking new Ohio licensure, however, have never been granted "one bite", and are expected to report their status in applying for licensure. The Board will generally require some period of probation as a contingency to licensure if an applicant has been impaired and is unable to document at least five years of uninterrupted sobriety at the time of application.

Physicians practicing under training certificates frequently decide to apply for full Ohio licensure after a year or two of residency training. Although these physicians do receive new "full" licenses, the State Medical Board does not view them as new licensure applicants for purposes of the One Bite Rule. A physician who enters treatment for chemical dependency while in residency under a training certificate need not report his or her impairment when applying for full licensure so long as the physician continues to qualify for the one bite exception by completing treatment and complying with aftercare requirements. If the physician is required to respond in the affirmative to any of the other "Additional Information" questions on the application (e.g., the physician was placed on probation by his or her postgraduate training program) the Board will generally license the physician without restrictions or probationary terms if investigation reveals that the problem requiring the affirmative answer would not have occurred but for the physician's impairment. ♦

# APPROVED TREATMENT PROVIDERS

Chemical dependency treatment providers are approved by the Medical Board pursuant to Section 4731.25, O.R.C. The following list is current as of May 2001. See [www.state.oh.us/med/](http://www.state.oh.us/med/) for updates.

**\*Addiction Programs of Mahoning County**

2516 Market Street  
Youngstown, OH 44507  
(330) 747-2614

**Bethesda Hospital Alcohol & Treatment Pgm**

619 Oak Street  
Cincinnati, OH 45206  
(513) 569-6020

**Brighton Hospital**

12861 East Grand River  
Brighton, MI 48116-8596  
(810) 227-1211

**\*Cleveland Clinic**

9500 Euclid Ave.  
Cleveland, OH 44195-5189  
(216) 444-2970

**\*Comprehensive Addiction Service Systems (COMPASS)**

2465 Collingwood Blvd.  
Toledo, OH 43620  
(419) 241-8827

**\*Crossroads Counseling Services, Inc.**

255 W. Main St., P.O. Box 118  
St. Clairsville, OH 43950  
(740) 695-9447

**Edwin Shaw Hospital for Rehabilitation**

1621 Flickinger Road  
Akron, Ohio 44312-4495  
(330) 784-1271

**\*Glenbeigh Health Sources**

2863 St. Rt. 45  
P.O. Box 298  
Rock Creek, OH 44084-0298  
(440) 563-3400

**Greene Hall Chemical Dependency Services**

Greene Memorial Hospital  
1141 N. Monroe Dr.  
Xenia, OH 45385  
(937) 372-8011 x 5442;  
(937) 429-3360

**Marworth Treatment Center**

Lily Lake Road  
Waverly, PA 18471  
(800) 442-7722

**\*Maryhaven**

1791 Alum Creek Drive  
Columbus, OH 43207  
(614) 445-8131

**Neil Kennedy Recovery Clinic**

2151 Rush Blvd.  
Youngstown, OH 44507  
(800) 228-8287

**Parkside Behavioral Healthcare, Inc.**

349 Olde Ridenour Rd.  
Columbus, OH 43230  
(614) 471-2552

**Rogers Memorial Hospital Herrington Recovery Center**

34700 Valley Road  
Oconomowoc, WI 53066  
(262) 646-3526 x240

**Rosary Serenity Center at St. Vincent Charity Hospital**

2351 E. 22nd St.  
Cleveland, OH 44115  
(216) 363-2580

**Shepherd Hill Hospital**

200 Messimer Drive  
PO Box 1067  
Newark, OH 43058-1067  
(740) 348-4870

**Sierra Tucson**

39580 N. Lago Del Oro Pkwy.  
Tucson, AZ 85739  
(520) 624-4000  
(800) 624-5858

**St. Thomas Medical Center Summa Health**

444 North Main St.  
Akron, OH 44310-3178  
(330) 379-5906

**\*Talbert House**

2600 Victory Parkway  
Cincinnati, OH 45206  
(513) 751-8600

**Talbot-Marsh Recovery Campus**

5448 Yorktowne Dr.  
Atlanta, GA 30349  
(404) 994-0185;  
(800) 445-4232

**The Toledo Hospital**

2142 North Cove Blvd.  
Toledo, OH 43606  
(419) 471-2300  
inpatient: (419) 471-2351

**West Michigan Addiction Consultants, P.C.**

3001 Fuller Ave., N.E.  
Grand Rapids, MI 49505  
(800) 253-7700

\*Approved treatment providers with the ability to adjust fees on a sliding scale

# Healthcare Fraud & Abuse

by Charles Stienecker, M.D., Member

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*Material for the following article was extracted from a presentation by Robert J. Benvenuti III, J.D., MPA, to the University of Kentucky Family Medicine Review (November 2000), and is being used with the permission of the author.*

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With increasing frequency, the U.S. Department of Justice scrutinizes physicians for Medicare fraud and abuse. Various sources have estimated the total annual cost related to fraud and abuse in the health care industry to be 90 billion dollars, or 10% of each dollar spent on health care. According to the Department of Health and Human Services, improper payments to physicians total 5.9 billion dollars annually. As a result, policy makers, regulators, and law enforcement agencies have been taking a closer look at the practices of health care professionals. Since 1996, for example, addressing issues of medical fraud and abuse has become the number two priority of the United States Department of Justice. The Health Insurance Portability and Accountability Act of 1996 (HIPPA) authorized massive increases in funding for the investigation and prosecution of fraud and abuse. Further, HIPPA expanded the scope of fraud and abuse statutes and facilitated coordination of investigative efforts among agencies at all levels of government and created

jurisdictional scope to reach fraud committed against private payers, i.e., insurance companies and your private patients.

There are eight basic sources of statutes and prohibitions encompassing both criminal and administrative law:

1. Theft, bribery or embezzlement related to health care
2. Mail/wire fraud
3. False statements or representations, including advertising
4. Specific health care fraud, i.e., HIPPA
5. The RICO, or Racketeer Influenced and Corrupt Organizations Act, aimed at patterned misconduct
6. The False Claims Act
7. Anti-kickback statutes, and
8. Anti-referral laws or Stark I and II

The lawyers may recognize fraud and abuse in technical terms as defined in these statutes, but for our purposes, a more general statement may be more helpful. In general, **FRAUD** is any act, omission, or concealment, calculated to

deceive, or "making false statements or representations of material facts in order to obtain some benefit or payment for which no entitlement would otherwise exist." There is a burden to show that the act was based on the intent of the physician to engage in illegal behavior; that is, that "beyond a reasonable doubt" the doctor "acted knowingly and willfully."

**ABUSE**, on the other hand, broadly defined, is any excessive, improper or harmful act "that either directly or indirectly results in unnecessary cost." A finding of abuse does not depend on a physician's intent; it requires only that "a preponderance of the evidence" suggests the doctor was "acting with *knowledge*, or in *deliberate ignorance* or with *reckless disregard* of the truth or falsity of certain information." That you "knew or should have known" is enough to find against you; specific intent to defraud is not required. An astounding array of actions can potentially lead to an investigation of your practice. The following list points out the breadth of vulnerability:

1. Billing for services or supplies that were not provided
2. Misrepresenting the nature of services provided
3. Misrepresenting the agent that provided care
4. Billing for unnecessary services
5. Billing for unallowable cost
6. Failure to follow doc-

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## Fraud & Abuse (cont.)

umentation guidelines or not having sufficient documentation to support a claim for reimbursement

7. Beneficiary inducement (e.g., waiving co-pays)
8. Billing for services provided by unqualified or unlicensed clinical personnel
9. Knowingly billing for inadequate or sub-standard care
10. Making false or fraudulent statements or representations related to the delivery of health care
11. Failing to return monies wrongfully obtained
12. Violation of participation agreements
13. Illegal remuneration or self-referrals
14. Faulty or otherwise inadequate business systems

Who is involved in enforcing these new statutes? The list is long and includes the Department of Justice (U.S. Attorneys and the FBI), the Department of Health and Human Services through the Office of the Inspector General, and almost every other federal agency. At the state level, fraud control units and licensing boards are supplemented by state-designated Medicare carriers, their intermediaries, and private insurance companies. At the bottom of this feeding chain are the private bounty hunters for personal gain; *qui tam* relators, whistleblower government contractors; and your former and current patients and employees. There is, as you can see, a rather daunting group of watchdogs.

Physicians face an alarming array of these potholes. With so many acts constituting fraud and abuse, it is helpful to note what behavior *does not* rise to the level of fraud or abuse. Singular mistakes and innocent errors are not likely to become a problem unless frequent repetition of a pattern of conduct gives rise to allegations that a physician “should have known” that his/her behavior was questionable. Similarly, good faith interpretations and good faith reliance on professional advice, if it is reasonable and documented, are defensible. The old adage applies here: “You can’t get something

for nothing”...or keep it...very long...anymore. Free advice might well be worth what you pay for it; competent legal and financial counsel can be invaluable.

The best remedies for these vulnerabilities are corporate compliance programs. These programs provide the best defense against allegations based upon a physician’s intent to defraud, and the best support for an argument for mitigation of a physician’s culpability based on his/her profession of having acted in good faith. They are means by which an entity, including a doctor’s corporation, may take affirmative steps to prevent and detect illegal, unethical or abusive conduct within an organization.

There are a number of additional reasons that a physician would want to maintain an effective compliance program. First, it is the right thing to do and it helps to maintain the trust of the community. It is an opportunity to self-correct and to reduce the likelihood of wrongful conduct and innocent mistakes. It will reduce the likelihood of persons in your practice being found to have acted with criminal intent or reckless disregard for the law and, and it will help you negotiate with the government from a position of strength to avoid mandated integrity agreements. In sum, corporate compliance programs help to maintain the financial stability of your practice and protect your license and your practice from jeopardy.

There are seven basic elements to an effective physician practice compliance plan:

1. One person must be designated oversight responsibility. This person is usually the doctor, but the task can be delegated to an office manager.
2. Develop a code of conduct, policies and procedures that express, in writing, the commitment to compliance.
3. Establish a simple reporting procedure.
4. Establish documented education and training programs, focusing on the code, policies, and procedures, for all corporate personnel.
5. Establish monitoring and auditing procedures to regularly review the business and clinical

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- activities of the practice.
6. Develop a response, correction and prevention policy.
  7. Develop a statement of enforcement standards and a schedule of disciplinary action engaging in fraudulent or abusive practices or for failure to report incidents of such behavior. Conversely, one may also consider an incentive program that rewards employees who spot, correct and avoid situations problematic for your practice.

The above elements may appear complex and daunting, but they may be scaled somewhat to the size of your practice. At some level, however, they may be invaluable. Should you find yourself across the table from a U.S. Attorney, this could be your best defense against allegations of fraud or abuse, and the loss of your license. ♦

## AMA Offers Health Literacy Self-Study Program

More than 90 million Americans have limited health literacy skills – ranging from difficulty in reading prescription labels to following a physician's instructions for follow-up care. The problem also affects seniors and other patients who have difficulty hearing and seeing but may feel embarrassed or ashamed to ask questions. "As physicians, we should ask patients to 'show us' or 'teach back' to us how they are supposed to take their medications, what diet they are supposed to follow, how often they should exercise," said Mark Williams, M.D., a health literacy researcher and association professor of medicine at Emory University School of Medicine.

To increase awareness, the AMA Foundation signature program, "Partnership in Health – Improving the Patient-Physician Relationship Through Health Literacy," hopes to mobilize the physician community to combat low health literacy. Physicians were encouraged to review the AMA Foundation's Health Literacy Kit to better educate themselves and their staffs.

The health literacy kit is a medical education self-

study program that helps illustrate how literacy problems extend across racial, educational and socioeconomic backgrounds. The kit, which is available for \$25, contains:

- A video presenting a series of vignettes of individuals affected by low health literacy
- Health Literacy: Report of the AMA Council on Scientific Affairs
- Fact Sheets on Health Literacy
- Discussion Guide with a Physician Feedback Survey
- Questionnaire for CME credit (up to 2 hours Category I credit)

To order a copy of the Health Literacy Introductory Kit, e-mail AMA staffer Joanne Schwartzberg at [Joanne.Schwartzberg@ama-assn.org](mailto:Joanne.Schwartzberg@ama-assn.org) or call the AMA at 312-464-5563. ♦

## CD-ROM Offers Free CME

A new CD-ROM produced by the Ohio Department of Health's Breast and Cervical Cancer Project, "Cultural Competence in Breast Cancer Care," aims at improving cultural competence in clinical practice.

Noting that the Liaison Committee on Medical Education (LCME) has recently adopted standards for cultural diversity in medical education, ODH is recommending the CD-ROM as an educational tool for training program directors, residents, and undergraduate medical students. ODH also points to plans by the National Board of Medical Examiners (NBME) to place a greater emphasis on diversity issues in its licensure examinations. The Accreditation Council on Graduate Medical Education (ACGME) and the Council on Graduate Medical Education (COGME) are developing similar guidelines for residency programs, ODH says.

The free interactive CD-ROM offers up to five hours of Category I Continuing Medical Education. To obtain a copy, or for more information, contact Olga Alvarez-Ott by phone at (614)728-2177 or via e-mail at [oalvarez@gw.odh.state.oh.us](mailto:oalvarez@gw.odh.state.oh.us). ♦

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# STATEHOUSE SUMMARY

The following summary offers you, as a Medical Board licensee, a look at changes in Ohio law that may affect your practice. Because this summary is not all-inclusive, we encourage you to periodically review relevant portions of the Ohio Revised Code (statutes) and Ohio Administrative Code (rules) to keep your knowledge and understanding of Ohio regulatory law up-to-date. Changes in the law are regularly noted on the Medical Board's website at [www.state.oh.us/med/](http://www.state.oh.us/med/); you may also wish to consult your state and local professional associations for further information.

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## **House Bill 90 - Alternative Medical Treatments**

**This bill enacted Section 4731.227 of the Revised Code to specify that physicians licensed by the State Medical Board may use alternative medical treatments when informed consent has been obtained and the treatment meets the standards enforced by the Board pursuant to Revised Code Section 4731.22.**

*HB 90 created Section 4731.227 of the Medical Practices Act (Chapter 4731., O.R.C.), which reads as follows:*

An individual authorized to practice medicine and surgery or osteopathic medicine and surgery may use alternative medical treatments if the individual has provided the information necessary to obtain informed consent from the patient and the treatment meets the standards enforced by the state medical board pursuant to section 4731.22 of the Revised Code and any rules adopted by the board.

As used in this section, "alternative medical treatment" means care that is complementary to or different from conventional medical care but is reasonable when the benefits and risks of the alternative medical treatment and the conventional medical care are compared.

## **House Bill 585 - Telemedicine**

**This bill enacted Sections 4731.053 and 4731.296 of the Revised Code to specify that the practice of medicine in this state**

**includes certain activities performed in person or through the use of any communication, including oral, written, or electronic communication, to establish requirements for obtaining a telemedicine certificate, to modify the exceptions to the law governing physician licensure, to require the adoption of rules regarding the authority of optometrists to delegate the performance of optometric tasks, to authorize physical therapists and athletic trainers to apply topical prescription drugs, and to change references in statutes governing the practice of medicine from "podiatry" to "podiatric medicine and surgery."**

*Pertinent sections of the Medical Practices Act (Chapter 4731., O.R.C.) created or revised by HB585 appear below.*

**Section 4731.34** Unauthorized practice of medicine, surgery or podiatry.

(A) A person shall be regarded as practicing medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, within the meaning of this chapter, who does any of the following:

- (1) Uses the words or letters, "Dr.," "Doctor," "M.D.," "physician," "D.O.," "D.P.M.," or any other title in connection with the person's name in any way that represents the person as engaged in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, in any of its branches;



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(2) Advertises, solicits, or represents in any way that the person is practicing medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, in any of its branches;

(3) In person or, regardless of the person's location, through the use of any communication, including oral, written, or electronic communication, does any of the following:

(a) Examines or diagnoses for compensation of any kind, direct or indirect;

(b) Prescribes, advises, recommends, administers, or dispenses for compensation of any kind, direct or indirect, a drug or medicine, appliance, mold or cast, application, operation, or treatment, of whatever nature, for the cure or relief of a wound, fracture or bodily injury, infirmity, or disease.

(B) The treatment of human ills through prayer alone by a practitioner of the Christian Science church, in accordance with the tenets and creed of such church, shall not be regarded as the practice of medicine, provided that sanitary and public health laws shall be complied with, no practices shall be used that may be dangerous or detrimental to life or health, and no person shall be denied the benefits of accepted medical and surgical practices.

(C) The use of words, letters, or titles in any connection or under any circumstances as to induce the belief that the person who uses them is engaged in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, in any of its branches, is prima-facie evidence of the intent of such person to represent the person as engaged in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, in any of its branches.

Section 4731.053 Rules for physician's delegation of medical task

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

(B) The state medical board shall adopt rules that

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

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

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

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

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

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

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

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

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

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

(4) Prevent an individual from engaging in an activity performed for a handicapped child as a service needed to meet the educational needs of the child, as identified in the individualized

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education program developed for the child under Chapter 3323. of the Revised Code;

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

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

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

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

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

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**With respect to the telemedicine certificate, applicants must complete the same licensure forms and meet the same requirements as applicants for full licensure, with a few notable exceptions. To be eligible for a telemedicine certificate, the applicant must hold a current unrestricted license in other states in which that applicant is already licensed. In addition, to be eligible for licensure renewal, the holder of a telemedicine certificate shall certify to the board compliance with the continuing medical education requirements of the state in which the holder's principal place of practice is located. Please note that if you hold a full license to practice medicine in Ohio, you may practice "telemedicine" without holding a "telemedicine certificate."**

4731.296 Telemedicine certificate.

(A) For the purposes of this section, "the practice of telemedicine" means the practice of medicine in this

state through the use of any communication, including oral, written, or electronic communication, by a physician located outside this state.

(B) A person who wishes to practice telemedicine in this state shall file an application with the state medical board, together with a fee in the amount of the fee described in division (D) of section 4731.29 of the Revised Code, the board may issue, without examination, a telemedicine certificate to a person who meets all of the following requirements:

(1) The person holds a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by another state that requires license holders to complete at least fifty hours of continuing medical education every two years.

(2) The person's principal place of practice is in that state.

(3) The person does not hold a certificate issued under this chapter authorizing the practice of medicine and surgery or osteopathic medicine and surgery in this state.

(4) The person meets the same age, moral character, and educational requirements individuals must meet under sections 4731.08, 4731.09, 4731.091 [4731.09.1], and 4731.14 of the Revised Code and, if applicable, demonstrates proficiency in spoken English in accordance with division (E) of section 4731.29 of the Revised Code.

(C) The holder of a telemedicine certificate may engage in the practice of telemedicine in this state. A person holding a telemedicine certificate shall not practice medicine in person in this state without obtaining a special activity certificate under section 4731.29.4 of the Revised Code.

(D) The board may revoke a certificate issued under this section or take other disciplinary action against a certificate holder pursuant to section 4731.22 of the Revised Code on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the holder under section 4731.22 of the Revised Code.

(E) A telemedicine certificate shall be valid for a period specified by the board, and the initial renewal shall

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be in accordance with a schedule established by the board. Thereafter, the certificate shall be valid for two years. A certificate may be renewed on application of the holder. To be eligible for renewal, the holder of the certificate shall do both of the following:

(1) Pay a fee in the amount of the fee described in division (B)(1) of section 4731.281 of the Revised Code;

(2) Certify to the board compliance with the continuing medical education requirements of the state in which the holder's principal place of practice is located. The board may require a random sample of persons holding a telemedicine certificate to submit materials documenting completion of the continuing medical education requirements described in this division.

(F) The board shall convert a telemedicine certificate to a certificate issued under section 4731.29 of the Revised Code on receipt of a written request from the certificate holder. Once the telemedicine certificate is converted, the holder is subject to all requirements and privileges attendant to a certificate issued under section 4731.29 of the Revised Code, including continuing medical education requirements.

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**With respect to the new delegation statute found in Ohio Revised Code Section 4731.053, the Board will likely be in the midst of the Chapter 119. administrative rule-making process by the time you receive this publication. The rules are to establish standards to be met and procedures to be followed by a physician with respect to the physician's delegation of the performance of a medical task to a person who is not licensed or otherwise specifically authorized by the Revised Code to perform the task. It is anticipated that the Board will look to its own position statement on "Delegation of Medical Tasks" (please see the Board's website at [www.state.oh.us/med/delegate](http://www.state.oh.us/med/delegate)) as well as specific guidelines set forth in statute when drafting initial rules in this area.**

**Current and proposed Medical Board rules are available on the Board's website at [www.state.oh.us/med/rules/](http://www.state.oh.us/med/rules/). ♦**

## Board Action: New Options for Allopathic CME

Section 4731.281 of the Ohio Revised Code authorizes the State Medical Board to enforce requirements for Continuing Medical Education (CME):

...each person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry shall certify to the state medical board that in the preceding two years the person has completed one hundred hours of continuing medical education.

The Board further maintains the authority to recognize broad classes of acceptable CME activities and mandates completion of numbers of hours in different categories per registration period. The Board's Allopathic CME Booklet defines acceptable Category 1 activities as follows:

Category 1 activities are planned, structured activities offered by an organization accredited as a sponsor of CME by the OSMA, the Accreditation Council for Continuing Medical Education (ACCME) or any other State Medical Association recognized as an accreditor by the ACCME, which has designated that education for AMA PRA Category 1 credit. These learning activities may be in the form of lectures, seminars, or workshops or may be based on self-assessment programs or audiovisual or computer materials.

In July 2000, the Board approved changes to its CME requirements to make them consistent with the AMA's Physician's Recognition Award (PRA) requirements. Those changes are as follows:

First, recognizing the increasing sophistication and efficacy of multimedia and computer-aided

see CME on page 12

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# STATE MEDICAL BOARD OF OHIO DISCIPLINARY ACTIONS

*August 2000 - March 2001*

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**ANDREJIC**, Anthony (MD training cert. #1637) - Cleveland  
**Voluntary Surrender** - Permanent revocation of training certificate authorized by doctor in lieu of formal disciplinary proceedings based on his pleas of guilty to felony counts of Aggravated Trafficking in Drugs and Possession of Drugs. Effective 1/25/01.

**BAMBRICK**, William S., III (MD #43889) – Williston, ND  
**Board Order** - Doctor reprimanded based on prior action against his North Dakota license by that state's medical board, which was itself based on doctor's admission that he had failed to reveal on a license renewal application that his clinical privileges at a medical facility in Florida had been summarily suspended. Order mailed 2/28/01; Order effective 2/28/01.

**BEEHLER**, Gary Andrew (DO #5162) - Yakima, WA  
**Board Order** - Medical license permanently revoked

based on doctor having been found guilty of two felony counts of Computer Crime, the acts underlying which involved his accessing of sexually explicit internet sites by use of a hospital computer on which he had, without authorization, installed a modem and software; and prior action against his Oregon and Washington medical licenses based on conduct underlying the above criminal convictions. (Journal Entry - no hearing requested) Order mailed 8/10/00; Order effective 8/10/00.

**BIRDSONG**, Edward Miles (DO #3450) - Youngstown  
**Board Order** - Application for restoration of Ohio medical license granted, subject to probationary terms, conditions, and limitations for a period of at least five years. Based on prior action against doctor's New York medical license following findings, based on a review of six cases, that doctor had practiced with negligence,

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## CME (cont.)

instruction techniques as applied to CME, the Board eliminated the 30-hour limit on Category I CME credits obtained through multimedia audiovisual self-instruction activities per registration period. Licensees may now earn more than 30 hours of Category 1 credit through such programs.

Second, the Board approved the PRA's upgrading and granting Category 1 credits for a number of additional activities.

1. Authoring an article published in peer reviewed journals (i.e., journals listed in the Index Medicus): 10 credits for each article, 1 article per year.
2. Presenting a poster designated for A.M.A. PRA Category 1 credit: 5 credits per presentation, 1 presentation per year.
3. Presenting a lecture designated for A.M.A. PRA Category 1 credit: 2 credits for each hour of lecture, a maximum of 10 credits per year.

4. Achieving and maintaining a specialty board certification: 25 credits.

5. Earning a medically-related degree, such as a Master's in Public Health: 25 credits.

The Board further sought to clarify several of these activities. In #4, "achieving and maintaining a specialty board certification" means that the act of achieving certification earns 25 credits in the CME period in which the certification is obtained, and the act of achieving recertification earns 25 credits in the period in which recertification is obtained. The mere status of certification in subsequent periods is not sufficient to earn CME credits. Similarly, in #5, a licensee may earn 25 CME credits for the period in which a medically-related degree is conferred, but may not receive CME credits for pursuing that degree.

Continuing Medical Education is not merely a requirement for license renewal, it is essential for maintaining high standards of patient care. You should embrace the opportunity presented by the CME requirement to expand your knowledge, enhance your skills, and serve well your patients and the profession.

gross negligence, incompetence and gross incompetence on more than one occasion. Order mailed 11/13/00; Order effective 11/13/00.

**BOSACK**, Douglas Paul (MD #48959) - Beavercreek  
**Reinstatement** – Doctor's request for reinstatement granted by vote of the Board on 1/10/01, subject to probationary terms established by 12/8/99 Board Order.

**BRANT**, Gregory Charles (DO #3654) - Madison  
**Board Order** - Permanent revocation of medical license stayed, subject to suspension for at least thirty days; conditions for reinstatement and subsequent probationary terms, conditions and limitations for at least three years established. Based on doctor's plea of guilty to two misdemeanor counts of Obstructing Official Business, the acts underlying which involved his alteration of patient records that in turn impeded an investigation by the Ohio Bureau of Workers Compensation. Order mailed 9/28/00; Order effective 10/29/00. **NOTE: doctor authorized by Board to begin suspension period on October 14, 2000.**

**BROCK**, David Todd (DO #7161) - Columbus  
**Consent Agreement** - Medical license suspended for at least 30 days; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admissions that he failed to advise Medical Board on licensure application that he had plead guilty to a misdemeanor count of driving under the influence; and that he was evaluated for chemical dependency at the request of his residency program and underwent inpatient assessment. Agreement effective 11/9/00.

**CASTEN**, Timothy L. (PA #322) - Euclid  
**Board Order** - Physician assistant's certificate of registration permanently revoked based on his having prescribed dangerous drugs and/or controlled substances to two specified patients without receiving specific authorization from his supervising physician or any other physician; and P.A.'s plea of guilty to one felony count of Illegal Processing of Drug Documents. Order mailed 12/8/00; Order effective 12/8/00. **Board Order** - Physician assistant's certificate of registration permanently revoked based on his having called in prescriptions for dangerous drugs for himself without receiving specific authorization from a physician to do so, in violation of his supervision agreement; and his continued practice as a P.A. after the expiration of his certificate. (Journal Entry - no hearing requested) Order mailed 2/15/01; Order effective 2/15/01.

**CHAPMAN**, Thomas M., Jr. (MD #31744) - Fallbrook, CA  
**Voluntary Surrender** - Permanent revocation of medical license authorized by doctor in lieu of formal disciplinary

proceedings pursuant to Section 4731.22(B)(9), O.R.C., which authorizes Board to take action based on a felony; and Section 4731.22(B)(22), O.R.C., which authorizes Board to take action based on prior action by another state medical board. Effective 12/5/00.

**CLARK**, Kevin Robert (MD #58506) - Beavercreek  
**Consent Agreement** - Medical license restored subject to probationary terms, conditions and limitations based on doctor's admitted history of alcohol and poly-substance abuse; his abstinence from use of illicit drugs and alcohol since 2/98; and reports from two Board-approved treatment providers indicating that doctor has been deemed capable of practicing according to acceptable and prevailing standards of care with appropriate monitoring. Agreement effective 9/13/00; agreement to remain in effect for a minimum of eight years prior to any request for termination.

**DAIBER**, Robert Raymond (MD #64194) - Sylvania  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor having been found eligible for intervention in lieu of conviction of Illegal Processing of Drug Documents. Notice mailed 10/12/00. **Consent Agreement** - Medical license suspended for at least six months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's plea of guilty to one felony count of Illegal Processing of Drug Documents, for which he was found eligible for intervention in lieu of conviction; the acts underlying that conviction, which included the doctor's writing of a controlled substance prescription using a false patient name and attempting to fill it for his own use; his issuance and cashing of prescriptions using false patient names on other specified occasions; and his diagnoses during outpatient treatment of alcohol dependence, opiate dependence (in early full remission), cannabis abuse and anxiolytic abuse. Agreement effective 11/9/00.

**DAVIES**, Brian W. (MD #49895) - Akron  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor having been found guilty of 18 felony counts of Aggravated Trafficking in Drugs. Notice mailed 2/15/01; suspension effective upon service of notice on 2/16/01. (NOTE: doctor's license already suspended pursuant to 10/13/99 consent agreement.)

**DAVIS**, Robert Stuart (PA #1510) - Cuyahoga Falls  
**Consent Agreement** - Certificate of registration to practice as a physician assistant granted, subject to reprimand. Based on P.A.'s admission that he

functioned as a P.A. in the course of his employment prior to being properly registered to do so. Agreement effective 8/9/00.

**DE LA FLOR**, Richard (MD #47505) - Toledo  
**Board Order** - Permanent revocation of medical license stayed, subject to indefinite suspension; interim monitoring conditions, conditions for reinstatement, and subsequent probationary terms, conditions, and limitations for at least five years established. Based on impairment of ability to practice due to drug and/or alcohol abuse; and improper possession of an unlabeled controlled substance. Order mailed 8/11/00; Order effective 8/11/00.

**DEAN**, Orval (MD #54702) - Piketon  
**Voluntary Surrender** - Doctor's permanent voluntary surrender of medical license accepted by Board in lieu of formal disciplinary proceedings based on prior action by Washington State's medical board following its findings that doctor had engaged in unprofessional conduct by sexually molesting his nieces and a nephew, with whom he had a physician-patient relationship. Effective 12/5/00.

**DHILLON**, Robin Kanwar (MD #78887) - Medina  
**Consent Agreement** - Medical license granted subject to conditions, including permanent limitation and restriction prohibiting doctor from performing surgery of any type or assisting in any surgical procedure. Based on doctor having been diagnosed with multiple sclerosis and the opinion of his neurologist that, although he is unable to practice as a surgeon, he is able to practice in situations that conform to his physical disabilities. Agreement effective 12/13/00; agreement may be amended or terminated upon agreement of the parties after one year.

**DODD**, Larry Allen (MD #39491) - Wheeling, WV  
**Board Order** - Doctor reprimanded based on prior action his West Virginia license by that state's medical board following its findings that doctor had engaged in unprofessional conduct by not properly informing a patient prior to performing surgery that he had terminated his contract with her insurance carrier. (Journal Entry - no hearing requested) Order mailed 12/14/00; Order effective 12/14/00.

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

treatment through a Board-approved provider. Agreement effective 3/14/01; suspension eff. 3/24/01.

**EASTBURN**, Timothy D. (PA #1021) - Casselberry, FL  
**Board Order** - Physician assistant's certificate of registration permanently revoked based on prior action against physician assistant's South Carolina license by that state's medical board due to (1) his having been convicted of sixteen felony counts of Acquiring or Attempting to Acquire Possession of Controlled Substances by Misrepresentation, Fraud, Forgery, Deception, or Subterfuge; and (2) his failure to provide complete and accurate information on his South Carolina licensure application pertaining to previous arrests and employment. Order mailed 12/14/00; Order effective 12/14/00.

**FIGENSCHUH**, William Harold, Jr. (MD #37859) - Alliance  
**Board Order** - Permanent revocation of medical license stayed, subject to indefinite suspension for at least two years; interim monitoring conditions, conditions for reinstatement, and subsequent probationary terms, conditions, and limitations for at least seven years established. Based on violation of conditions of limitation imposed on license by 3/15/96 consent agreement, and impairment of ability to practice due to multiple alcohol relapses. Order mailed 8/25/00; Order effective 8/25/00.

**FIEDLER**, Benjamin Paul (MD #78888) - Columbus  
**Consent Agreement** - Medical license granted subject to limitation restricting doctor from practicing obstetrics without successful completion of post-graduate training program of at least three months; and subject to probationary terms for at least one year. Based on prior action against doctor's Texas license by that state's medical board following suspension of doctor's hospital privileges as the result of an investigation of a single obstetrical patient case. Agreement effective 12/13/00.

**FLEMING**, James E. (MD #29707) - East Cleveland  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., doctor's medical license immediately suspended based on his having been found guilty of two felony counts of Possession of Drugs; one felony count of Deception to Obtain Dangerous Drugs; and two felony counts of Illegal Processing of Drug Documents. Notice mailed 12/14/00.

**FORD**, Donald Brooks (MD #74884) - Solon  
**Consent Agreement** - Medical license indefinitely suspended; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admitted history of alcohol dependence and relapse, for which he has sought treatment through a board-



approved provider; and doctor's admission that he was found guilty in 5/20 of Disorderly Conduct after first being charged with Intoxication, and that he is now under court supervision relative to a pending charge of Assault.

Agreement effective 10/11/00. **Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care provided that treatment and monitoring requirements are in place. Agreement effective 2/14/01; agreement to remain in effect for at least five years prior to any request for termination.

**FOX**, Jeffrey Thomas (MT #5796) - Columbus  
**Board Order** - Application for restoration of massage therapy license denied based on massage therapist's continued practice after his license had lapsed due to non-renewal; and his failure to cooperate with a Medical Board investigation. (Journal Entry - no hearing requested) Order mailed 10/12/00; Order effective 10/12/00.

**FUCHS**, Victor Emil (MT #5557) - Columbus  
**Voluntary Surrender** - Massage therapist's permanent voluntary surrender of certificate accepted by Board in lieu of formal disciplinary proceedings based on M.T.'s admission that he was charged with two counts of Sexual Imposition, which charges were subsequently amended to one third degree misdemeanor count of Criminal Mischief to which he pled guilty. Eff. 12/6/00.

**GADEK**, James E. (MD #48075) - Columbus  
**Board Order** - Medical license revoked based on doctor's failure to comply with conditions of limitation imposed on his license by 7/8/98 Board Order due to admitted relapse, failure to submit certain required documentation, and failure to appear for probationary conferences. (Journal Entry - no hearing requested) Order mailed 9/14/00; Order effective 9/14/00.

**GALL**, Ronald Marcel (MD #42178) - Cincinnati  
**Consent Agreement** - Doctor reprimanded; probationary terms, conditions and limitations imposed for at least one year. Based on doctor's failure to record controlled substance prescriptions issued to two specified patients; and failure to comply with Medical Board rules governing utilization of controlled substances for weight loss. Agreement effective 9/13/00.

**GILLIAM**, David Thomas (MD #38060) - Marion, IL  
**Court Action** - By Decision and Entry rendered 11/21/00, Franklin County Court of Common Pleas affirmed Board's 11/17/99 suspension Order.

**HALLE**, Mark Thomas (MD #58051) - Columbus  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing

according to acceptable and prevailing standards of care with appropriate treatment and monitoring. Agreement effective 10/11/00; agreement to remain in effect for at least five years prior to any request for termination.

**HAMADEH**, Mazen B. (MD #73816) - Orlando, FL  
**Court Action** - By Decision and Entry filed 10/11/00, Franklin County Court of Common Pleas dismissed doctor's appeal based on his failure to exhaust administrative remedies. Notice of appeal to Tenth District Court of Appeals filed by doctor on 11/13/00.  
**Court Action** - By Journal Entry filed 2/20/01, Tenth District Court of Appeals dismissed doctor's appeal based on his failure to timely file a brief.

**HATFIELD**, Susan Merkel (PA #1572) - Maineville  
**Consent Agreement** - Certificate of registration to practice as a physician assistant granted subject to reprimand and probationary terms based on physician assistant's admission that she had unknowingly practiced as a physician assistant prior to being properly licensed to do so. Agreement effective 12/13/00; agreement to remain in effect for a minimum of one year prior to any request for termination.

**HASAN**, Nasira Fatima (MD #62453) - Pulaski, WA  
**Board Order** - Medical license permanently revoked based on prior action against doctor's Virginia medical license due to her improper prescribing of controlled substances. Order mailed 11/13/00; Order eff. 11/13/00.

**HAYES**, Mark William (DPM #2092) - Elyria  
**Court Action** - By Opinion and Entry filed on 9/21/00, Tenth District Court of Appeals affirmed Common Pleas Court's decision, which had upheld Board's permanent revocation Order. Notice of appeal to Ohio Supreme Court filed by doctor on or about 11/6/00. By Entry filed 1/24/01, Ohio Supreme Court declined to accept jurisdiction of doctor's appeal. By Entry filed 2/16/01, Tenth District Court of Appeals clarified its 12/3/99 Entry to specify that its stay of Board's Order terminated upon journalization of Court of Appeals' judgment on 9/21/00.

**HEAD, Jonathan H. (MD (MD #36158) - Milford**  
**Court Action** - By Decision and Entry filed on 2/14/01, Franklin County Court of Common Pleas granted Medical Board's motion to dismiss doctor's appeal of 7/12/00 permanent revocation Order.

**HERMAN**, Michael Lee (MD #54884) - Youngstown  
**Court Action** - By Opinion and Entry filed on 11/28/00, Tenth District Court of Appeals affirmed decision of Franklin County Court of Common Pleas, which had upheld Board's permanent revocation Order. Notice of appeal to Ohio Supreme Court filed by doctor on or about 1/12/01.

**HESSLER**, Dallas Dan (DO #2471) – Tucker, GA  
**Board Order** - Doctor reprimanded based on prior actions by medical boards in Colorado and California, the latter of which was based on a finding by the California board that doctor had failed to indicate on a licensure application that he knew the Colorado board was investigating two complaints involving his practice. Order mailed 2/28/01; Order effective 2/28/01.

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

**HOFSTRA**, Richard Manville (MD #67160) - Cleveland  
**Consent Agreement** - Medical license indefinitely suspended based on determination, following a Board-ordered evaluation, that doctor suffered from chemical dependency, for which he underwent treatment through a Board-approved provider. Agreement effective 9/13/00.  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care. Agreement effective 11/9/00; agreement to remain in effect for at least five years prior to any request for termination.

**HUFFNAGLE**, Frederic Thomas (MD #26081) Leitchfield, KY  
**Voluntary Surrender** - Permanent voluntary surrender of medical license accepted by Board in resolution of requirements of 10/13/99 Board Order. Doctor ineligible to reapply in the future. Effective 10/26/00.

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

**KELKAR**, Manohar S. (MD #34365) - Solon  
**Voluntary Surrender** - Permanent revocation of medical license authorized by doctor in lieu of formal disciplinary proceedings pursuant to Section 4731.22(B)(9), O.R.C., which authorizes Board to take action based on a felony. Effective 11/7/00.

**KRESS**, Timothy Scott (MD #60555) - Bellbrook  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care. Agreement effective 1/10/01; agreement to remain in effect for at least five years prior to any request for termination.

**KRUGLIKOV**, Stanislav (MD #74889) - Cuyahoga Falls  
**Voluntary Limitation** - Doctor's voluntary agreement to waive automatic reinstatement of license, which lapsed on 10/1/00 due to his failure to renew, accepted by Board on 12/11/00 in lieu of formal disciplinary proceedings based on doctor's history of alcohol dependency, treatment and relapse.

**KRUMM**, Frank Joseph (MD #71800) - Columbus  
**Board Order** - Medical license permanently revoked based on emergency suspension of doctor's Florida medical license following findings that he inappropriately exercised influence in the physician-patient relationship with five female patients for the purpose of engaging those patients in sexual activity. (Journal Entry - hearing request withdrawn) Order mailed 12/14/00; Order effective 12/14/00.

**KUSHKIN**, Alex Leslie (DPM #1427) - Columbus  
**Voluntary Surrender** - Permanent revocation of podiatry license authorized by doctor in lieu of formal disciplinary proceedings based on his plea of guilty to felony counts of Obtaining a Controlled Substance by Misrepresentation and Fraud, and Making False Statements Relating to Health Care Matters. Eff. 1/9/01.

**LIANG**, Guang (Acupuncture applicant) – Seven Hills  
**Consent Agreement** - Certificate of registration to practice acupuncture granted subject to reprimand and probationary terms, conditions and limitations for at least three years based on applicant's admission that he practiced acupuncture in Ohio from 1994 until 11/00 without either a medical license or acupuncture certificate, and that he used the title "doctor" in conjunction with his name. Agreement effective 3/14/01.

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

**LEVINE**, Mark A. (MD #57985) - Lexington, KY  
**Board Order** - Medical license permanently revoked



based on doctor having been found guilty of one felony count of Coercion & Enticement and one felony count relating to possession of child pornography, the acts underlying which involved his obtaining child pornography via the internet, and his use of the internet to solicit for sexual relations a person he thought was under 13 years of age. Order mailed 12/14/00; Order effective 12/14/00.

**LEWIS**, James Pearl (MD #43819) - Lima  
**Consent Agreement** - Probationary terms, conditions and limitations imposed to monitor practice based on doctor's admission that his diagnoses include obsessive-compulsive personality disorder and major depression, in substantial remission. Agreement effective 9/13/00; agreement to remain in effect for at least two years prior to any request for termination.

**LILLY**, John F., II (MD #64620) - Portsmouth  
**Voluntary Surrender** - Permanent revocation of medical license authorized by doctor in lieu of formal disciplinary proceedings based on his plea of guilty to one felony count of Engaging in a Pattern of Corrupt Activity. Effective 1/31/01.

**LIVINGSTON**, Michael Francis (MT #6877) - Cleveland  
**Board Order** - Massage therapy license permanently revoked based on massage therapist's pleas of guilty to one felony count of Drug Abuse and one felony count of Burglary. Order mailed 12/14/00; Order eff. 12/14/00.  
**Court Action** - Notice of appeal of Board's 12/13/00 revocation Order filed on behalf of massage therapist in Franklin County Court of Common Pleas on or about 1/10/01. Notice of dismissal of appeal without prejudice filed on behalf of massage therapist on 1/26/01.

**LOTHES**, Eric Williams (MD #55417) - Dublin  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care. Agreement effective 10/11/00; agreement to remain in effect for at least five years prior to any request for termination.

**MAZKALNINS**, Norman Andrew (PA # 1509) - Parma  
**Consent Agreement** - Certificate of registration to practice as a physician assistant granted, subject to reprimand. Based on P.A.'s admission that he held himself out as a P.A. to patients and other employees prior to being properly registered. Agreement eff. 8/9/00.

**MCCRACKEN**, John Willis, Jr. (DO #1657) - Tucson, AZ  
**Voluntary Surrender** - Permanent voluntary surrender of medical license accepted by Board in resolution of requirements of 8/11/99 Board Order. Doctor ineligible to reapply in the future. Effective 8/7/00.

**MCERLEAN**, Jeffrey A. (MD #70398) - Farmington Hills, MI  
**Court Action** - By Decision and Judgment Entry filed 10/11/00, Franklin County Court of Common Pleas dismissed doctor's appeal of Board's 12/8/99 probationary Order based on doctor's failure to file appeal in a timely manner.

**MCINTOSH**, Michael Stephen (MD #49922) - Parkersburg, WV  
**Consent Agreement** - Medical license indefinitely suspended for at least three months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he voluntarily sought treatment through a Board-approved provider for narcotic dependency; and that he had ordered hydrocodone samples for his own use. Agreement effective 10/11/00.

**MINOR**, David Cragar (MD #49411) - Lawton, OK  
**Consent Agreement** - Probationary terms, conditions and limitations imposed based on doctor's admission that he has been diagnosed with and received treatment and/or evaluation for bipolar disorder, major depressive disorder and attention deficit disorder; and on opinion of Board-approved evaluator that doctor is amenable to treatment and is able to practice according to acceptable and prevailing standards of care with appropriate treatment and monitoring. Agreement eff. 9/13/00; agreement to remain in effect for a minimum of five years prior to any request for termination.

**MUNOZ**, Cayetano Sanchez (MD #33007) - Phoenix, AZ  
**Board Order** - Probationary terms, conditions and limitations imposed for at least four years based on prior action against doctor's Arizona medical license mandating his completion of a mini-residency in airway management, and subsequent action due to his failure to comply with required supervision requirement following that training. Order mailed 10/13/00; Order effective 10/13/00.

**NEUFELD**, Elliott Lance (DO #2380) - Columbus  
**Board Order** - One year suspension of medical license stayed, subject to thirty day suspension and subsequent probationary terms, conditions, and limitations for at least three years. Based on doctor's plea of guilty in federal court to one felony count of Knowingly and Willfully Presenting False Claims, the acts underlying which involved his having made fraudulent claims to Medicare & Medicaid. Ordered mailed 12/8/00; Order effective 1/7/01.

**OHIO COLLEGE OF MASSOTHERAPY**/Jeffrey Scott Morrow, President – Akron  
**Consent Agreement** - School's certificate of good standing renewed effective 12/7/98, subject to

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

**PATEL**, Sharadchandra B. (MD #51693) - Saginaw, MI  
**Reinstatement** - Doctor's request for reinstatement granted by vote of the Board on 8/9/00, effective 8/26/00, subject to probationary terms set forth in 8/11/99 Board Order.

**PIRNIA**, Abdolvahab aka A. Steven Pirnia (MD #32188) - Temecula, CA

**Board Order** - Medical license permanently revoked based on doctor's failure to advise Ohio Board on license renewal applications that he had been found guilty of a misdemeanor count of disobeying a court order and that action had been initiated against him by California's medical board. Order mailed 10/13/00; Order effective 10/13/00. **Board Order** - Medical license permanently revoked based on the revocation of doctor's California license by that state's medical board following its finding that doctor engaged in multiple acts of gross negligence in his practice of cosmetic surgery. Order mailed 12/14/00; Order effective 12/14/00.

**PRATT-HARRINGTON**, Dale (DO #6970) - Athens  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care provided that treatment and monitoring requirements are in place; and on doctor's admission that he plead guilty to and was granted treatment in lieu of conviction of two felony counts of Theft of Drugs and two felony counts of Illegal Processing of Drug Documents, the acts underlying which were the basis for doctor's 10/99 consent agreement. Agreement effective 2/14/01; agreement to remain in effect for at least five years prior to any request for termination.

**PROCTER**, David H. (MD #41745) - South Shore, KY  
**Board Order** - Medical license indefinitely suspended; conditions for reinstatement and subsequent probationary terms, conditions, and limitations for at least five years established. Based on an Emergency Order of Suspension of doctor's Kentucky license by that state's medical board in which that board found that probable cause had been established to believe that doctor had engaged in sexual activity with three patients during office visits; that a consultant who reviewed more than 60 patient charts had concluded that doctor departed from acceptable medical standards; and that doctor had been told to refrain from practice due to

impairment of brain functions as a result of a head injury. Order mailed 11/13/00; Order effective 11/13/00.

**RAVENS CRAFT**, Sylvester Dale (DO #1490) - Lynchburg  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor having been found guilty of three felony counts of Trafficking in Drugs. Notice mailed 10/12/00. **Voluntary Surrender** - Permanent revocation of medical license authorized by doctor in lieu of formal proceedings based on his admission that he had been found guilty of one felony count of Insurance Fraud and three felony counts of Trafficking in Drugs, the acts underlying which involved his making claims for payment from an insurance carrier using a primary diagnosis code that did not reflect the actual services rendered and his inappropriate prescribing and/or dispensing of diet medications; and that his application for re-registration by Kentucky's medical board had been denied due to his failure to admit on application that he had been fined by the U.S. Drug Enforcement Administration for recordkeeping violations related to controlled substances. Effective 11/7/00.

**RAO**, Gopinatha S. H. (MD #36322) - Hornell, NJ  
**Board Order** - Application for restoration of medical license denied based on applicant's failure to provide Medical Board with complete and accurate information pertaining to the immediate suspension of his hospital privileges, the grounds for which included his forgery of required documentation of advanced cardiac life support certification. (Journal Entry - hearing request untimely) Order mailed 12/14/00; Order effective 12/14/00.

**RIZVI**, Hil (MD applicant) - Fairmont, WV  
**Court Action** - By Entry filed on 9/26/00, Tenth District Court of Appeals denied Board's request for reconsideration of its 7/25/00 Opinion. By Entry filed 10/4/00, Ohio Supreme Court granted Board's motion for a stay of Court of Appeals' decision. **Court Action** - By Entry filed 11/22/00, Ohio Supreme Court declined to accept jurisdiction of Medical Board's appeal. By Entry filed 1/19/01, Franklin County Court of Common Pleas remanded case back to State Medical Board with instructions to grant application for Ohio medical license.

**ROBERTS**, Handel Jay (MD #76944) - Canton  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor having been found eligible for intervention in lieu of conviction of Illegal Processing of Drug Documents. Notice mailed 10/12/00. **Consent Agreement** - Medical license suspended for at least one year; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and

limitations to monitor practice. Based on doctor's plea of guilty to eight felony counts of Illegal Processing of Drug Documents, for which he was granted intervention in lieu of conviction; and his history of treatment for chemical dependency and subsequent relapse. Agreement effective 12/13/00.

**ROBERTS**, John Adrian (MD #65308) - St. Catharines, Ontario, Canada

**Board Order** - Permanent revocation of medical license stayed, subject to indefinite suspension for at least one year; interim monitoring conditions, conditions for reinstatement, and subsequent probationary terms, conditions, and limitations for at least five years established. Based on violation of conditions of limitation imposed on license by 11/15/99 consent agreement due to doctor's admitted use of alcohol and crack cocaine, and submission of unwitnessed urine specimens on at least five occasions. Order mailed 8/11/00; Order effective 8/11/00.

**ROLDAN-ROLDAN**, Arnaldo (MD #24960) – Westerville

**Voluntary Surrender** - Doctor's permanent voluntary surrender of medical license accepted by Board in lieu of formal disciplinary proceedings based on doctor's admission that he prescribed controlled substances and other dangerous drugs to one patient for a period of years without having performed appropriate examination or maintaining appropriate medical records. Eff. 2/13/01.

**ROLFE**, Stephen J. (MD #51023) – Columbus

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

**ROMER**, William Anthony (MD #49062) - Centerville

**Ageed Cessation of Practice** - By Agreed Notice filed on 7/12/00, doctor agreed to cease and refrain from practice from 8/1/00 through 8/30/00 based on his admitted failure to submit to random drug screenings during a two week period. Terms of 2/11/99 consent agreement remain in effect. **Pre-hearing Suspension** - Pursuant to Section 4731.22(G), O.R.C., medical license summarily suspended based on Board's determination that there is clear and convincing evidence that doctor violated conditions of limitation imposed on his license by 1/97 consent agreement; that his ability to practice is

impaired; and that his continued practice poses a threat of immediate and serious harm to the public. Notice mailed 2/15/01; suspension effective upon service of notice.

**ROSSITER**, Lawrence J. (DO #1933) - Alliance

**Board Order** - Permanent revocation of medical license stayed, subject to suspension for at least 90 days; conditions for reinstatement and subsequent probationary terms, conditions, and limitations for at least five years established. Based on doctor having been found guilty in federal court of one felony count of filing a false income tax return, and one misdemeanor count of failing to file an employer's quarterly federal tax return of federal income taxes withheld from wages of his employees. Order mailed 12/14/00; Order effective 1/14/01. **Court Action** - Notice of appeal of Board's 12/13/00 suspension Order filed by doctor in Franklin County Court of Common Pleas on 12/22/00. By Decision and Entry filed 1/8/01, Franklin County Court of Common Pleas granted doctor's motion for a stay of Board's 12/13/00 suspension Order.

**ROYDER**, James Otis (DO #3608) - Bedford, TX

**Application Withdrawn** - Applicant authorized to withdraw application for restoration of Ohio medical licensure; permanently ineligible to reapply in the future. Action taken in lieu of further formal disciplinary proceedings following applicant's admission that prior action had been taken against his medical licenses in Texas and Missouri due in part to findings that he had failed comply with state and federal drug laws; that he had failed to provide complete and accurate information on restoration application pertaining to the Missouri action; and that action had been taken against his practice privileges by the U.S. Navy based, in part, on competence issues. Effective 10/10/00.

**SANDOVAL**, Samuel Carmen David (MD #57689) – Millersburg

**Court Action** By Decision and Entry filed on 2/7/01, Franklin County Court of Common Pleas affirmed Board's 3/8/00 permanent revocation Order.

**SCHACHNER**, Sheldon Julius (MD #25407) - Toledo

**Voluntary Surrender** - Permanent revocation of medical license authorized by doctor in lieu of further formal proceedings based on his admissions that he had been found guilty of two misdemeanor counts of Aggravated Menacing, the acts underlying which involved his pointing a gun at two persons and threatening to shoot them; and that he had been convicted of one felony count of Unlawfully and Recklessly Violating an Order to Obtain a Detailed Chemical and Physical Analysis of a Representative Sample of Wastes and one felony count of Recklessly Storing Hazardous Waste, the acts underlying which involved his failure to comply with an order by the Ohio Environmental Protection Agency to

have tested and then properly dispose of hazardous materials located on his property. Effective 10/10/00.

**SCOTT**, James H. (DO #6758) - Cincinnati  
**Board Order** - Indefinite suspension of medical license stayed, subject to probationary terms, conditions and limitations for at least five years. Based on prior action against doctor's California license by that state's osteopathic medical board following findings that he was guilty of gross negligence and incompetence due to his having performed major surgery on a co-worker after working hours in a non-sterile environment using only local anesthesia, without an anesthesiologist or appropriate medical assistance, without having appropriate credentials and surgical privileges at the facility, and without authorization. Order mailed 10/13/00; Order effective 10/13/00.

**SENIOR**, Mark Edwin (DO #4860) - Akron  
**Consent Agreement** - Doctor reprimanded; medical license indefinitely suspended based on doctor's admitted history of alcohol addiction, for which he is receiving treatment through a board-approved provider; and based on doctor's false answer on license renewal application to question pertaining to alcohol dependency, abuse and treatment. Agreement effective 8/9/00. **Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care with appropriate treatment and monitoring. Agreement effective 11/9/00; agreement to remain in effect for at least five years prior to any request for termination.

**SHEGOG**, Don Roy (MD #32127) - Cincinnati  
**Board Order** - One year suspension of medical license stayed, subject to probationary terms, conditions, and limitations for at least five years. Based on doctor's failure to advise the board on a license renewal application that he was under investigation by Kentucky's medical board. Order mailed 12/14/00; Order effective 12/14/00.

**SIMON**, Richard Shereef (MD applicant) - Toledo  
**Board Order** - Application for training certificate permanently denied based on doctor's failure to comply with conditions of limitation imposed on previous training certificate by 6/11/99 Board Order. Order mailed 12/14/00; Order effective 12/14/00.

**SIVASHANKER**, Saravana E. (MD #44430) - Columbus  
**Reinstatement** - Doctor's request for reinstatement granted by vote of the Board on 2/14/001, eff. 2/17/01, subject to probationary terms established by 7/12/00 Board Order.

**SMARSCH**, Robert D. (DO #7543) - Cleveland Heights  
**Consent Agreement** - Medical license granted subject to

probationary terms, conditions and limitations based on doctor's history of alcohol dependency, for which he received treatment through a Board-approved provider, who has opined that doctor is capable of practicing according to acceptable and prevailing standards of care. Agreement effective 1/10/01; agreement to remain in effect for a minimum of five years prior to any request for termination.

**SMITH**, Larry Lee (DO #1724) - Canfield Village  
**Board Order** - Doctor reprimanded based on having been found guilty of 25 first degree misdemeanor counts of Practicing Osteopathy Without a Certificate due to his having continued practice after his license lapsed for non-renewal. Order mailed 9/15/00; Order eff. 9/15/00.  
**Court Action** - Notice of appeal of board's 9/13/00 reprimand order filed by doctor with Franklin County Court of Common Pleas on or about 9/28/00.

**SMITH**, Leonard K. (MD #36580) - Kenton  
**Court Action** - By Decision and Judgment Entry on 10/17/00, Franklin County Court of Common Pleas affirmed Board's 6/9/99 suspension Order. By Decision and Entry filed 10/19/00, Common Pleas Court granted doctor's motion to extend the stay of Board's suspension Order, retroactive to 10/2/00. Notice of appeal to Tenth District Court of Appeals filed by doctor on or about 11/14/00.

**ST. AUBYN**, Charles Raymond (MT applicant) - Cleveland  
**Board Order** - Application for certificate to practice massage therapy denied and conditions for future application recommended based on impairment of ability to practice according to acceptable and prevailing standards of care due to habitual or excessive use or abuse of drugs or alcohol. Order mailed 2/15/01; Order effective 2/15/01.

**STEPHENSON**, Melanie Ann (MD #72154) - Gallipolis  
**Voluntary Surrender** - Permanent revocation of medical license authorized by doctor in lieu of formal disciplinary proceedings based on her admissions that she violated monitoring conditions imposed on her license by a 9/99 consent agreement and that, while her license was suspended, she telephoned in prescriptions for controlled and non-controlled substances in the names of friends and family members to various pharmacies from 10/99 through 6/00. Effective 1/10/01.

**STEWART**, Scott T. (PA #926) - Gahanna  
**Court Action** - Notice of appeal of Board's 7/12/00 suspension Order filed by physician assistant with Franklin County Court of Common Pleas on 8/10/00. By Decision filed 10/4/00, Court granted physician assistant's motion to withdraw his request for a stay of Board's Order.



**SUTTON**, James Louis Michael (DPM #1721) - Richmond Heights  
**Voluntary Surrender** - Doctor's permanent voluntary surrender of medical license accepted by Board on 12/5/00, in resolution of requirements of 3/10/00 Board Order.

**SVEDA**, Stephen J. (MD #29305) - Zanesville  
**Board Order** - Medical license indefinitely suspended; conditions for reinstatement established. Order entered following finding by medical board that doctor's failure to comply with Board-ordered evaluation constituted an admission to allegations that he was unable to practice according to acceptable and prevailing standards of care due to habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice. (Journal Entry) Order mailed 8/10/00; Order effective 8/10/00. **Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care with appropriate monitoring. Agreement effective 11/9/00; agreement to remain in effect for at least five years prior to any request for termination.

**SWEENEY**, Kevin Thomas (PA applicant) - Akron  
**Board Order** - Application for registration as a physician assistant denied based on impairment of ability to practice due to drug and alcohol dependency; and prior action against applicant's license by Maryland's medical board due to drug and alcohol dependency and relapse. (Journal Entry - no hearing requested) Order mailed 12/14/00; Order effective 12/14/00.

**THOMAS**, Richard Wallace (MD #47608) - Minerva  
**Reinstatement** - Doctor's request for reinstatement granted by vote of the Board on 9/13/00, subject to probationary terms established by 5/10/00 Board Order.

**THOMPSON**, Daniel Lee (MD #49547) - Columbus  
**Voluntary Surrender** - Permanent revocation of medical license authorized by doctor in lieu of further formal disciplinary proceedings based on doctor's admitted failure to conform to minimal standards of care due to his failure to properly examine patients prior to prescribing medication; and failure to comply with Medical Board rules regarding prescribing of controlled substances. Effective 8/15/00.

**TORRE**, Joseph Anthony (MD training cert. #2244) - Toledo  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor's plea of guilty to one felony count of Illegal Processing of Drug Documents, for which he was found eligible for intervention in lieu of conviction. Notice mailed 3/15/01; suspension effective upon doctor's receipt of notice.

**TRUMBO**, John Rolla (MD #50813) - Mountain Home, ID  
**Consent Agreement** - Medical license suspended for at least 180 days; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's history of alcoholism and relapse. Agreement effective 2/14/01.

**TYMOCHKO**, Youra (DO #2110) - Cortland  
**Board Order** - Medical license indefinitely suspended; conditions for reinstatement and subsequent probationary terms, conditions and limitations for at least seven years established. Based on doctor's inability to practice according to acceptable and prevailing standards of care due to mental illness, and on his commission of acts constituting the felonies of Intimidation and Retaliation by virtue of his having threatened and followed a psychiatrist who had performed a Board-ordered evaluation to determine if doctor was capable of practicing medicine. Order mailed 9/15/00; Order effective 9/15/00.

**VUTLA**, Prasad Venkata (MD #43757) - Horseheads, NY  
**Voluntary Surrender** - Doctor's permanent voluntary surrender of medical license accepted by Board in lieu of formal disciplinary proceedings based on his admitted failure to satisfactorily comply with probationary terms established by 3/8/00 consent agreement. Effective 11/7/00.

**WEBB**, Deleno H., III (MD #37883) - Huntington, WV  
**Court Action** - By Decision filed 7/12/00, Franklin County Court of Common Pleas granted doctor's motion for a stay of Board's suspension Order.

**WEINER**, Ned Elton (MD #77474) - University Heights  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on doctor having been deemed capable of practicing according to acceptable and prevailing standards of care. Agreement effective 12/28/00; agreement to remain in effect for at least five years prior to any request for termination.

**WIERSEMA**, Pieter (MD #63381) - Indianapolis  
**Application Withdrawn** - Applicant authorized to withdraw application for restoration of Ohio medical licensure; permanently ineligible to reapply in the future. Action taken in lieu of further formal disciplinary proceedings following applicant's admission that he improperly provided controlled substances to an undercover police officer and pled guilty to two misdemeanor counts in Indiana of sale of legend drug not in good faith; and related prior action against doctor's license by Indiana medical board. Eff. 6/12/00.

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# And the Survey Said . . .

Charles D. Stienecker, MD, Chair, OSMB Pain Committee  
Thomas E. Gretter, MD, Chair, Ad Hoc Pain Management Advisory Committee

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In October 1997, the Ohio General Assembly passed Sub. H.B. 187 which addressed care given by physicians for management of intractable pain. This legislation required the State Medical Board of Ohio to establish standards and procedures for physicians regarding the diagnosis and treatment of intractable pain, including the use of prescription drugs in amounts or combinations that may not be appropriate when treating other medical conditions. The Medical Board's pain management rules, which contain these standards, went into effect on November 11, 1998.

To assess the impact of the Board's rules on the day-to-day practice of pain management, the Ad Hoc Pain Management Advisory Committee developed a survey for physicians. Key requirements of the Medical Board's pain management rules were described in the survey questions. The pilot survey was distributed to 300 randomly selected physicians in the following specialties: pain management, anesthesia, neurology, neurosurgery, orthopedic surgery, family practice and internal medicine.

Eighty responses (27%) were received. Fifty four of the 80 respondents indicated that they treat

pain patients, while 26 indicated that they do not treat patients with intractable pain. The 54 respondents treating pain ranked the effect of

individual elements of the pain rules on a scale of 1 to 5, 1 indicating that the element greatly impeded their ability to treat pain patients and 5 indicating that the element greatly facilitated their ability to provide care. The distribution of those rankings appears on page 23.

According to the survey, the four elements that respondents found most facilitative in treating pain were:

- documentation of assessment of pain impact on patient's function
- documentation of physical exam
- documentation of assessment of coexisting illnesses
- documentation of alcohol/substance abuse histories

While none of the elements were judged to impede patient care, those rated least facilitative were:

- informed consent
- evaluation by appropriate specialist

See **Survey** on p. 24

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## **Disciplinary Actions** (cont.)

**WOOD**, Dirk Gregory (MD #50320) - Springfield  
**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor's plea of guilty to 19 felony counts of Illegal Processing of Drug Documents and one felony count of Possession of Drugs. Notice mailed 2/15/01; suspension effective upon service of notice on 2/20/01.

**YOUNG**, Brian Wesley (MD #55268) - Cincinnati  
**Consent Agreement** - Medical license suspended for at least three months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent

agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's history of alcoholism and relapse. Agreement effective 2/14/01.

**YOUNG**, Lawrence Leroy, III (MD #57364) - Toledo  
**Board Order** - Thirty day suspension of medical license stayed, subject to probationary terms, conditions, and limitations for at least three years. Based on doctor's plea of guilty in federal court to one felony count of Attempt to Evade or Defeat Tax, the acts underlying which involved his willful attempt to evade 1995 income tax by failing to file a return and failing to pay more than \$150,000 income tax due. Order mailed 9/15/00; Order effective 9/15/00.

<b>Pain Rules Survey</b>					
Average Ranking per Pain Rule Element					
	Greatly impedes care <b>1</b>	Slightly impedes care <b>2</b>	No effect on care <b>3</b>	Slightly facilitates care <b>4</b>	Greatly facilitates care <b>5</b>
Documentation of alcohol/substance abuse histories				<b>4.2</b>	
Documentation of assessment of pain impact on patient's function				<b>4.4</b>	
Documentation of review of previous studies and therapies				<b>4.0</b>	
Documentation of assessment of coexisting illnesses				<b>4.2</b>	
Documentation of physical exam				<b>4.3</b>	
Presence of intractable pain				<b>4.1</b>	
Signs, symptoms and causes				<b>4.1</b>	
Nature of underlying pain mechanism (if discernable)			<b>3.9</b>		
Justification for prescribing drugs on a protracted basis, or in amounts of combinations that may not be appropriate when treating other medical conditions			<b>3.5</b>		
Role of prescription drug therapy within overall plan			<b>3.6</b>		
Documentation of unsuccessful treatments (if applicable)				<b>4.0</b>	
Prescription drug therapy			<b>3.78</b>		
Patient's response to the therapy				<b>4.1</b>	
Modifications to treatment plan as necessary				<b>4.0</b>	
Evaluation by appropriate specialist			<b>3.4</b>		
Informed Consent			<b>3.2</b>		
Documentation that therapy is still indicated			<b>3.7</b>		
Documentation of any drug effects			<b>3.8</b>		
Documentation of progress toward treatment objectives			<b>3.9</b>		
Notation of patient's functional ability & quality of life				<b>4.0</b>	
Notation of any indications of possible addiction			<b>3.5</b>		
Documentation of any drug abuse or diversion			<b>3.7</b>		

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**Survey (cont.)**

- notification of any indications of possible addiction
- justification for use of medications

In addition to the numerical ratings, respondents were given the opportunity to comment on numerous facets of the pain rules. Respondents listed a variety of timeframes as their definition of an appropriate interval for patient follow-up. Timeframes ranged from every two or three days to every six months. It appears that it is appropriate to base the interval on the needs of the individual patient.

Based on the limited response to its pilot survey, the ad hoc Committee reached the preliminary conclusion that the Medical Board's pain rules

tend to facilitate care, but that some fear of reprisal by regulatory authorities still exists. ♦

**WHAT'S YOUR OPINION?**

**The ad hoc Committee continues to seek input on the impact of the Medical Board's pain management rules. If you are a practitioner involved in the care of patients who suffer from intractable pain and would like to share your opinion about the rules, you can obtain a copy of the survey by contacting Joan Wehrle, Coordinator for Assessment & Development, State Medical Board of Ohio, 77 S. High St., 17<sup>th</sup> Floor, Columbus, OH 43216-6127. The Committee will also accept a request submitted via e-mail to [joan.wehrle@med.state.oh.us](mailto:joan.wehrle@med.state.oh.us). Survey responses will be tallied and summarized in a future issue of *Your Report*.**

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**STATE OF OHIO  
THE STATE MEDICAL BOARD**  
77 South High Street, 17th Floor  
Columbus, Ohio 43215-6127





# YOUR REPORT

FROM THE STATE MEDICAL BOARD OF OHIO

WINTER 2001-2002

## The State Medical Board

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Cincinnati

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### Executive Director

Thomas A. Dilling, J.D.

## A WORD FROM THE PRESIDENT

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

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

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

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

See **PRESIDENT** on page 6

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# From the Secretary & Supervising Member

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

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

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

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

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

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

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

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

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

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

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

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

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

## Delegating Medical Tasks

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

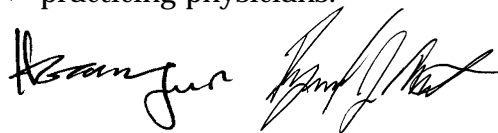
Enactment of new Section 4731.053 of the Ohio Revised Code on April 10, 2001 was spurred by a formal Opinion issued by Ohio's Attorney General last year. In the Opinion (OAG 2000-023), the AG declared that "[a] person who is not specifically authorized by statute to administer a drug or medicine is subject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

See DELEGATION on page 4

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

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

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



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**DELEGATION** (continued from page 3)

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

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

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

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

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

**DO WE KNOW WHERE YOU ARE?**

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

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# Adverse Events Reporting System

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

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

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

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

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**"The FDA wants to get any important safety information out to the practitioners, ideally at the point of care, so they can use it when they are making decisions with their patients."**

Norman Marks, M.D.

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

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

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

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

See **ADVERSE EVENTS** on page 7



**PRESIDENT** (continued from page 1)

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

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

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

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



Anant R. Bhati, M.D., President

## Governor & Medical Board Honor Veterans

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

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

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

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# New Exemptions to Test of Spoken English

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

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

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

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

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

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

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

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

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

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

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# STATE MEDICAL BOARD OF OHIO

## DISCIPLINARY ACTIONS

*April 2001 - September 2001*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

clear and convincing evidence that doctor's ability to practice is impaired; that doctor committed an act that constituted a felony (Theft); and that doctor's continued practice presents a danger of immediate and serious harm to the public. Notice mailed 6/14/01; suspension effective upon service of notice on doctor via hand delivery on 6/21/01. **Court Action** - Notice of voluntary dismissal of appeal filed by doctor with Franklin County Court of Common Pleas on 7/17/01.

**TARESHAWTY**, Eugene Frank Jr. (MD #58757) – Poland  
**Consent Agreement** - Medical license suspended for at least nine months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admission that he has been diagnosed as opioid dependent and has sought treatment through a Board-approved provider. Effective 6/13/01.

**TORE**, Joseph Anthony (MD training certificate #2244) – Toledo

**Pre-Hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor's plea of guilty to one felony count of Illegal Processing of Drug Documents, for which he was found eligible for intervention in lieu of conviction. Notice mailed 3/15/01; suspension effective upon doctor's receipt of notice. **Board Order** - Permanent revocation of training certificate stayed subject to indefinite suspension for at least six months, such suspension to be retroactive to 3/19/01, the effective date of doctor's pre-hearing suspension; interim monitoring conditions, conditions for reinstatement, and subsequent probationary terms, conditions, and limitations for at least five years established. Based on doctor's plea of guilty to one felony count of Illegal Processing of Drug Documents, for which he was found eligible for intervention in lieu of conviction; acts underlying doctor's guilty plea, which include his issuing and filling a prescription for Ambien, a Schedule IV controlled substance, under a false patient name for his own use; and his admission during a court-ordered assessment that he had abused Ambien. Order mailed 8/23/01; Order effective 8/23/01. **Reinstatement** - Doctor's request for reinstatement granted by vote of the Board on 9/12/01, subject to terms of 8/8/01 Board Order.

**TWADDLE**, Michael Alan (MD applicant) – Toledo  
**Board Order** - Application for medical licensure permanently denied based on applicant's failure to provide complete and accurate information on licensure and USMLE applications pertaining to actions taken against him by medical training programs. Order mailed 9/13/01; Order effective 9/13/01.

**VALEROS**, Quirino B. (MD #33542) – Mesa, AZ  
**Board Order** - Medical license limited and restricted such

that doctor shall not commence practice in Ohio without prior board approval; conditions for approval established, including requirement that doctor enter into subsequent consent agreement to monitor practice. Based on prior action against doctor's Arizona license by that state's medical board for failure to adequately assess symptoms of cardiac ischemia, and subsequent action by California's medical board based on Arizona action. Order mailed 8/13/01; Order effective 8/13/01.

**WAGMAN**, Philip Gary (MD #74129) – Columbus  
**Consent Agreement** - Medical license reinstated subject to probationary terms, conditions and limitations based on clinical determination that doctor does not suffer from substance abuse disorder, and doctor having been deemed capable of practicing according to acceptable and prevailing standards of care provided that treatment and monitoring requirements are in place to address his mental and physical conditions. Agreement effective 4/11/01; agreement to remain in effect for at least five years prior to any request for termination.

**WARD**, Jimmie Steve (PA #1618) – Copley  
**Board Order** - Certificate to practice as a physician assistant granted, subject to indefinite suspension; conditions for reinstatement established, including requirement that P.A. enter into subsequent consent agreement to monitor practice if deemed necessary by the Board. Based on action by Texas' licensing board following that board's findings that P.A. had used Stadol on a daily basis for a specified period of time without prescriptions having been written for his personal use of Stadol and without documentation or justification for such use in his medical records. Order mailed 4/12/01; Order effective 4/12/01.

**WESTERFIELD**, Samuel Zasachilds III (MD #73566) – Lancaster

**Pre-hearing Suspension** - Pursuant to Section 3719.121(C), O.R.C., medical license immediately suspended based on doctor's plea of guilty to twelve felony counts of Illegal Processing of Drug Documents, for which he was found eligible for intervention in lieu of conviction. Notice mailed 6/14/01; suspension effective upon service of notice on doctor on 6/27/01. **Consent Agreement** - Medical license suspended for at least six months; interim monitoring conditions and conditions for reinstatement established, including requirement that doctor enter into subsequent consent agreement incorporating probationary terms, conditions and limitations to monitor practice. Based on doctor's admissions that he plead guilty to twelve felony counts of Illegal Processing of Drug Documents, for which he was found eligible for intervention in lieu of conviction; and that he has been diagnosed with generalized anxiety disorder, atypical bipolar disorder and major depressive disorder, for which he has received treatment and aftercare through a Board-approved provider. Agreement effective 9/12/01.

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

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

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

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

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

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

## Continuing Medical Education

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

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

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

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



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

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

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

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

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

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

#### **Court Action Update**

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

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

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

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

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

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

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

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

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

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

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## Delegating Medical Tasks: Statute and Rules

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

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

### Text of Statute

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### Text of Rules

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

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

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

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

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

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

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

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

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

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

Effective: 9/30/01

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

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

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

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

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

(3) the appropriate level of supervision;

(4) that no law prohibits the delegation;

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

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

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

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

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

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

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

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

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

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

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

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

Effective: 9/30/01

#### **4731-23-03 Prohibitions.**

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

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

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

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

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

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

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

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

Effective: 9/30/01

#### **4731-23-04 Violations.**

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

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

Effective: 9/30/01

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**STATE OF OHIO**  
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