

CONSENT AGREEMENT

BETWEEN

BERYL J. CHABY, D.O.

AND

THE STATE MEDICAL BOARD OF OHIO

THIS CONSENT AGREEMENT is entered into by and between BERYL J. CHABY, D.O. and THE STATE MEDICAL BOARD OF OHIO, a state agency charged with enforcing Chapters 4730. and 4731. of the Ohio Revised Code.

BERYL J. CHABY, D.O., enters into this agreement being fully aware of his rights, including his right to be advised by counsel.

WHEREAS, in lieu of a formal adjudication hearing, DR. CHABY and the BOARD have agreed to enter into this CONSENT AGREEMENT which the parties have resolved to be in their mutual best interests.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, BERYL J. CHABY, D.O., and the STATE MEDICAL BOARD OF OHIO hereby CONSENT and AGREE to the following terms and conditions:

1. If DR. CHABY resides or practices in Ohio, he shall notify the BOARD immediately and shall appear for an informal meeting before the Secretary of the BOARD in Columbus, Ohio.

If, in the discretion of the Secretary of THE STATE MEDICAL BOARD OF OHIO, BERYL J. CHABY, D.O. appears to have violated or breached any terms or conditions of this agreement, THE STATE MEDICAL BOARD OF OHIO reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this agreement.

Upon consent of both parties, the terms and conditions of this agreement may be modified or terminated in writing.

The terms and conditions of this agreement shall become effective on the 10th day of August, 1983.

IT IS AGREED AND UNDERSTOOD by and between the parties that this Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code.

Beryl J. Chaby  
BERYL J. CHABY, D.O.

Henry G. Cramblett M.D.  
HENRY G. CRAMBLETT, M.D.  
Acting Secretary, State Medical Board of Ohio

\_\_\_\_\_  
(Date)

Aug 2, 1983  
(Date)

William W. Johnston  
WILLIAM W. JOHNSTON, ESQ.  
Supervising Member, State Medical Board of Ohio

2 Aug, 1983  
(Date)

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STATE OF OHIO  
THE STATE MEDICAL BOARD  
Suite 510  
65 South Front Street  
Columbus, Ohio 43215

January 14, 1982

CERTIFIED MAIL

Beryl J. Chaby, D.O.  
35 Ridgewood Circle  
Wilmington, DE 19809

Dear Doctor Chaby:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine under the provisions of Section 4731.22, Ohio Revised Code, whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice osteopathic medicine and surgery in the State of Ohio for the following reason:

1. Beginning in 1967 and continuing to July 1979, you prescribed Nembutal, a Schedule II controlled substance, for one Patient A (who is named in the attached key to be withheld from public disclosure) based upon his/her complaints of inner ear difficulties resulting in part from prior surgery by another physician. No ear, nose or throat, or neurological or psychiatric consultation was requested by you for Patient A, no attempt was ever made to detoxify him/her, and insufficient laboratory tests were ordered to monitor his/her status. In 1972 and 1973 you prescribed for Patient A fifty (50) Nembutal 3/4 gr. per prescription every three (3) to four (4) days which was increased beginning in 1974 to one hundred (100) dosage units every three (3) to four (4) days. For example, from 1977 through July 28, 1979, you wrote approximately two hundred fifty (250) prescriptions for Patient A for one hundred (100) dosage units of Nembutal 3/4 gr. to be taken as directed.

Based upon the above and a finding of professional misconduct in the practice of medicine, on or about November 17, 1980, the New Jersey State Board of Medical Examiners filed an Order suspending your license to practice in New Jersey for five (5) years and staying said suspension and instituting a period of probation. You consented to the terms and entry of this Order.

Your acts, conduct, and omissions occurring before July 28, 1975 as described above are hereby alleged to constitute "grossly unprofessional or dishonest conduct" as that clause is used in Division (F) of Section 4731.22 of the Ohio Revised Code (effective prior to July 28, 1975) in that such acts, conduct, and omissions violate Sections 6 and 13 of the Code of Ethics of the American Osteopathic Association.

Further, your acts, conduct, and omissions occurring on or after July 28, 1975 as described above are hereby alleged to constitute "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease" as one or both of those clauses is used in Division (B)(2) of Section 4731.22 of the Ohio Revised Code.

Further, your acts, conduct, and omissions occurring on or after July 28, 1975 as described above are hereby alleged to constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes" as that clause is used in Division (B)(3) of Section 4731.22 of the Ohio Revised Code.

Further, your acts, conduct, and omissions occurring on or after July 28, 1975 as described above are hereby alleged to 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 those clauses are used in Division (B)(6) of Section 4731.22 of the Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, please be advised that you may request a hearing on this matter. If you wish to request such a hearing, that request must be made within thirty (30) days of the time of mailing of this notice.

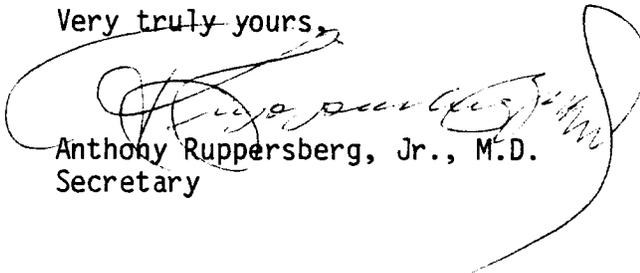
You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event there is no request for such hearing made within thirty (30) days of the time of mailing of this notice, the State Medical Board of Ohio may, in your absence and upon consideration of this matter, determine whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice osteopathic medicine and surgery in the State of Ohio.

January 14, 1982

Copies of the current Ohio Medical Practice Act, Section 4731.22 of the Ohio Revised Code as effective prior to July 28, 1975, and the Code of Ethics of the American Osteopathic Association are enclosed for your examination.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Anthony Ruppertsberg, Jr.", is written over the typed name. The signature is fluid and extends across the width of the typed name.

Anthony Ruppertsberg, Jr., M.D.  
Secretary

AR:jmb

Enclosures:

CERTIFIED MAIL #P32 4679526  
RETURN RECEIPT REQUESTED



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*American Osteopathic Association*

OHIO STATE  
MEDICAL BOARD

CODE OF ETHICS

In July, 1965, the House of Delegates adopted the following:

Code of Ethics

SECTION 1

The physician shall keep in confidence whatever he may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient.

SECTION 2

The physician shall give a candid account of the patient's condition to the patient or to those responsible for the patient's care.

SECTION 3

A physician-patient relationship must be founded on mutual trust, cooperation, and respect. The patient, therefore, must have complete freedom to choose his physician. The physician must have complete freedom to choose patients whom he will serve. In emergencies, a physician should make his services available.

SECTION 4

The physician shall give due notice to the patient or to those responsible for the patient's care when he withdraws from a case so that another physician may be summoned.

SECTION 5

A physician is never justified in abandoning a patient.

SECTION 6

A physician shall practice in accordance with the body of systematized knowledge related to the healing arts and shall avoid professional association with individuals or organizations which do not practice or conduct organization affairs in accordance with such knowledge.

SECTION 7

A physician should join and actively support the recognized local, state, and national bodies representing the osteopathic profession and should abide by the rules and regulations of such bodies.

SECTION 8

A physician shall not solicit patients or commercialize his/her services, or associate professionally with, or aid in any manner, individuals or organizations which indulge in such practices.

SECTION 9

A physician shall not be identified in any manner with testimonials for proprietary products or devices advertised or sold directly to the public.

SECTION 10

A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless he is actually licensed on the basis of that degree in the state in which he practices.

SECTION 11

A physician shall not seek or acquire any healing arts degree from institutions not approved by the American Osteopathic Association or not approved by a body recognized for the purpose by the American Osteopathic Association.

continued

#### SECTION 12

A physician shall designate his osteopathic school of practice in all professional uses of his name. Indications of specialty practice, membership in professional societies, and related matters shall be governed by rules promulgated by the Board of Trustees of the American Osteopathic Association.

#### SECTION 13

A physician shall obtain consultation whenever requested to do so by the patient. A physician should not hesitate to seek consultation whenever he himself believes it advisable.

#### SECTION 14

In any dispute between or among physicians involving ethical or organizational matters, the matter in controversy should be referred to the arbitrating bodies of the profession.

#### SECTION 15

In any dispute between or among physicians regarding the diagnosis and treatment of a patient, the attending physician has the responsibility for final decisions, consistent with any applicable osteopathic hospital rules or regulations.

#### SECTION 16

A physician shall not comment, directly, or indirectly, on professional services rendered by other physicians except before duly constituted professional bodies of inquiry or in public proceedings judicial in nature.

#### SECTION 17

Illegal, unethical, or incompetent conduct of physicians shall be revealed to the proper tribunals.

#### SECTION 18

A physician shall not assume treatment of a patient under the care of another physician except in emergencies and only during the time that the attending physician is not available.

#### SECTION 19

Any fee charged by a physician shall be reasonable and shall compensate the physician for services actually rendered.

#### SECTION 20

Division of any professional fees not based on actual services rendered is a violation which will not be tolerated within the membership of this Association.

#### SECTION 21

A physician shall not pay or receive compensation for referral of patients.

#### SECTION 22

The physician shall cooperate fully in complying with all laws and regulations pertaining to practice of the healing arts and protection of the public health.

#### SECTION 23

No code or set of rules can be framed which will particularize all ethical responsibilities of the physician in the various phases of his professional life. The enumeration of obligations in the Code of Ethics is not exhaustive and does not constitute a denial of the existence of other obligations, equally imperative, though not specifically mentioned.

stitution, or individual in good standing as determined by the board, showing the completion of the required courses of instruction.

The entrance examiner of the board shall determine the sufficiency of the preliminary education of applicants for such limited certificate as is provided in section 4731.09 of the Revised Code. The board may adopt rules defining and establishing for any limited branch of medicine or surgery such preliminary educational requirements, less exacting than those prescribed by such section, as the nature of the case may require.

**Sec. 4731.20 (1274-6). Powers and duties of board.**

Sections 4731.07, 4731.08, and 4731.14 to 4731.28, inclusive, of the Revised Code, shall govern the state medical board, all of the officers mentioned therein, and the applicants for and recipients of limited certificates to practice a limited branch of medicine or surgery. In addition to the power of the board to revoke and suspend certificates provided for in section 4731.22 of the Revised Code it may also revoke or suspend the certificate of any one to whom a limited certificate has been issued upon proof of violation of the rules or regulations established by the board governing such limited practice.

**Sec. 4731.21 (1274-7). Limitations prescribed.**

Sections 4731.15 to 4731.20, inclusive, of the Revised Code do not amend sections 4731.34, 4731.36, and 4731.41 of the Revised Code or limit their application unless otherwise specifically provided.

**Sec. 4731.22. Grounds for discipline.**

The state medical board, by a vote of not less than five of its members, may refuse to

grant a certificate to a person guilty of fraud in passing the examination, or may revoke or suspend a certificate of a person at any time guilty of felony or gross immorality, grossly unprofessional or dishonest conduct, or addicted to the liquor or drug habit to such a degree as to render him unfit to practice medicine or surgery.

"Grossly unprofessional or dishonest conduct" as used in this section means:

(A) The employing of any capper, solicitor, or drummer for the purpose of securing patients, or subsidizing any hotel or boardinghouse with like purpose, or the obtaining of any fee on the assurance that an incurable disease can be cured;

(B) The willful betrayal of a professional secret; but a physician, knowing that one of the parties to a contemplated marriage has a venereal disease, and so informing the other party to such contemplated marriage, or the parent, brother, or guardian of such other party, shall not be held to answer for betrayal of a professional secret nor shall such physician be liable in damages for truthfully giving such information to such other party, or the parent, brother, or guardian of such other party;

(C) All advertising of medical practice in which extravagantly worded statements intended, or having a tendency to deceive and defraud the public are made, or where specific mention is made in such advertisements of tuberculosis, consumption, cancer, Bright's disease, kidney disease, diabetes, or of venereal diseases or diseases of the genito-urinary organs;

(D) Having professional connection with, or lending one's name to an illegal practitioner of medicine;

(E) Any division of fees or charges, or any agreement or arrangement to share fees or charges, made by any physician or surgeon with any other physician or surgeon, or with any other person.

(F) The violation of any provision of a code of ethics of a national professional organization as specified in this division. "National, professional organization" means the American medical association, the American osteopathic association, the American chiropractic association, the American podiatry association, and such other national professional organizations as are determined, by rule, by the state medical board. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The practitioner whose certificate is being suspended or revoked shall not be found guilty of the violation of a code of ethics of an organization not appropriate to his profession.

**Sec. 4731.221 Suspension of certificate of mentally ill or mentally incompetent practitioner.**

If the state medical board has reason to believe that any person who has been granted a certificate under Chapter 4731. of the Revised Code is mentally ill or mentally incompetent, it may file in the probate court of the county in which such person has a legal residence an affidavit in the form prescribed in section 5122.11 of the Revised Code and signed by the secretary or a member of his staff, whereupon, the same proceedings shall be had as provided in Chapter 5122. of the Revised Code. The attorney general shall represent the board in any proceeding commenced under this section.

If any person who has been granted a certificate is adjudged by a probate court to be mentally ill or mentally incompetent, his certificate shall be automatically suspended until such person has filed with the state medical board a certified copy of an adjudication by a probate court of his subsequent restoration to competency or has submitted to such board proof, satisfactory to the board, that he has been discharged as having a restoration to competency in the manner and form provided in section 5122.28 of the Revised Code. The judge of such probate court shall forthwith notify the state medical board of an adjudication of mental illness or incompetence, and shall note any suspension of a certificate in the margin of the court's record of such certificate.

In absence of fraud or bad faith, neither the state medical board nor any member, agent, representative, or employee thereof shall be held liable in damages to any person by reason of the filing of the affidavit referred to in this section.

**Sec. 4731.222. Conditions for restoration of inactive certificate.**

Before restoring to good standing a certificate issued under Chapter 4731. of the Revised Code which has been in a suspended or inactive state for any cause for more than two years, the state medical board may require the applicant to pass an oral or written examination, or both, to determine his present fitness to resume practice.

The authority of the board to impose terms and conditions includes the following:

(A) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(B) Restricting or limiting the extent, scope, or type of practice of the applicant.