

**STEP II  
CONSENT AGREEMENT  
BETWEEN  
JOSEPH COOPER SIMONE, D.O.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Joseph Cooper Simone, D.O., [Dr. Simone], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Simone enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violation of Section 4731.22(B)(26), Ohio Revised Code, "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; and/or Section 4731.22(B)(19), Ohio Revised Code, for "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(19), Ohio Revised Code, as set forth in Paragraph E herein, and the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraph E below and in the Step I Consent Agreement Between Joseph Cooper Simone, D.O., and the State Medical Board of Ohio [December 2006 Step I Consent Agreement], effective December 13, 2006, a copy of which is attached hereto and incorporated herein. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.

- C. Dr. Simone admits that his license to practice osteopathic medicine and surgery in Ohio, license # 34.002296, is currently indefinitely suspended pursuant to the aforementioned December 2006 Step I Consent Agreement.
- D. Dr. Simone states that he is not licensed to practice osteopathic medicine and surgery in any other state.
- E. Dr. Simone admits that after entering residential treatment for chemical abuse and/or dependence on or about January 12, 2007, at The Woods at Parkside, a Board-approved treatment provider in Columbus, Ohio, he was discharged, residential treatment complete, on or about February 9, 2007, and thereafter continued intensive outpatient treatment until on or about March 5, 2007. Dr. Simone states, and the Board acknowledges receipt of information to support, that since being discharged from The Woods at Parkside, he has remained compliant with the physician's aftercare contract he entered into with Parkside Behavioral Healthcare on or about June 7, 2007, and that Dr. Simone has remained compliant with the terms of the physician's advocacy contract he entered into with the Ohio Physicians Health Program. Dr. Simone admits that the aforementioned physician's aftercare contract and advocacy contract remain in effect.

Dr. Simone further admits that during his treatment at Parkside, he was diagnosed with Major Depression, for which he is currently prescribed antidepressant medication.

Dr. Simone further states, and the Board acknowledges, that Harry P. Nguyen, M.D., of The Woods at Parkside, a physician approved by the Board to conduct an assessment of Dr. Simone, has provided a written report indicating that Dr. Simone's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place.

Dr. Simone further states, and the Board acknowledges, that David D. Goldberg, D.O., of Greene Memorial Hospital, a physician approved by the Board to conduct an assessment of Dr. Simone, has provided a written report indicating that Dr. Simone's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that Dr. Simone obtain weekly psychological counseling for at least four months.

Accordingly, Dr. Simone states, and the Board acknowledges receipt of information to support, that Dr. Simone has fulfilled the conditions for reinstatement of his certificate to practice osteopathic medicine and surgery in the State of Ohio, as established in the above-referenced December 2006 Step I Consent Agreement between Dr. Simone and the Board.

### AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, the certificate of Dr. Simone to practice osteopathic medicine and surgery in the State of Ohio shall be reinstated, and Dr. Simone knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Simone shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine in Ohio.
2. Dr. Simone shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the date his quarterly declaration would have been due pursuant to his December 2006 Step I Consent Agreement with the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Simone shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his December 2006 Step I Consent Agreement with the Board. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. Dr. Simone shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. Simone is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

## **MONITORING OF REHABILITATION AND TREATMENT**

### **Drug Associated Restrictions**

6. Dr. Simone shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Simone's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Simone shall make his patient records with regard to such prescribing, administering or personal furnishing available for review by an agent of the Board upon request.

### **Sobriety**

7. Dr. Simone shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Simone's history of chemical dependency and major depression.
8. Dr. Simone shall abstain completely from the use of alcohol.

### **Drug and Alcohol Screens/Supervising Physician**

9. Dr. Simone shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Simone shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Simone shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Dr. Simone and the Board agree that the person or entity previously approved by the Board to serve as Dr. Simone's supervising physician pursuant to the December 2006 Step I Consent Agreement is hereby approved to continue as Dr. Simone's designated supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Simone submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Simone shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Simone. Dr. Simone and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Simone's designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Simone's designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Simone shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Simone must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Simone shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Simone's quarterly declaration. It is Dr. Simone's responsibility to ensure that reports are timely submitted.

10. The Board retains the right to require, and Dr. Simone agrees to submit, blood or urine specimens for analysis for drugs and alcohol and for analysis of therapeutic levels of medication that may be prescribed for Dr. Simone's psychiatric disorder or for any other purpose, at Dr. Simone's expense upon the Board's request and without prior notice. Dr. Simone's refusal to submit a blood or urine specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

### **Monitoring Physician**

11. Before engaging in any medical practice, Dr. Simone shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Simone and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Simone and his medical practice, and shall review Dr. Simone's patient charts. The chart review may be done on a random

basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Simone and his medical practice, and on the review of Dr. Simone's patient charts. Dr. Simone shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Simone's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Simone must immediately so notify the Board in writing. In addition, Dr. Simone shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Simone shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

### **Rehabilitation Program**

12. Dr. Simone shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Simone shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Simone's quarterly declarations.

### **Aftercare**

13. Dr. Simone shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
14. Dr. Simone shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

### **Mental Health Treatment**

15. Within thirty days of the effective date of this Consent Agreement, Dr. Simone shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Simone shall undergo and continue psychiatric treatment, including individual psychotherapy at least weekly for sixteen

weeks, after which the frequency of the psychiatric treatment is to be determined by his Board-approved treating psychiatrist or as otherwise directed by the Board. Dr. Simone shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered. Dr. Simone shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Simone's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Simone's compliance with his treatment plan; Dr. Simone's mental status; Dr. Simone's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Simone shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Simone is unable to practice due to his psychiatric disorder. It is Dr. Simone's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Simone's quarterly declaration.

The psychotherapy required as part of Dr. Simone's psychiatric treatment pursuant to this paragraph may be delegated by Dr. Simone's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, so long as Dr. Simone's treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. Simone's participation and progress in psychotherapy in his or her quarterly reports; and continues to meet personally with Dr. Simone at least quarterly. Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. Simone shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Simone's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Simone's compliance with his treatment plan; Dr. Simone's mental status; Dr. Simone's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Simone shall ensure that his treating licensed mental health professional immediately notifies the Board of his failure to comply with his psychotherapy treatment plan and/or any determination that Dr. Simone is unable to practice due to his psychiatric disorder. These psychotherapy reports shall be in addition to the reports submitted by Dr. Simone's treating psychiatrist. It is Dr. Simone's responsibility to ensure that all quarterly reports are received in the Board's offices no later than the due date for Dr. Simone's quarterly declaration.

In the event that the designated treating psychiatrist and/or licensed mental health professional becomes unable or unwilling to serve in this capacity, Dr. Simone must immediately so notify the Board in writing. In addition, Dr. Simone shall make arrangements acceptable to the Board for another treating psychiatrist and/or licensed mental health professional within thirty days after the previously designated treating

psychiatrist and/or licensed mental health professional becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Simone shall ensure that the previously designated treating psychiatrist and/or licensed mental health professional also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

### **Releases**

16. Dr. Simone shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Simone's chemical dependency, psychiatric condition, or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Simone further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

### **Required Reporting by Licensee**

17. Within thirty days of the effective date of this Consent Agreement, Dr. Simone shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Simone shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
18. Within thirty days of the effective date of this Consent Agreement, Dr. Simone shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Simone further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Simone shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

19. Dr. Simone shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Simone chemical dependency and/or psychiatric treatment or monitoring.

### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Simone appears to have violated or breached any term or condition of this Consent Agreement, the Board 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 Consent Agreement.

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Simone has violated any term, condition or limitation of this Consent Agreement, Dr. Simone agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

### **DURATION/MODIFICATION OF TERMS**

Dr. Simone shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Simone shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Simone acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Simone hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Simone acknowledges that his social

security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

**EFFECTIVE DATE**

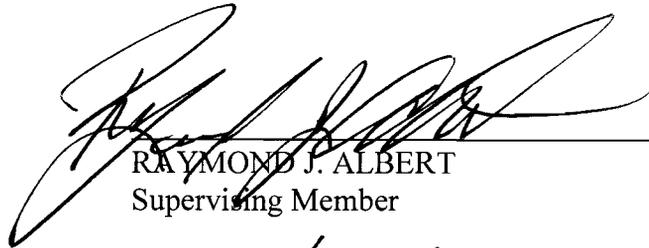
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
\_\_\_\_\_  
JOSEPH COOPER SIMONE, D.O.

3/10/08  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
LANCE A. TALMAGE, M.D.  
Secretary

3-12-08  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member

3/13/08  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
DANIEL S. ZINSMASER, ESQ.  
Enforcement Attorney

3/10/2008  
\_\_\_\_\_  
DATE

**STEP I  
CONSENT AGREEMENT  
BETWEEN  
JOSEPH COOPER SIMONE, D.O.,  
AND  
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Joseph Cooper Simone, D.O., [Dr. Simone], and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Simone enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "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."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement. Such express reservation includes, but is not limited to, the right to institute formal proceedings based upon any violations related to patient care or involving criminal acts or convictions, regardless of whether the acts underlying such additional violations are related to the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth below and/or described herein.
- C. Dr. Simone is licensed to practice osteopathic medicine and surgery in the State of Ohio, License # 34-002296.
- D. Dr. Simone states that he is not licensed to practice osteopathic medicine and surgery in any other state or jurisdiction.

- E. Dr. Simone admits that on or about November 29, 2006, he was confronted by a Board investigator about suspicious prescriptions he was receiving from multiple treating physicians and emergency room physicians.

Dr. Simone admits that he began using oxycodone in or about 2001 for lower back pain, and that oxycodone is his drug of choice. Dr. Simone further admits that he is an anesthesiologist who has been working *locum tenens* at various hospitals in Ohio, and that in order to accommodate his addiction, Dr. Simone obtained controlled substances from multiple treating physicians and emergency room physicians. Dr. Simone specifically denies obtaining controlled substances for self-use by any other methods, and further specifically denies ever self-prescribing any controlled substances. Dr. Simone attests that he never directly or indirectly involved patients or family members in any of his efforts to obtain controlled substances for self-use.

Dr. Simone admits that he is currently impaired in his ability to practice osteopathic medicine and surgery according to acceptable and prevailing standards of care due to the habitual or excessive use or abuse of drugs. Dr. Simone attests that he has never received treatment for chemical abuse and/or dependence, and further attests that he intends to enter The Woods at Parkside, a Board-approved treatment provider in Columbus, Ohio, in the immediate future for such treatment, to include a minimum of twenty-eight days of inpatient or residential treatment.

### **AGREED CONDITIONS**

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. Simone knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

### **SUSPENSION OF CERTIFICATE**

1. The certificate of Dr. Simone to practice osteopathic medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.

### **Sobriety**

2. Dr. Simone shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Simone's history of chemical dependency.
3. Dr. Simone shall abstain completely from the use of alcohol.

Releases; Quarterly Declarations and Appearances

4. Dr. Simone shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Simone's chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Simone further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
5. Dr. Simone shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
6. Dr. Simone shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Simone shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Simone shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Simone shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Within thirty days of the effective date of this Consent Agreement, Dr. Simone shall submit to the Board for its prior approval the name of a supervising physician to whom

Dr. Simone shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Simone. Dr. Simone and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Simone shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Simone must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Simone shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Simone's quarterly declaration. It is Dr. Simone's responsibility to ensure that reports are timely submitted.

8. The Board retains the right to require, and Dr. Simone agrees to submit, blood or urine specimens for analysis at Dr. Simone's expense upon the Board's request and without prior notice.

#### Rehabilitation Program

9. Within thirty days of the effective date of this Consent Agreement, Dr. Simone shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Simone shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Simone's quarterly declarations.

## CONDITIONS FOR REINSTATEMENT

10. The Board shall not consider reinstatement of Dr. Simone's certificate to practice osteopathic medicine and surgery until all of the following conditions are met:
  - a. Dr. Simone shall submit an application for reinstatement, accompanied by appropriate fees, if any.
  - b. Dr. Simone shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
    - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Simone has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependence, as set forth in Rules 4731-16-02(B)(4) and 4731-16-08(A)(13), Ohio Administrative Code, completed consecutively.
    - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
    - iii. Evidence of continuing full compliance with this Consent Agreement.
    - iv. Two written reports indicating that Dr. Simone's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Simone. Prior to the assessments, Dr. Simone shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Simone, and any conditions, restrictions, or limitations that should be imposed on Dr. Simone's practice. The reports shall also describe the basis for the evaluator's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

- c. Dr. Simone shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Simone are unable to agree on the terms of a written Consent Agreement, then Dr. Simone further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of Dr. Simone's certificate to practice osteopathic medicine and surgery in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code. Moreover, upon termination of the consent agreement or Board Order, Dr. Simone shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Dr. Simone has maintained sobriety.

11. In the event that Dr. Simone has not been engaged in the active practice of osteopathic medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Simone's fitness to resume practice.

#### **REQUIRED REPORTING BY LICENSEE**

12. Within thirty days of the effective date of this Consent Agreement, Dr. Simone shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Simone shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
13. Within thirty days of the effective date of this Consent Agreement, Dr. Simone shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Simone further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Simone shall provide this Board

with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

14. Dr. Simone shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Simone chemical dependency treatment or monitoring.

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties.

#### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Simone appears to have violated or breached any term or condition of this Consent Agreement, the Board 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 Consent Agreement.

#### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Simone acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

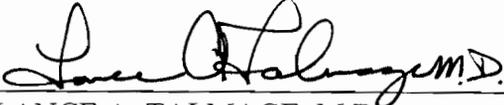
Dr. Simone hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Simone acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

#### **EFFECTIVE DATE**

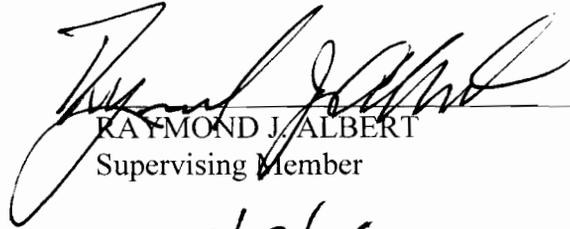
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
\_\_\_\_\_  
JOSEPH COOPER SIMONE, D.O.

  
\_\_\_\_\_  
LANCE A. TALMAGE, M.D.  
Secretary

12-8-2006  
DATE

12-13-06  
DATE

  
RAYMOND J. ALBERT  
Supervising Member

12/13/06  
DATE

  
DANIEL S. ZINSMASER  
Enforcement Attorney

12/8/06  
DATE