

**CONSENT AGREEMENT
BETWEEN
JEFFREY A. BIRO, D.O.
AND
THE STATE MEDICAL BOARD OF OHIO**

This CONSENT AGREEMENT is entered into by and between JEFFREY A. BIRO, D.O. and THE STATE MEDICAL BOARD OF OHIO, a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

JEFFREY A. BIRO, D.O. voluntarily enters into this 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.

This CONSENT AGREEMENT contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this CONSENT AGREEMENT.

This CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

- A. THE STATE MEDICAL BOARD OF OHIO is empowered by Sections 4731.22(A), (B)(5), (8) and (10), 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 respectively for "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board", "publishing a false, fraudulent, deceptive, or misleading statement", "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice", and "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed."
- B. JEFFREY A. BIRO, D.O. is licensed to practice medicine and surgery in the State of Ohio.
- C. JEFFREY A. BIRO, D.O. ADMITS to the factual allegations contained in the October 14, 1992 Notice of Opportunity for Hearing.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any further formal proceedings at this time, JEFFREY A. BIRO, D.O. knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following probationary terms, conditions and limitations:

1. JEFFREY A. BIRO, D.O. is publicly reprimanded;
2. JEFFREY A. BIRO, D.O. shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio;
3. JEFFREY A. BIRO, D.O. shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of this CONSENT AGREEMENT;
4. JEFFREY A. BIRO, D.O. shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD;
5. In the event that JEFFREY A. BIRO, D.O. should leave Ohio for three (3) continuous months, or reside or practice outside the State, JEFFREY A. BIRO, D.O. must notify the BOARD in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the CONSENT AGREEMENT, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that probationary monitoring is otherwise being performed;
6. In the event JEFFREY A. BIRO, D.O. is found by the Secretary of the BOARD to have failed to comply with any provision of this agreement, and is so notified of that deficiency in writing, such periods of noncompliance will not apply to the reduction of the probationary period under this CONSENT AGREEMENT;
7. JEFFREY A. BIRO, D.O. shall continue counseling with Dr. Robin L. Bailey or with another psychiatrist approved by the BOARD, at such intervals as are deemed appropriate by the treating psychiatrist, but not less than once per month, until such time as the BOARD determines that no further treatment is necessary. JEFFREY A. BIRO, D.O. shall comply with any practice restrictions deemed necessary by

the treating psychiatrist including voluntary surrender of his certificate to practice medicine and surgery. JEFFREY A. BIRO, D.O. 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;

8. Within six months from the effective date of this CONSENT AGREEMENT, or as otherwise approved by the BOARD, JEFFREY A. BIRO, D.O. shall provide acceptable documentation of successful completion of a medical ethics course to be approved in advance by the BOARD or its designee. The BOARD may require JEFFREY A. BIRO, D.O. to pass an examination related to the content of the course. This course shall be in addition to the Continuing Medical Education requirements for licensure.
9. JEFFREY A. BIRO, D.O. shall provide a copy of this CONSENT AGREEMENT to all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges.
10. Upon successful completion of probation, JEFFREY A. BIRO, D.O.'s certificate shall be fully restored.

The above described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties. However, this Agreement shall remain in force for a minimum of two (2) years prior to any request for termination of said Agreement.

If, in the discretion of the Secretary and Supervising Member of THE STATE MEDICAL BOARD OF OHIO, JEFFREY A. BIRO, 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.

JEFFREY A. BIRO, D.O. acknowledges that he has had an opportunity to ask questions concerning the terms of this 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.

JEFFREY A. BIRO, D.O. hereby releases the STATE MEDICAL BOARD OF OHIO, 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. 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.

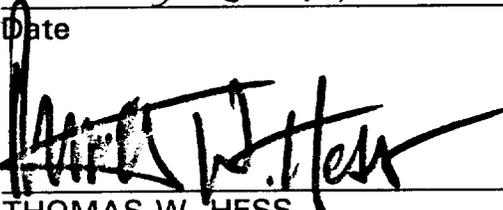
Further, this information may be reported to appropriate organizations, data banks and governmental bodies.



JEFFREY A. BIRO, D.O.

5-8-93

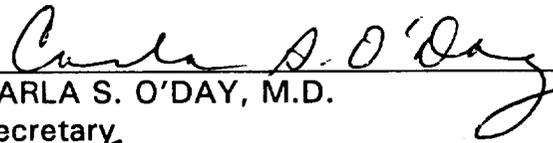
Date



THOMAS W. HESS
Attorney for Jeffrey A. Biro, D.O.

5-10-93

Date



CARLA S. O'DAY, M.D.
Secretary

5/12/93

Date



THERESA M. HOM, D.O.
Supervising Member

5/12/93

Date



LISA A. SOTOS
Assistant Attorney General

5/12/93

Date



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

October 14, 1992

Jeffrey A. Biro, D.O.
2123 Pine Ridge
Wickliffe, OH 44092

Dear Doctor Biro:

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

- (1) On June 6, 1992 you signed the application for renewal of your State Medical Board of Ohio license which stated "I certify, under penalty of loss of my right to practice in the State of Ohio ... that the information provided on this application for renewal is true and correct in every respect."

In response to the question "At any time since signing your last application for renewal have you: 4. Had any clinical privileges suspended, limited or revoked for reasons other than failure to maintain records or attend staff meetings?" you stated "NO."

In fact, on October 16, 1990 Meridia Hillcrest Hospital, Mayfield Heights, Ohio revoked your privileges. Further, Marymount Hospital, Garfield Heights, Ohio revoked your clinical privileges and medical staff membership on February 24, 1992. Both of these revocations were taken for reasons other than failure to maintain records or attend staff meetings.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, such acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Mailed 10/15/92

Additionally, such acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

- (2) On or about June 1, 1992 you submitted a "Renewal Application for Professional Liability" to the P.I.E. Mutual Insurance Company.
 - a) Under Paragraph six (6) "Hospital Staff Privileges" you were instructed to "list all names and locations of hospitals where you hold staff privileges." You were to indicate "A" for active, "CS" for courtesy or "CN" for consulting privileges. You listed only Lutheran Hospital [Lutheran Medical Center, Cleveland, OH] and entered "A" for active privileges. In fact, Lutheran Medical Center on May 5, 1992 granted you only one year provisional courtesy or "CS" privileges.

In fact, on that date you also had provisional courtesy staff privileges at Marymount Hospital, Garfield Heights, Ohio, pending an appeals hearing of the February 24, 1992 revocation of your clinical privileges there.

- b) You responded "NO" to the supplementary query by P.I.E. in Paragraph 6, which asked "Have you ever had your hospital or similar privileges suspended, revoked, refused, reinstated, restricted, or limited, in any way, including voluntarily surrendering your privileges? If yes, please explain."

In fact on or about October 16, 1990 Meridia Hillcrest Hospital revoked your temporary privileges by rescission; on or about January 27, 1992 you voluntarily surrendered your privileges to Lake Hospital Systems, Inc. Further, on or about February 24, 1992 Marymount Hospital revoked your privileges.

Such acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

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- (3) On or about December 27, 1991 you knowingly submitted a forged letter on American Board of Internal Medicine letterhead stationery, purportedly addressed to you, to the President and Chief Executive Officer of Marymount Hospital, in response to the repeated requests for documentation of your claimed board certification status.

This letter purported to verify that you were Board Certified by the American Board of Internal Medicine, when in fact you were not.

Such acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively constitute "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2913.31(A)(3), Ohio Revised Code, Forgery.

- (4) You submitted an "Application for Appointment to the Medical Staff" of Marymount Hospital on August 8, 1990. Paragraph eight (8) of the application, entitled "Certification", asked for "Certification by American Board(s) of:" with spaces below for the name and and date of the certifying member boards.

You made three entries: "Am. Coll of Osteopathic Sports Med 1989", "Am Board of Rheum" and "Am Board of Int. Med."

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In fact, you were not board certified in any specialty by either a member board of the American Board of Medical Specialties or by the American Osteopathic Association. Further, you failed the examination for certification by the American Board of Internal Medicine, the qualifying board for both Internal Medicine and Rheumatology, in 1985 and 1986. (Indeed, you did not retake that examination until your failure in 1991).

Such acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

- (5) In the curriculum vitae you submitted to Marymount Hospital with your Application for Appointment to the Medical Staff of Marymount Hospital dated August 8, 1990, you stated under "Board Certification" that you were board certified in Internal Medicine in 1987, in Sports Medicine in 1989 and that board certification in Rheumatology was "pending".

In fact, you had failed the American Board of Internal Medicine Examination in 1985 and 1986. You were neither board certified in Internal Medicine nor board eligible in Rheumatology.

Further, you were not board certified in Sports Medicine by a recognized member of the American Board of Medical Specialties nor by recognition of board certification by the American Osteopathic Association.

Such acts, conduct, and/or omissions as alleged in paragraph (5) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (5) above, individually and/or collectively, constitute "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

- (6) On your 1990 Renewal Application for Medical Professional Insurance, The P.I.E. Mutual Insurance Company of Cleveland, Ohio, in response to question seven (7) "Board Certification Data" you indicated "YES" when queried "Are you certified by a Board as recognized by the American Board of Medical Specialties?"

Further, you listed for "Name of the Board" "As Above (Int Med)/AOA (Sports Med)" with dates of certification of 1987 and 1989 respectively .

In fact, you failed the American Board of Internal Medicine examination in 1985 and 1986. Thus, you were not board certified in Internal Medicine by a recognized member board of either the American Board of American Specialties or by the American Osteopathic Association.

Further, you were not board certified in any speciality by the American Osteopathic Association.

Such acts, conduct, and/or omissions as alleged in paragraph (6) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

- (7) On your May 1, 1990 Medical Staff Application to Meridia Hillcrest Hospital, Mayfield Heights, Ohio:

- (a) In the "Certification" portion you indicated "YES" in response to the question "Are you Board Certified". In response to the question "which Board" you entered "INT MED/RHEUM/SPORTS."

In fact, you had failed the American Board of Internal Medicine examination for board certification in Internal Medicine in 1985 and 1986. Because you were not board certified in Internal Medicine, you were not board eligible in Rheumatology. You were not recognized as board certified in "Sports" by either a member board of the American Board of Medical Specialities or by the American Osteopathic Association.

- (b) In the curriculum vitae you submitted with the application you listed University Hospitals as a hospital affiliation and the Cleveland Academy of Medicine and the American College of Sports Medicine as society affiliations.

In fact, University Hospitals has no record of you ever having been affiliated with that institution, your membership in the Academy of Medicine of Cleveland had terminated a year prior on August 1, 1989 and the American College of Sports Medicine has no record of your membership in their files from 1988 to present.

- (c) On August 15, 1990 you wrote to Meridia Hillcrest Hospital identifying yourself as a "a board certified internist...."

In fact, as set forth above, you were not so board certified.

Such acts, conduct, and/or omissions as alleged in paragraph (7) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (7) above, individually and/or collectively, constitute "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

- (8) On July 1, 1987, you applied for staff membership with the Lake Hospital System, Inc. In the Specialty Board Status query you responded that you were board eligible in "Rheum/Immunology."

In fact, you had failed the American Board of Internal Medicine examination in 1985 and 1986 and thus you were not board eligible in Rheumatology.

Such acts, conduct, and/or omissions as alleged in paragraph (8) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (8) above, individually and/or collectively, constitute "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

- (9) In your June 25, 1987 Application for Medical Professional Liability Insurance with The P.I.E. Mutual Insurance Company, Cleveland, Ohio, you responded to question ten (10) "Board Certifications" by entering "Internal Medicine/Rheumatology/Sports Medicine" and for the year (of certification) you wrote 85/87/87 with the word "eligible" immediately above the three sets of numbers.

In fact, you had failed the American Board of Internal Medicine examination in both 1985 and 1986 and thus you were not board eligible in Rheumatology. Further in 1987, neither the American Osteopathic Association nor any member board of the American Board of Medical Specialties board certified physicians in the field of Sports Medicine.

Such acts, conduct, and/or omissions as alleged in paragraph (9) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

- (10) On August 13, 1990 as a member of the Lake County Medical Society you responded to the "Sample Consumers Guide Questionnaire" (for The 1991-1992 Consumers Guide to Medical Care publication) query "Are you Board Certified" by checking "YES" and to the query "In What Area" you entered Rheumatology/Sports Medicine/Internal Medicine.

In fact, you never were so board certified in those specialties through the American Osteopathic Association or a member board of the American Board of Medical Specialties.

Such acts, conduct, and/or omissions as alleged in paragraph (10) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

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Further, your acts, conduct, and/or omissions as alleged in paragraph (22) above, individually and/or collectively, constitute "obtaining of, or attempting to obtain money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in Section 4731.22(B)(8), Ohio Revised Code.

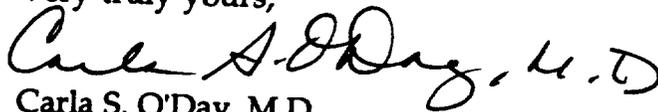
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, 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 that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Carla S. O'Day, M.D.
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL #P 055 328 546
RETURN RECEIPT REQUESTED

cc: Theodore D. Ward, Esq.