

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

August 11, 2010

Richard Joseph Sievers, II, D.O.
301 Orchard Drive
Dayton, OH 45419

RE: Case No. 09-CRF-136

Dear Doctor Sievers:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Danielle R. Blue, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 11, 2010, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3936 3070 7399
RETURN RECEIPT REQUESTED

Cc: Amy L. Higgins, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3936 3070 7405
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Mailed 8-13-10

In the matter of Richard J. Sievers, II, D.O.
Page 2

Duplicate Mailing:

FCI Beckley Federal Correctional Institution

#44824-061

P. O. Box 350

Beaver, WV 25813

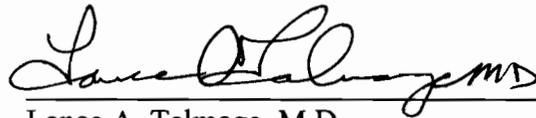
CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3936 3070 7412

RETURN RECEIPT REQUESTED

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Danielle R. Blue, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 11, 2010, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Richard Joseph Sievers, II, D.O., Case No. 09-CRF-139, as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.



Lance A. Talmage, M.D.
Secretary

(SEAL)

August 11, 2010
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

CASE NO. 09-CRF-136

RICHARD JOSEPH SIEVERS, II, D.O.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 11, 2010.

Upon the Report and Recommendation of Danielle R. Blue, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

1. The certificate of Richard J. Sievers, II, D.O., to practice osteopathic medicine and surgery in Ohio, is PERMANENTLY REVOKED.
2. This Order supercedes and replaces the February 2008 Consent Agreement between Dr. Sievers and the Board.

This Order shall become effective immediately upon mailing of the notification of approval by the Board.

(SEAL)



Lance A. Talmage, M.D.
Secretary

August 11, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

*

Case No. 09-CRF-136

Richard J. Sievers II, D.O.,

*

Hearing Examiner Blue

Respondent.

*

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STATE MEDICAL BOARD OF OHIO

REPORT AND RECOMMENDATION

Basis for Hearing:

By letter dated October 14, 2009, the State Medical Board of Ohio [Board] notified Richard J. Sievers II, D.O., that it had immediately suspended his certificate to practice osteopathic medicine and surgery in Ohio pursuant to Ohio Revised Code Section [R.C.] 3719.121(C) and had proposed to take other disciplinary action against his certificate. The Board based its proposed actions on an allegation that Dr. Sievers had pled guilty to and was found guilty of one felony count of Conspiracy to Dispense and Distribute Controlled Substances, arising from activities involving a conspiracy to dispense and distribute Amphetamine, Oxycodone, and Methadose, Schedule II controlled substances; Hydcodone, a Schedule III controlled substance; and Alprazolam, a Schedule IV controlled substance, in violation of 21 U.S.C. §§846 and 841(a)(1) and 18 U.S.C. §2.

The Board alleged that Dr. Sievers' acts, conduct and/or omissions constituted:

- "A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony," as set forth in R.C. 4731.22(B)(9).
- "Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility of treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug," as set forth in R.C. 4731.22(B)(3).

Accordingly, the Board advised Dr. Sievers of his right to request a hearing in this matter. By letter filed on November 2, 2009, Dr. Sievers requested a hearing. (State's Exhibits [St. Exs.] 1-A, 1-C)

Appearances:

Richard Cordray, Attorney General, and Katherine J. Bockbrader, Assistant Attorney General, for the State of Ohio. Amy L. Higgins, Esq., for Dr. Sievers.

Hearing Date: June 11, 2010

PROCEDURAL MATTERS

The record in this matter was held open to allow the State to redact portions of Exhibits 3 and 4. The redacted exhibits were produced and the hearing record was closed on June 18, 2010.

SUMMARY OF THE EVIDENCE

All evidence admitted in this matter, even if not specifically mentioned, was thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background Information

1. Richard J. Sievers II, D.O., obtained his osteopathic medical degree in 1981 from Midwestern University, Downers Grove, Illinois, (a.k.a. Chicago College of Osteopathic Medicine). He was first licensed to practice in Ohio in 1982 (certificate number 34.003430). (Ohio eLicense Center, <<http://license.ohio.gov/lookup/>> June 16, 2010; Respondent's Exhibit [Resp. Ex.] A at 1).

From 1990 to 2005, Dr. Sievers operated Walnut Hills Family Care in Dayton. He closed his practice in May 2005 because he "wasn't making any money as a solo family doctor." In August 2005, Dr. Sievers joined Dayton Health and Pain Management. On January 17, 2007, Dr. Sievers was fired from Dayton Health and Pain Management. At the end of January 2007, Dr. Sievers re-opened Walnut Hills Family Care. (Resp. Ex. A at 2-3)

Criminal Conviction

2. On October 28, 2008, an Indictment was filed in the United States District Court for the Southern District of Ohio, Western Division, charging Dr. Sievers with one felony count of Conspiracy to Dispense and Distribute Controlled Substances, arising from activities involving a conspiracy to dispense and distribute Amphetamine, Oxycodone, and Methadone, Schedule II controlled substances; Hydcodone, a Schedule III controlled substance; and Alprazolam, a Schedule IV controlled substance, by writing or approving prescriptions which were not issued for a legitimate medical purpose and were not in the usual course of his professional practice, in violation of 21 U.S.C. §§846 and 841(a)(1) and 18 U.S.C. §2. (St. Ex. 3)
3. On June 10, 2009, Dr. Sievers entered into a plea agreement in which he pleaded guilty to the felony charged. On September 11, 2009, the court accepted the plea agreement and found Dr. Sievers guilty of Conspiracy to Dispense and Distribute Controlled Substances. (St. Ex. 4)
4. As set forth in the Judgment Entry filed on September 16, 2009, the court imposed a sentence including the following: imprisonment for a term of eighty-four months to be followed by supervised release for three years. The court further ordered Dr. Sievers be

enrolled in a 500 hour drug treatment program while in prison; participate in a substance abuse assessment/treatment, either inpatient or outpatient, to include testing, at the direction of probation officer; participate in a mental health assessment/treatment at direction of probation officer; complete 100 hours of community service under the supervision of the probation department; and make payment of \$100.00. (St. Ex. 5)

Conduct Underlying Conviction

5. The State presented evidence that in 2007, the DEA and Warren County Drug Task Force began investigating a prescription medicine distribution organization in Dayton. As a result of this investigation, agents determined that Dr. Sievers was one of a number of individuals involved in a prescription medicine distribution organization. (St. Ex. 4)
6. Specifically, the State established that, after re-opening his practice in January 2007, Dr. Sievers “met with a patient who proposed that Dr. Sievers supply him and others with prescriptions for controlled substances (specifically, Oxycontin, Methadose, Vicodin, and Xanax) that, at the time they were given, would be provided without a proper medical examination . . .” Further, Dr. Sievers, with the assistance of others, distributed controlled substances to patients by writing and approving prescriptions that were not issued for a legitimate medical purpose and were not in the usual course of his medical practice. (St. Ex. 4; Resp. Ex. A at 8)
7. Dr. Sievers stipulated to all of the evidence presented by the State at the hearing. In response to the State’s evidence, Dr. Sievers submitted a written statement, which was not subject to cross-examination by the State, along with his drug treatment records, to explain his conduct. (Hearing Transcript [Tr.] at 9; Resp. Ex. A)

Dr. Sievers’ Explanation

8. In his letter, Dr. Sievers stated he has been addicted to Adderall since May 2004. By 2007, Dr. Sievers was taking approximately 300 mg of Adderall per day, more than the prescribed amount.¹ (Resp. Exs. A at 5-6, B)
9. After being fired from Dayton Health and Pain Management in January 2007, Dr. Sievers re-opened his solo family practice with the assistance of two patients (who were married). The wife became Dr. Sievers’ office manager and the husband did “odd jobs” around the office. Both worked for free; however, the husband had been supplying Dr. Sievers with extra Adderall since May 2004. Both patients would later be charged as co-conspirators with Dr. Sievers. (State Ex. 4; Resp. Ex. A at 3-4, 7)
10. Dr. Sievers explained that he pre-signed prescription pads and then agreed to let his office manager fill out the prescriptions. He stated “I would pre-sign a whole pad to save her the time from asking me * * * I did not know that many of the pre-signed

¹ Dr. Sievers was diagnosed with Adult ADHD in 1999. He began treating with Dr. Ange, a psychiatrist, for ADHD in 2001. Dr. Ange prescribed 90 mg/day of Adderall to treat Dr. Sievers’ ADHD. (Resp. Ex. A at 2; Resp. Ex. B)

prescriptions were being used for her to put drugs out on the street.” However, he admitted that “I thought they may have been using pre-signed prescriptions to get drugs for themselves and maybe some friends of theirs.”² (Resp. Ex. A at 11-12, 17)

11. In regard to the patient described in paragraph 6, Dr. Sievers recalled that the patient asked for a prescription of Vicodin and was “mumbling something about making some money treating his friends.” Dr. Sievers stated he “blew off his comment” at the time but then later burned the patient and his friends’ charts in his fireplace because the charts were fake. (Resp. Ex. A at 7-8)
12. Dr. Sievers closed his office in July 2007 for six weeks because “65% of his patients were not following my instructions or getting their ordered tests.” During those six weeks, he received “hundreds of calls to my cell phone, my home phone, and my mom’s house” from patients. (Resp. Ex. A at 9)
13. Dr. Sievers re-opened his practice later that summer and by the fall of 2007, Dr. Sievers discovered he was being investigated. He stated he was “baffled.” He confronted his office manager and her husband who denied any wrongdoing. Dr. Sievers accepted their denial and continued to pre-sign prescriptions at their request. (Resp. Ex. A at 14)
14. On November 6, 2007, the DEA, FBI, and Warren County Drug Task Force executed a federal search warrant at Dr. Sievers’ medical office. Dr. Sievers later found out from a patient that “there were drug deals going on in the front office while I was in the exam room seeing patients.” (Resp. Ex. A at 16-18; St. Ex. 6)
15. In an effort to explain his conduct, Dr. Sievers stated:

While I knew in my heart that I didn’t know about drug deals, I now understand I had my head stuck in the sand as to what was going on. I hadn’t purposefully written prescriptions knowing they were to be distributed on the street, but I did purposefully avoid asking certain questions and confronting [married patients]. I knew that I didn’t make any money from these drug deals and I knew that I didn’t have drugs, receipts, prescriptions, counting, or weighing devices in my house.(Resp. Ex. A at 19)
16. Dr. Sievers last actively practiced medicine and surgery on or about December 7, 2007. (St. Ex. 6)
17. On December 11, 2007, Dr. Sievers voluntarily surrendered his DEA Certificate of Registration. (St. Ex. 6)
18. On December 31, 2008, Dr. Sievers attended a Caduceus meeting and as a result, Dr. Sievers admitted himself to Shepherd Hill on January 5, 2009. He was discharged on

² “They” refers to the married patients who were working for him.

February 6, 2009 with the following diagnoses: amphetamine dependence, cannabis dependence, nicotine dependence, and depressive disorder. He remained abstinent while at Shepherd Hill as evidenced by negative urine screens.³ (Resp. Exs. A at 20, B)

19. On February 13, 2008, Dr. Sievers entered into a Consent Agreement with the Board that suspended his license for an indefinite period of time. (St. Ex. 6)

Testimony and Other Support

20. While in treatment at Shepherd Hill, Dr. Sievers reached out to the Ohio Physicians Health Program [OPHP], a program that monitors and advocates for physicians in Ohio in recovery. Mark Lutz, an employee of OPHP, worked with Dr. Sievers. Mr. Lutz testified that Dr. Sievers made a “profound change” over a few months and he was “a good guy who messed up big.” (Tr. at 47, 49)
21. After discharge from Shepherd Hill, Dr. Sievers was monitored by Joseph Mastandrea, D.O., through OPHP, until Dr. Sievers’ incarceration. During this time period, Dr. Mastandrea testified that Dr. Sievers continued his sobriety, attended aftercare, worked the 12-Step recovery program, and continued to treat with his psychiatrist. (Tr. at 39-41)
22. Dennis Stewart, a friend and former patient, became Dr. Sievers’ sponsor after he was discharged. Mr. Stewart testified that Dr. Sievers really “took to recovery.” Furthermore, he testified that Dr. Sievers was “an excellent physician” who would take time to talk to you and not rush through an examination. (Tr. at 59, 63)
23. Larry Cowan, D.O., a former colleague, testified that he saw Dr. Sievers on a few occasions after he entered treatment. Dr. Cowan observed that Dr. Sievers was serious about rehab and he had become “spiritually intact.” (Tr. at 30)
24. All of the witnesses testified that Dr. Sievers should get another chance to practice medicine after he is released from prison. (Tr. at 18, 34, 41, 50, 62)

³ Dr. Sievers, through his counsel, agreed that the Board did not allege chemical impairment in the notice of opportunity for hearing concerning this matter. Nevertheless, Dr. Sievers, through his counsel, advised that he would waive his objection under *Eastway* should the Board decide to impose sanctions which included requirements for chemical impairment evaluation and treatment. In *In re Eastway* (1994), 95 Ohio App.3d 516, 642 N.E.2d 1135, cert. denied, the Franklin County Court of Appeals held that the Board could not require psychiatric treatment as a condition of probation when it had not charged a physician with being mentally impaired. Therefore, a Board order which includes such sanctions is not supported by reliable, probative, and substantial evidence and is not in accordance with the law. See also *Lawrence S. Krain, M.D. v. State Medical Board of Ohio* (Oct. 29, 1998), Franklin App. No. 97APE08-981, unreported.

FINDINGS OF FACT

On June 10, 2009, in the United States District Court for the Southern District of Ohio, Western Division, Richard J. Sievers II, D.O., pleaded guilty to and was found guilty of one felony count of Conspiracy to Dispense and Distribute Controlled Substances, arising from activities involving a conspiracy to dispense and distribute Amphetamine, Oxycodone, and Methadose, Schedule II controlled substances; Hydcodone, a Schedule III controlled substance; and Alprazolam, a Schedule IV controlled substance, by writing or approving prescriptions which were not issued for a legitimate medical purpose and were not in the usual course of his professional practice, in violation of 21 U.S.C. §§846 and 841(a)(1) and 18 U.S.C. §2. As set forth in the Judgment Entry filed on September 16, 2009, the court imposed a sentence of eighty-four months in prison to be followed by supervised release for three years. The court further ordered that Dr. Sievers be enrolled in the 500 hour drug treatment program while in prison; participate in substance abuse assessment/treatment, either inpatient or outpatient, to include testing, at the direction of probation officer; participate in mental health assessment/treatment at direction of probation officer; complete 100 hours of community service under the supervision of the probation department; and make payment of \$100.00.

CONCLUSIONS OF LAW

1. The plea of guilty and/or the judicial finding of guilt of Richard J. Sievers, II, D.O., as set forth above in the Findings of Fact individually and/or collectively, constitute a “plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as set forth in Ohio Revised Code Section [R.C.] 4731.22(B)(9).
2. Further, the acts, conduct, and/or omissions of Dr. Sievers, as set forth in the Findings of Fact, individually and/or collectively, constitute a “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility of treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as set forth in R.C. 4731.22(B)(3).

DISCUSSION CONCERNING THE PROPOSED ORDER

Dr. Sievers’ criminal conviction warrants a permanent revocation of his certificate to practice osteopathic medicine and surgery in Ohio. Dr. Sievers was convicted of one felony count of Conspiracy to Dispense and Distribute Controlled Substances, arising from activities involving a conspiracy to dispense and distribute Amphetamine, Oxycodone, and Methadose, Schedule II controlled substances; Hydcodone, a Schedule III controlled substance; and Alprazolam, a Schedule IV controlled substance. Dr. Sievers did not dispute the State’s evidence concerning the criminal conviction. Instead, Dr. Sievers offered an explanation for his conduct. However, Dr. Sievers’ explanation was not credible and therefore did not rise to a level that would require the Board to refrain from ordering a permanent revocation in this matter.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Richard J. Sievers, II, D.O., to practice osteopathic medicine and surgery in Ohio, is PERMANENTLY REVOKED.
2. This Order supercedes and replaces the February 2008 Consent Agreement between Dr. Sievers and the Board.

This Order shall become effective immediately upon mailing of the notification of approval by the Board.



Danielle R. Blue, Esq.
Hearing Examiner



State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

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EXCERPT FROM THE DRAFT MINUTES OF AUGUST 11, 2010

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Amato announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Amato asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Constance E. Ange, D.O.; Robert Edward Barkett, Jr., M.D.; Thomas Michael Bender; James A. Handley, L.M.T.; Roy William Harris, D.O.; Harold M. Jones, D.P.M.; Sarah Ann Lewis, M.D.; Christopher Allan Rice, M.D.; and Richard Joseph Sievers, II, D.O. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Mr. Albert	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Morris	- aye
	Dr. Ramprasad	- aye

Dr. Amato asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Mr. Albert	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Dr. Suppan	- aye
	Mr. Morris	- aye
	Dr. Ramprasad	- aye

Dr. Amato noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member. Additionally, in the case of Robert Edward Barkett, Jr., M.D., Dr. Amato served as Acting Supervising Member.

Dr. Amato reminded all parties that no oral motions may be made during these proceedings.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....
RICHARD JOSEPH SIEVERS, II, D.O.
.....

Mr. Hairston moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Richard Joseph Sievers, II, D.O. Dr. Stafford seconded the motion.

Dr. Amato stated that he would now entertain discussion in the above matter.

.....
A vote was taken on Mr. Hairston's motion to approve and confirm:

ROLL CALL:	Dr. Stafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Mr. Albert	- abstain
	Dr. Madia	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Morris	- aye
	Dr. Ramprasad	- aye

The motion carried.

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

NOTICE OF IMMEDIATE SUSPENSION AND OPPORTUNITY FOR HEARING

October 14, 2009

Case number: 09-CRF- **136**

Richard J. Sievers II, D.O.
301 Orchard Drive
Dayton, Ohio 45419

Dear Doctor Sievers:

In accordance with Sections 2929.42 and/or 3719.12, Ohio Revised Code, the Office of the United States Attorney, Southern District of Ohio, reported that on or about June 10, 2009, in the United States District Court, Southern District of Ohio, Western Division, Dayton, Ohio, you pled guilty to and were found guilty of one felony count of Conspiracy to Dispense and Distribute Controlled Substances, arising from activities involving a conspiracy to dispense and distribute Amphetamine, Oxycodone, and Methadone, Schedule II controlled substances; Hydrocodone, a Schedule III controlled substance; and Alprazolam, a schedule IV controlled substance, in violation of 21 U.S.C. §§846 and 841(a)(1) and 18 U.S.C. §2.

Therefore, pursuant to Section 3719.121(C), Ohio Revised Code, you are hereby notified that your license to practice osteopathic medicine and surgery in the State of Ohio, which is currently inactive, is immediately suspended. Although you are not currently authorized to practice osteopathic medicine and surgery in Ohio, you are hereby advised that any continued practice after this suspension shall be considered practicing osteopathic medicine without a certificate in violation of Section 4731.43, Ohio Revised Code.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your

Mailed 10-15-09

certificate to practice osteopathic medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about June 10, 2009, you entered into a Plea Agreement in the United States District Court, Southern District of Ohio, Western Division, in which you pled guilty to one felony count of Conspiracy to Dispense and Distribute Controlled Substances, in violation of 21 U.S.C. §§846 and 841(a)(1) and 18 U.S.C. §2. The conduct implicated in your guilty plea arose from activities involving a conspiracy to dispense and distribute Amphetamine, Oxycodone, and Methadone, all Schedule II controlled substances; Hydrocodone, a Schedule III controlled substance; and Alprazolam, a schedule IV controlled substance, at Walnut Hills Family Care, a medical facility you operated in Dayton, Ohio.

On or about September 11, 2009, you were sentenced to imprisonment for a term of eighty-four months to be followed by supervised release for three years subsequent to your release from prison.

Your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above constitute “[s]elling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for treatment in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug,” as those clauses are used in Section 4731.22(B)(3), 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 days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, 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.

Suspension
Richard J. Sievers, II, D.O.
Page 3

In the event that there is no request for such hearing received within thirty 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/CDP/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3070 4244
RETURN RECEIPT REQUESTED

cc: Ralph Kohnen, Esq.
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, Ohio 45202

CERTIFIED MAIL #91 7108 2133 3936 3070 4107
RETURN RECEIPT REQUESTED

FEB 18 2007

**CONSENT AGREEMENT
BETWEEN
RICHARD JOSEPH SIEVERS, II, D.O.
AND
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Sievers 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)(34), 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 “[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue.”

- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(34), Ohio Revised Code, as set forth in Paragraph E below. 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. Dr. Sievers expressly states and specifically acknowledges he understands that the Board intends to pursue by separate action any and all violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement, including but not limited to, Sections 4731.22(B)(9) and/or 4731.22(B)(10), Ohio Revised Code, even if such violations arise from the same common nucleus of operative fact as outlined within this Consent Agreement. Dr. Sievers further expressly states and specifically acknowledges he understands that subsequent Board Orders may supersede this Consent Agreement and may result in further discipline, up to and including permanent revocation of his license to practice osteopathic medicine in the State of Ohio.

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- C. Dr. Sievers is licensed to practice osteopathic medicine and surgery in the State of Ohio, License # 34.003430.
- D. Dr. Sievers states that he is not licensed to practice osteopathic medicine and surgery in any other state or jurisdiction.
- E. Dr. Sievers admits that, on or about November 6, 2007, agents from the Drug Enforcement Agency [DEA], the Federal Bureau of Investigation [FBI] and the Warren County Drug Task Force executed a federal search warrant at his medical office, taking with them over 700 patient records as part of an ongoing investigation into Dr. Sievers' practice. Dr. Sievers further admits that, although no criminal charges have been formally filed, he anticipates that either an Indictment or a Bill of Information will be filed against him in the near future [the pending criminal matter].

Dr. Sievers further admits that, on or about December 11, 2007, he voluntarily surrendered his DEA Certificate of Registration, thereby surrendering his controlled substances privileges.

Dr. Sievers further stipulates that he last actively practiced medicine and surgery on or about December 7, 2007.

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. Sievers knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Sievers to practice osteopathic medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time.
2. Dr. Sievers shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine and surgery in the State of Ohio. Further, Dr. Sievers shall comply with all requirements of any order issued by any court in the pending criminal matter.

RELEASES; QUARTERLY DECLARATIONS AND APPEARANCES

3. Dr. Sievers 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 any type of treatment or evaluation for Dr. Sievers, whether such treatment or evaluation occurred before or after the effective date of this Consent

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Agreement. To the extent provided by law, 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. Sievers further agrees to provide the Board written consent permitting any provider from whom he obtains any type of treatment or evaluation to notify the Board in the event he fails to agree to or comply with any treatment contract or treatment plan. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

4. Dr. Sievers 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.
5. Dr. Sievers shall appear in person for an interview before the full Board or its designated representative as requested by the Board, and subsequent personal appearances must occur thereafter as requested by the Board, except that Dr. Sievers and the Board agree that Dr. Sievers shall not be required to appear before the Board until the proceedings in the pending criminal matter are concluded.

CONDITIONS FOR REINSTATEMENT

6. The Board shall not consider reinstatement of Dr. Sievers' certificate to practice osteopathic medicine and surgery until all of the following conditions are met:
 - a. Dr. Sievers shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Sievers 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 not be limited to the following:
 - i. Evidence of continuing full compliance with this Consent Agreement.
 - ii. Dr. Sievers shall fully cooperate in providing the Board with any and all information requested by the Board, including but not limited to specific factual information related to Dr. Sievers' alleged inappropriate and/or unlawful prescribing, providing and/or selling of drugs.

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- iii. A written report indicating that Dr. Sievers' ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

The report shall be made by a physician knowledgeable in the area of psychiatry who has been approved in advance by the Board, who shall conduct a comprehensive psychiatric assessment of Dr. Sievers. Prior to the assessment, Dr. Sievers shall provide the evaluator with a copy of this Consent Agreement, and with copies of any and all records, including but not limited to patient records, related to any and all psychiatric, psychological, and/or physical evaluations or treatment that he has received, whether such evaluations or treatment occurred before or after the effective date of this Consent Agreement. The report from the evaluator shall include the evaluator's diagnoses and conclusions; any recommendations for care, counseling, and treatment for the diagnoses; any conditions, restrictions, or limitations that should be imposed on Dr. Sievers' practice; and 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. The pending criminal matter, including any and all criminal charges, described in Paragraph E above has been fully, finally, and completely resolved, including all appeals, if any.
 - d. The Board's investigation concerning Dr. Sievers has been fully, finally, and completely resolved through one of the following two alternatives:
 - i. The Board ratifies a subsequent written Consent Agreement setting forth specified terms, conditions and limitations as determined appropriate by the Board in the future. Further, if the Board and Dr. Sievers are unable to agree upon the future terms of a subsequent written Consent Agreement, then Dr. Sievers 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.
 - ii. The Board issues a final Board Order following issuance to Dr. Sievers of a Notice of Opportunity for Hearing, for which Dr. Sievers shall be entitled to a hearing pursuant to Chapter 119. of the Ohio Revised Code.
7. In the event that Dr. Sievers 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. Sievers' fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

8. Within thirty days of the effective date of this Consent Agreement, Dr. Sievers 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. Sievers 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.
9. Within thirty days of the effective date of this Consent Agreement, Dr. Sievers 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. Sievers 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. Sievers shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
10. Dr. Sievers shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to any person or entity that provides evaluation, treatment, or monitoring of him related to the pending criminal matter described herein prior to commencing such evaluation, treatment, or monitoring. Further, Dr. Sievers shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

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

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If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Sievers 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. Sievers 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.

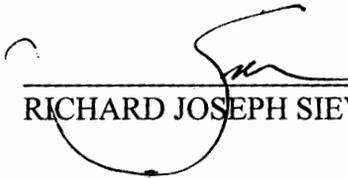
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

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

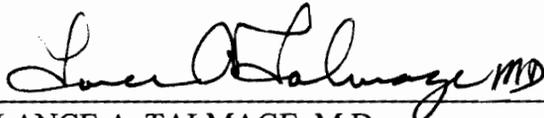
This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Sievers acknowledges that his social security number will be used if this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



RICHARD JOSEPH SIEVERS, II, D.O.



LANCE A. TALMAGE, M.D.
Secretary

2-9-08

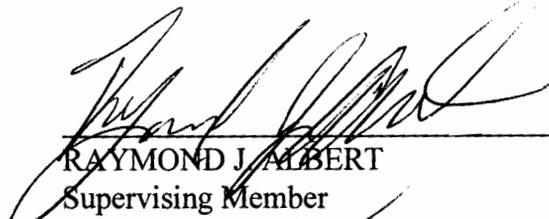
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DATE



DAVID P. MESAROS, ESQ.
Attorney for Dr. Sievers



RAYMOND J. ALBERT
Supervising Member

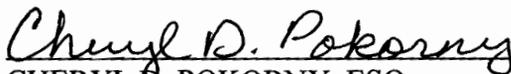
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DATE

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CHERYL D. POKORNY, ESQ.
Enforcement Attorney

2/13/08

DATE