

FINAL APPROVED

**VIRGINIA BOARD OF MEDICINE
MINUTES**

October 21, 2006	Department of Health Professions	Richmond, Virginia
CALL TO ORDER:	A panel of the Board was called to order on Saturday at 9:27 a.m.	
MEMBERS PRESENT:	Jane Piness, M.D., Chair Suzanne M. Everhart, D.O. Robert Mosby, M.D. Ann T. Burks, J.D.	Sandra A. Bell, M.D. Gopinath Jadhav, M.D. Karen A. Ransone, M.D.
STAFF PRESENT:	Howard Casway, Sr. Assistant Attorney General, Board Counsel Jennifer L. Deschenes, Deputy Executive Director, Discipline Renée S. Dixon, Discipline Case Manager	
PARTIES ON BEHALF OF THE COMMONWEALTH:	Wayne Halbleib, Assistant Attorney General Julia Bennett, Adjudication Specialist	
WITNESSES PRESENT:	Marta J. Ishmael, Inspector <i>(on behalf of the Commonwealth)</i> Michelle Crone, Sr. Investigator <i>(on behalf of the Commonwealth)</i> Gregory Painter <i>(on behalf of Commonwealth)</i> Marshal Dovel <i>(on behalf of Commonwealth)</i> Rose B. Moore, CPC, CCP, MSOV <i>(on behalf of Dr. Horng)</i> Shane J. Krause, M.D. <i>(on behalf of Dr. Horng)</i> Morgan Phoenix <i>(on behalf of Dr. Horng)</i> H. D. Brown <i>(on behalf of Dr. Horng)</i>	
	The Chair also acknowledged for the record numerous members from the public who were present and supported Dr. Horng's continued ability to practice.	
COURT REPORTER:	Comiller T. Boyd, Court Reporter	
MATTER SCHEDULED:	Fang S. Horng, M.D.	License No.: 0101-023919 Case Nos.: 97614, 100960, 103496, 105490
COMMONWEALTH'S EXH:	Exhibits 1-4 were admitted into the record.	
RESPONDENT'S EXHIBITS:	Exhibits A-E were admitted into the record	
DISCUSSION:	Dr. Horng appeared before the Board in accordance with a Notice and Statement of Particulars dated September 12, 2006 . He was represented by Stephen Bricker, Esquire.	

PRELIMINARY MATTERS AND DISCUSSION: Mr. Halbleib moved that all witnesses be sequestered pending their sworn testimony before the Board. Mr. Bricker joined Mr. Halbleib in the motion. Hearing no objections, the Chair ruled that all witnesses would be sequestered until call to testify and all witnesses departed the hearing.

The Board received sworn testimony regarding the allegations in the Statement of Particulars from Dr. Horng and witnesses called to testify.

Due to her inability to appear, Mr. Halbleib proffered certain limited testimony on behalf of Debra Hay-Pierce, Compliance Case Manager. Hearing no objections, the Chair ruled that Mr. Halbleib's proffer would be accepted and considered by the Board.

At the conclusion of the Commonwealth's case presentation by Mr. Halbleib, Mr. Bricker made a *Motion to Dismiss* the standard of care allegations referenced in the Notice regarding Patients A-H since the Commonwealth had failed to meet its burden of proof. Mr. Halbleib argued that he had met his burden of proof.

The Chair ruled that the Commonwealth has established a prima facie case in support of the allegation that Dr. Horng failed to comply with statutory and regulatory provisions cited in the Statement of Particulars. Further, the Chair defer ruling on Mr. Bricker's *Motion to Dismiss* and advised that he could renew the Motion at the conclusion of his case.

The hearing proceeded with presentation of Mr. Bricker's witnesses and testimony from Dr. Horng. Further, Mr. Bricker presented Respondent's Exhibit E. Hearing no objections, the Chair admitted the Exhibit into the record for the Board's review and consideration.

Both parties were allowed make closing statements and propose Findings of Fact and Conclusion of Law. Mr. Bricker renewed his *Motion to Dismiss* for the Board's consideration while deliberating.

CLOSED SESSION: Upon a motion by Dr. Bell, and duly seconded by Dr. Mosby, the Board voted to convene a closed meeting pursuant to §2.2-3711.A(28) of the Code of Virginia, for the purpose of deliberation to reach a decision in the matter of Dr. Horng. Additionally, she moved that Mr. Casway, Ms. Deschenes, and Ms. Dixson attend the closed meeting because their presence in

the closed meeting was deemed necessary and would aid the Board in its deliberations.

RECONVENE:

Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Board re-convened in open session and announced its decision.

DECISION & VOTE:

Upon a motion by Dr. Bell, and duly seconded by Dr. Mosby, she moved that the Board adopt the proposed Findings of Fact and Conclusions of Law as presented by Mr. Halbleib with certain amendments. The vote was unanimous.

Upon a motion by Dr. Ransone, and duly seconded by Ms. Burks, she moved that the Board suspend the license of Dr. Horng, with said suspension STAYED indefinitely and that his license be placed on certain terms and conditions. The vote was unanimous.

ADJOURNMENT:

The Board adjourned at 7:05 p.m.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

/s/ _____
Jane Piness, M.D., Chair

/s/ _____
William L. Harp, M.D., Executive Director

12/7/2006
Date

12/7/2006
Date