

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

April 14, 2010

Joseph P. Sitarik, D.O.
47990 Calcutta-Smith Ferry Road
East Liverpool, OH 43920

RE: Case No. 09-CRF-163

Dear Doctor Sitarik:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 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 3068 9220
RETURN RECEIPT REQUESTED

Mailed 4-15-10

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 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 Joseph P. Sitarik, D.O., Case No. 09-CRF-163, 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)

April 14, 2010

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 09-CRF-163

JOSEPH P. SITARIK, D.O.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 14, 2010.

Upon the Report and Recommendation of Patricia A. Davidson, 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.

- A. **REVOCATION, STAYED; SUSPENSION OF CERTIFICATE:** The certificate of Joseph P. Sitarik, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be REVOKED; such revocation is STAYED, and the certificate shall be SUSPENDED for an indefinite period of time, but not less than 180 days from December 9, 2009, when the Board summarily suspended the certificate.
- B. **INTERIM MONITORING:** During the period that Dr. Sitarik's certificate to practice in Ohio is suspended, Dr. Sitarik shall comply with the following terms, conditions, and limitations:
1. **Obey the Law:** Dr. Sitarik shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio. Dr. Sitarik shall obey all terms and conditions imposed by the court in *City of East Liverpool v. Sitarik*, Case No. 2008 CR B 02095.
 2. **Declarations of Compliance:** Dr. Sitarik 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 Order. The first quarterly declaration must be received in the Board's offices on or before the date his quarterly declaration would have been due pursuant to his August 2009 Step II Consent Agreement, or as otherwise directed by the Board.

Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

At the time Dr. Sitarik submits his declarations of compliance, Dr. Sitarik shall submit declarations under penalty of Board disciplinary action and/or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the court in *City of East Liverpool v. Sitarik*, Case No. 2008 CR B 02095.

3. **Personal Appearances:** Dr. Sitarik shall appear in person for interviews before the Board or its designated representative. The first such appearance shall take place on or before the date his appearance would have been scheduled pursuant to his Step II Consent Agreement, or as otherwise directed by the Board. Subsequent personal appearances shall occur every three months thereafter and/or as otherwise directed 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. **Sobriety**
 - a. **Abstinence from Drugs:** Dr. Sitarik shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed, or administered to him by another so authorized by law who has full knowledge of Dr. Sitarik's history of chemical dependency and/or abuse and who may lawfully prescribe for him (for example, a physician who is not a family member). Further, in the event that Dr. Sitarik is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Dr. Sitarik shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Sitarik received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Sitarik shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
 - b. **Abstinence from Alcohol:** Dr. Sitarik shall abstain completely from the use of alcohol.
5. **Drug and Alcohol Screens; Drug Testing Facility and Collection Site**
 - a. Dr. Sitarik shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Sitarik 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, and shall include Dr. Sitarik's drug(s) of choice.

- b. Dr. Sitarik shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" may also be used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Sitarik shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Sitarik shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Sitarik shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Ohio Revised Code Section 4731.22(F)(5). The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 6, below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.

- e. Within 30 days of the effective date of this Order, Dr. Sitarik shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Sitarik shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Sitarik and the Board-approved DFCS. Dr. Sitarik’s failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Sitarik shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, 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, Dr. Sitarik and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Sitarik shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Sitarik shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6, below, as soon as practicable. Dr. Sitarik shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
- i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

- 6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Sitarik shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Sitarik, as determined in the sole discretion of the Board, then, subject to the following

requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Sitarik.

- a. Within 30 days of the date on which Dr. Sitarik is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Sitarik, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Sitarik shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Sitarik's residence or employment location, or to a physician who practices in the same locale as Dr. Sitarik. Dr. Sitarik shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure, 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, Dr. Sitarik shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Sitarik shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Sitarik shall immediately notify the Board in writing. Dr. Sitarik shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Sitarik shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Sitarik.
- d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Sitarik's designated alternative DFCS or any person proposed to serve as his supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so

serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Sitarik's declarations of compliance. It is Dr. Sitarik's responsibility to ensure that reports are timely submitted.
8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Sitarik shall provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Sitarik, or for any other purpose, at Dr. Sitarik's expense. Dr. Sitarik's refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Dr. Sitarik shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than **three** times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Sitarik shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Sitarik's declarations of compliance.
10. **Releases:** Dr. Sitarik 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. Sitarik's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

Dr. Sitarik shall also provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event Dr. Sitarik 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 Order.

11. **Comply with the Terms of Aftercare Contract:** Dr. Sitarik shall maintain continued compliance with the terms of any aftercare contract entered into with his treatment provider(s), provided that, where terms of an aftercare contract conflict with terms of this Order, the terms of this Order shall control.
12. **Absences from Ohio:** Dr. Sitarik shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the suspension/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. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Dr. Sitarik resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Sitarik may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Sitarik is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

13. **Required Reporting of Change of Address:** Dr. Sitarik shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Sitarik's certificate to practice osteopathic medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Sitarik shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions and Terms of Court Order:** Dr. Sitarik shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

At the time he submits his application for reinstatement or restoration, Dr. Sitarik shall submit to the Board certification from the Court in *City of East Liverpool v. Sitarik*, Case No. 2008 CR B 02095 (as referenced in the August 2009 Step II Consent Agreement), dated no earlier than 60 days prior to

Dr. Sitarik's application for reinstatement or restoration, indicating that Dr. Sitarik has maintained full compliance with the terms and conditions imposed by the court.

3. **Demonstration of Ability to Resume Practice**: Dr. Sitarik shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Sitarik has successfully completed a minimum of 28 days of inpatient/residential treatment for chemical dependency at a treatment provider approved by the Board.
 - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Sitarik's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependency/abuse.

The reports shall have been 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. Sitarik. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Sitarik shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Sitarik, and any conditions, restrictions, or limitations that should be imposed on Dr. Sitarik's practice. The reports shall also describe the basis for the assessor'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 or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may

request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

4. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Sitarik has not been engaged in the practice of osteopathic medicine as an active practitioner for a period in excess of two years prior to his application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

D. **PROBATION:** Upon reinstatement or restoration, Dr. Sitarik's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least **five** years:

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Sitarik shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
2. **Monitoring Physician:** Before engaging in any medical practice, Dr. Sitarik shall submit to the Board in writing 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. Sitarik and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Sitarik and his medical practice, and shall review Dr. Sitarik'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. Sitarik's medical practice, and on the review of Dr. Sitarik's patient charts. Dr. Sitarik 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. Sitarik's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Sitarik must immediately so notify the Board in writing. In addition, Dr. Sitarik 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. Sitarik 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 therefor.

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

3. **Controlled Substances Log**: Dr. Sitarik shall keep a log of all controlled substances he prescribes, orders, administers, or personally furnishes. Such log shall be submitted in a format of Dr. Sitarik's choosing and approved in advance by the Board. All such logs required under this paragraph must be received in the Board's offices no later than the due date for Dr. Sitarik's declarations of compliance, or as otherwise directed by the Board. Further, Dr. Sitarik shall make his/her patient records with regard to such controlled substances available for review by an agent of the Board upon request.
4. **Drug-Associated Restrictions**: If Dr. Sitarik desires to practice in an office or facility in which his practice would be facilitated by being authorized to have possession of controlled substances during work periods, he may request permission to possess controlled substances during work periods under terms, limitations, and conditions to be determined by the Board. The Board, in its sole discretion, may determine whether to grant or deny this permission to Dr. Sitarik, and to determine the terms, limitations, and conditions under which he may possess controlled substances during work periods for purposes of his practice of medicine. The Board may choose to impose the same terms, limitations and conditions as set forth in its August 2009 Step II Consent Agreement with Dr. Sitarik, or it may choose to modify and/or supplement those terms, limitations and conditions.

If Dr. Sitarik submits such a request, and if it is granted, then the terms, limitations and/or conditions imposed by the Board shall be deemed to constitute terms, limitations and conditions of this Probation, under Section D of this Order.

5. **Modification of Terms**: Dr. Sitarik shall not request modification of the terms, conditions, or limitations of probation for at least 180 days after imposition of these probationary terms, conditions, and limitations.
6. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Sitarik is found by the Secretary of the Board to have failed to comply with any provision of this Order, 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 Order.

E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Sitarik's certificate will be fully restored.

F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Sitarik violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Sitarik shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Sitarik shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Sitarik receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Sitarik provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Sitarik receives from the Board written notification of the successful completion of his probation.

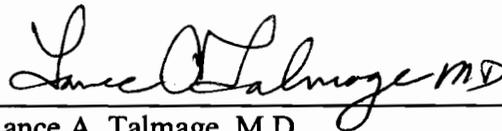
2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Sitarik shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Sitarik shall provide a copy of this Order at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Sitarik receives

from the Board written notification of the successful completion of his probation.

3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Sitarik shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Sitarik. This requirement shall continue until Dr. Sitarik receives from the Board written notification of the successful completion of his probation.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Sitarik shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

EFFECTIVE DATE: This Order shall become effective immediately upon the mailing of the notification of approval by the Board, at which time this Order will supersede the order of summary suspension and Dr. Sitarik's Step II Consent Agreement.

(SEAL)



Lance A. Talmage, M.D.
Secretary

April 14, 2010
Date

2010 FEB 26 AM 11:54

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 09-CRF-163

Joseph P. Sitarik, D.O.,

*

Hearing Examiner Davidson

Respondent.

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REPORT AND RECOMMENDATION

Basis for Hearing

In a letter and entry dated December 9, 2009, the State Medical Board of Ohio notified Joseph P. Sitarik, D.O., that the Board had summarily suspended his certificate to practice osteopathic medicine and surgery in Ohio. The Board stated, among other things, that this action was based on clear and convincing evidence of the following: that Dr. Sitarik has an impairment as that term is used in Ohio Revised Code Section [R.C.] 4731.22(B)(26); that he violated a consent agreement with the Board by using cocaine and having a positive result on a urine screen, which constituted a violation of R.C. 4731.22(B)(15); and that his impairment and conduct as described presented a danger of immediate and serious harm to the public, thus authorizing summary suspension pursuant to R.C. 4731.22(G).

In addition, the Board notified Dr. Sitarik that it intended to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to issue or reinstate his certificate, or to reprimand him or place him on probation due to alleged violations of R.C. 4731.22(B)(15) and 4731.22(B)(26). The Board advised Dr. Sitarik of his right to request a hearing, and received his request on January 6, 2010. (St. Ex. 1)

Appearances

Richard Cordray, Attorney General, and Barbara Pfeiffer, Assistant Attorney General, on behalf of the State. Dr. Sitarik represented himself.

Hearing Date: January 21, 2010

SUMMARY OF EVIDENCE

All exhibits and the transcript, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

1. Joseph P. Sitarik, D.O., was first licensed to practice in Ohio in 1987. He has been licensed in Ohio since that time, although he closed his private practice in 2008 due to an impairment-related suspension in a consent agreement with the Board. Dr. Sitarik testified that he has been board-certified in general surgery since 1992 and in family medicine since 2000. He testified that he is not licensed in any other state. (Tr. at 9-11)

2. Until November 2008, Dr. Sitarik maintained a solo practice in family medicine in East Liverpool, Ohio. He was also the sole owner and operator of a surgical center in East Liverpool, where he performed general surgery. (Tr. at 9-10)

Step I Consent Agreement

3. In November 2008, Dr. Sitarik entered into a Step I Consent Agreement with the Board. Under this agreement, Dr. Sitarik's certificate to practice was suspended, with specific requirements for reinstatement. Among other things, Dr. Sitarik was required to refrain from the use of alcohol and drugs, and to submit urine specimens on a random basis pursuant to a daily call-in procedure. (St. Ex. 3; Tr. at 10-12)

Step II Consent Agreement & Violation of that Agreement

4. In 2009, Dr. Sitarik completed the requirements for reinstatement of his certificate to practice. In August 2009, he entered into a Step II Consent Agreement under which his certificate was reinstated. (St. Ex. 3 at 2-14; Tr. at 12-13) During its meeting in August 2009, the Board ratified this Step II Consent Agreement. (Minutes of the State Medical Board of Ohio, August 12, 2009, at page 18662)
5. The bases for the Step II Consent Agreement are set forth in the agreement and include that Dr. Sitarik had violated R.C. 4731.22(B)(14) and 4731.22(B)(26), with regard to his impairment involving the use of cocaine. (St. Ex. 3 at 8)
6. In the Step II Consent Agreement (St. Ex. 3 at 3), the Board and Dr. Sitarik noted the following regarding his treatment for chemical dependency and his ability to practice:
 - Dr. Sitarik had entered treatment for chemical dependency at Glenbeigh, a Board-approved treatment provider in Rock Creek, Ohio, on or about November 24, 2008, and he was discharged on or about December 22, 2008, after satisfactorily completing a residential treatment program of at least 28 days;
 - in January 2009 Dr. Sitarik had successfully completed an intensive outpatient program at a Glenbeigh location in Niles, Ohio;
 - Dr. Sitarik had been compliant with the terms of his aftercare contract with Glenbeigh, which required over 100 weekly sessions over a period of at least two years; and
 - Dr. Gregory Collins, a Board-approved treatment provider and the head of the Alcohol & Drug Recovery Center at the Cleveland Clinic, and Dr. Chris Adelman at Glenbeigh, had assessed Dr. Sitarik's ability to practice and had found him capable of practicing according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements were in place.

7. Among other things, this Step II Consent Agreement imposed a requirement that Dr. Sitarik refrain from the use of drugs as follows:

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

(St. Ex. 3 at 6)

8. The Step II Consent Agreement also required Dr. Sitarik to call in every day to learn whether or not he was required to submit a specimen that day. Further, the agreement provides that, if the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Sitarik has violated any part of the agreement, 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 under R.C. 4731.22(G). (St. Ex. 3 at 7, 19; Tr. at 12-13)

9. Dr. Sitarik testified that, pursuant to the Step II agreement, he logged onto a website maintained by FirstLab every day, or called in by telephone, typically early in the morning at about 5:30 to 6:00 a.m. (St. Ex. 3 at 7; Tr. at 12-15)

10. Dr. Sitarik acknowledged that, on November 20, 2009, he had logged onto the FirstLab website and received information that he was scheduled to provide a urine specimen that day. In the late afternoon, he went to Doctors On Call in downtown East Liverpool, a site for providing urine specimens. Dr. Sitarik explained that he had checked in upon arrival and had been obliged to wait for about an hour. (Tr. at 16-19) He stated:

* * * I waited until the end of the day because I knew the results were going to be positive. I was scared to death, and I had an accident in the waiting room in front of patients and colleagues, and so I left, probably half because of my embarrassment, and because what -- I knew what the results would be.

(Tr. at 17)

11. Dr. Sitarik clarified that, by "accident," he meant that he had urinated on himself while in the waiting room. He further stated that, when he had testified that he knew what "the results would be," he was referring to a positive result for the presence of cocaine. (Tr. at 17, 19)
12. Dr. Sitarik testified that, after leaving Doctors On Call, he had telephoned Danielle Bickers at the Board to tell her what had happened with regard to his providing a specimen. (Tr. at 19, 22-24)

13. Dr. Sitarik admitted that he had used cocaine about three days before November 20, 2009. He said that he had sought out a person who had cocaine, obtained some, and then ingested the cocaine by snorting it. (Tr. at 19-20)
14. Dr. Sitarik agreed that he had violated the prohibition in the Step II Consent Agreement regarding the use of drugs. (Tr. at 13-14)

Testimony of Danielle Bickers

15. Danielle Bickers is the Compliance Supervisor for the Board. Among other duties, she tracks compliance with the Board's consent agreements and orders. On November 20, 2009, she received an email from FirstLab advising that Dr. Sitarik had left the urine-collection office without providing a urine specimen on November 20, 2009. (Tr. at 22-24)
16. Ms. Bickers testified that, while she was writing a report regarding this information from FirstLab, she received a phone call from Dr. Sitarik. He reported that he had urinated on himself while waiting to provide the urine specimen, and he stated that, when he was called back into a room to provide the specimen, the staff member had noted the wet trousers, and he had been embarrassed and left. (Tr. at 22-24)
17. Ms. Bickers testified that this situation was unusual, and that it had been decided that a Board investigator would visit Dr. Sitarik to obtain a urine specimen. She stated that Investigator Bill Melago had been sent to obtain a specimen, and Mr. Melago notified her that he had obtained the specimen from Dr. Sitarik at 7:40 p.m. that same day. (Tr. at 25)
18. The urine specimen obtained from Dr. Sitarik on November 20, 2009, was submitted for testing, and FirstLab reported that his urine tested positive for, and was confirmed for the presence of, cocaine metabolites. (St. Exs. 4, 4A; Tr. at 27-29)

Testimony of Sheldon Safko

19. Sheldon Safko, an Enforcement Attorney for the Board, testified with regard to the procedures that the Board had followed in issuing the summary suspension of Dr. Sitarik's certificate. (Tr. at 33-38)
20. Mr. Safko also testified regarding his interactions with Dr. Sitarik, whose demeanor and attitude he described as "very cooperative" and "very gentlemanly." Mr. Safko noted that he had talked with Dr. Sitarik regarding the positive urine screen, and that Dr. Sitarik had maintained that it was an isolated incident. Mr. Safko said he had informed Dr. Sitarik that the Board "was going to see it as a relapse, and because there wasn't the year of sobriety, that they would probably require another 28 days of treatment." Mr. Safko further reported that Dr. Sitarik had indicated that he did not think that an additional 28 days of inpatient treatment was necessary under the circumstances. (Tr. at 39-40)

Testimony by Dr. Sitarik

21. Dr. Sitarik testified regarding the history of his treatment and recovery efforts. He acknowledged that, at the time he had entered inpatient treatment at Glenbeigh in November 2008, he had had “serious addiction problems.” He stated that, before entering that program, he was using cocaine, was addicted to Vicodin, and was drinking too much. Dr. Sitarik testified that, since entering the treatment program, he had learned a lot of recovery tools to use. For example, he had learned how to access group support, both AA and Caduceus meetings, and to work with his AA sponsor (Tr. at 48)
22. Dr. Sitarik noted that, after his certificate was reinstated in August 2009, he and his wife had worked to reopen his practice in family medicine and general surgery, and he had expected to reopen his office at the beginning of December 2009. He explained that it took many weeks because he had lost his DEA number and his Medicare and Medicaid numbers. He explained that in a depressed community such as East Liverpool, in which 60% of the practice’s income is received from those government programs, he could not reopen financially until he had regained eligibility for those payments. Dr. Sitarik stated that his use of cocaine had occurred about a week before his office was scheduled to reopen. He stated that the reopening did not occur following the positive urine screen. Accordingly, Dr. Sitarik has not practiced medicine since the initial suspension in November 2008 under the Step I Consent Agreement. (Tr. at 38-39, 56, 61-63)
23. Dr. Sitarik testified that this one use of cocaine in 2009 was his only relapse after entering treatment in November 2008, and he insisted that there has been no other relapse. He stated: “I’ve not had a drop of alcohol or a single pill for the last year and three months.” (Tr. at 48-49, 62)
24. Dr. Sitarik explained that, after his relapse in November 2009, he had employed the recovery tools he had learned, even before November 20, 2009, when he was required to provide a urine specimen. He stated that he had already contacted his sponsor and told his groups at AA and Caduceus. (Tr. at 48)
25. He acknowledged that, at the time of the relapse, he had not known why it happened. Dr. Sitarik testified that, since then, he has come to an understanding of why he chose to use cocaine shortly before his practice was scheduled to reopen. (Tr. at 48-49) He believes that the reason was that he had not really wanted to return to work in his solo family practice and surgery center in East Liverpool:

A. I do know that this situation that I was about to step back into, i.e., the office and surgical center, was something I know now that I don’t want. I didn’t want. I had – Sorry.¹

* * *

¹At this point, Dr. Sitarik became somewhat overcome with emotion and took a few moments to collect himself before resuming his testimony.

I live in a real small town. Became very popular and very relied on, and probably bit off more than I could chew.

Q: You mean professionally?

A. Yeah. I suppose one of the things I did * * *, I became almost everybody's friend. Patients had my cell phone [number], you know. For the entire year that I was off practice I'd get three calls a day. "When are you coming back I need to see you. I got this lump on my face. My cholesterol is up. So and so doctor did this, what do you think about that?" They still, despite the fact that I was gone, were waiting for me.

And as much as I need to be needed, I think that was overwhelming for me. And as much as I felt impelled to go back for financial reasons, and felt as though I had a whole town waiting for me, I was scared to death to go back.

The surgical center is up for sale, and the whole town knows the practice is closed, that I'm done. So I will not step back into that practice. I will not reopen the surgical center. I don't what I'll do if I get my license back, but I know I can't go back and do that.

(Tr. at 49-50)

26. Dr. Sitarik was asked to elaborate further as why, when things were going so well with returning to work, he had used cocaine. He answered that, at the time, he did not have a reasonable answer and his conduct had surprised him as much as anyone. However, he explained that, since that time, he has talked with his sponsor and his Caduceus group, who have "been there and done that," and they helped him to understand his actions. He now believes it was "a subconscious thing," that he didn't want to go back to the surgical center and his office with "the responsibilities of all of it." (Tr. at 60) He explained further:

And the best example I can give you of that is I spent a year without feeling a knot in my stomach, that tension of got to do and this overwhelming responsibility on your shoulders.

And my wife [name omitted] would do things like apply for my Medicare number, call the phone company and get the phone lines hooked back up, and I'd feel that knot. I'd get that tension, stress.

I guess that was -- should have been my first sign that I didn't want to go back to doing what I had been doing, but I didn't recognize it * * *.

(Tr. at 60-61)

27. Nonetheless, Dr. Sitarik testified that he wants “very much” to return to the practice of medicine. However, he noted that he feels “very strongly” about returning for another 28 days of inpatient treatment. He noted that, after the November 2009 relapse, he had spoken with Mr. Safko, who indicated that his choices were to go back to treatment for 28 days or face a summary suspension with its accompanying procedures, and he had chosen to face a summary suspension. (Tr. at 51-52) Dr. Sitarik explained why he does not want to return for further inpatient treatment:

I'm still paying off my last rehab, number one. I don't have the funds. The fact that I don't have an attorney today is -- I don't have the funds to go back to rehab, it's \$25,000.

And even bigger than that is I don't feel like I need it. I feel like I learned what I learned, I used what I learned, and it got me out of the rut I was about to get into. It got me out of the wherever I was starting to head.

I'm not the person I was a year ago, and if you talk to -- and, you know, my wife wanted to come and be a witness, and I wouldn't let her.

But I have a huge amount of support from my kids and my wife, and I know that's there because they see a person they didn't see a year ago. So to this day I don't feel prepared that I'll go back to rehab if that's what the Board requires.

I ask that I resume on -- I don't know what we do from here. Another suspension. Back to the program I was in. But hopefully without the requirement of a 28-day inpatient rehab.

(Tr. at 51)

28. Dr. Sitarik wants the Board “to believe in and follow the program” that the Board has already outlined for his rehabilitation. He stated that, since the relapse, he has successfully remained clean and sober, and has continued to attend AA and Caduceus. He testified that he has remained “very compliant” except for his “one oops,” and he is convinced that he can comply and wants to comply. (Tr. at 48, 54-55, 62)
29. Dr. Sitarik explained why, following the relapse in November 2009, he had ceased compliance with the monitoring requirements in his Step II Consent Agreement such as ceasing to participate in the random urine screens:

* * * [M]y logic at that point was -- and some of this I discussed with Attorney Safko -- is I felt as though if this wasn't going to happen for me, and I just blew everything down the drain, I got to move on with my life.

I've got a family that depends on me. I've not generated any income for the last year. My agreement with FirstLab was costing me anywhere from \$160 to \$200 a month. My outpatient after-care was costing me \$120 a month to go to Glenbeigh. And based on all of those constraints, I couldn't find a full-time job.

So I've been working. I mean, I've been working construction, I've been plowing snow, I've been selling firewood. I mean, I've basically been full-time employed in lieu of today and waiting to see what happened today.

And I understand that may have been a mistake and that may look bad on me to the Board like, well, why did he drop out of the entire program. And my reasoning is I needed to get on with whatever was going to happen. If my profession was a wash, I owe my family something.

(Tr. at 53)

30. Dr. Sitarik was asked whether, if the Board orders that he must participate in 28 days of inpatient treatment in order to get his certificate back, he would comply with that requirement, and he answered as follows:

Right now I sense that the answer is no, I wouldn't do that again. *When truly faced with the reality, I can't tell you what I would do.* It seems, you know, part of me, seems foolish to trade 14 years of postgraduate education for a 28-day stay, and I know that sounds ridiculous.

I understand it sounds ridiculous. But I'm very much a man of conviction, and it felt right going in last time. It doesn't feel right now.

(Tr. at 52) (emphasis added)

31. When asked whether he is ready to reenter the Board's monitoring program, Dr. Sitarik responded: "I want my license back, and I want to do whatever it takes. And *I don't know* if that includes an inpatient stay * * *." (Tr. at 56) Dr. Sitarik made clear that he has no problem complying with the sobriety requirement, and he reiterated that he has maintained sobriety since November 2008 except for the single incident in November 2009. He stated that he "love[s] living like this" in sobriety and has "not felt this good in years." He stated that, except for a requirement of another 28 days of inpatient treatment, he is ready and willing to rededicate himself to the Board's requirements for impaired practitioners. (Tr. at 56, 62-63)
32. With regard to the inpatient treatment completed in December 2008, Dr. Sitarik testified that the program had included counseling regarding the warning signs of relapse and the

signals to watch for. He stated that he had learned that the warning signs are “anxiety, tension, fatigue, anger.” He acknowledged that these warning signs had been present before his November 2009 relapse, and that he had ignored them. (Tr. at 63) Dr. Sitarik was then asked why he believed that he did not need any further inpatient treatment, given that he had known these warning signs but had ignored them and experienced a relapse. (Tr. at 63-64) He responded:

Well, you learn from your mistakes. I mean, we make mistakes and all we can do is build on them. We can hope to not repeat them.

As much as I'm not proud of what I did, I can't take it back, I can't go backwards. I believe I'm better prepared now than I was prior to that because I know what happened. I believe I know why I did it, and I hope not to repeat it. Can I look you in the eye and tell you it's not going to happen again? I can't do that. I can't do that.

(Tr. at 64)

33. Last, Dr. Sitarik was asked to explain the kind of medical work he would like to do if he regains his certificate to practice:

* * * I ask myself that every day. To be honest, I'd like to go to Iraq and operate on kids. I don't care about money anymore. I kind of want to be needed, and I want to be appreciated, which I was, but also, to an extent, used in the setting I was in. Too many people relied on me for too many things.

I like full-time surgery, it's always been my love. I did family practice because my relationship with the local hospital fell apart, and to make up the lost income from full-time surgery I did family practice.

And as much as I love the person-to-person contact and the ability to be there when people need you the most, my love is surgery. So, really, my wish is to sell off, move towns, and go to a hospital and operate full-time.

(Tr. at 61-62)

SELECTED STATUTES AND RULES

1. Ohio Administrative Code [Rule] 4731-16-02(B)(3)(a)(i) provides that, before an impaired practitioner can be eligible for reinstatement of a suspended license, the impaired practitioner must demonstrate that he can resume practice in compliance with acceptable and prevailing standards of care.²

²On its face, Rule 4731-16-02(B)(3)(a)(i) does not apply to Dr. Sitarik's circumstances, but the rule is applied to a broader group by means of Rule 4731-16-02(C).

Rule 4731-16-02(B)(3)(a)(i) provides that this demonstration “shall include” the following: certification from a board-approved treatment provider that the individual has successfully completed all required treatment, which “shall include inpatient or residential treatment that extends a minimum of twenty-eight days.” The rule provides an exception when the impaired individual has previously completed an inpatient or residential treatment program of at least 28 days *and* has maintained sobriety for at least one year following completion of that inpatient/residential treatment.

2. Rule 4731-16-02(D) requires that an individual who has experienced a first relapse during or following treatment shall be ineligible to apply for reinstatement for at least 90 days following the date of license suspension.
3. R.C. 4731.22(B)(26) provides that, if the Board determines that an individual’s ability to practice is impaired, the Board shall suspend the individual’s certificate. This section also provides that the Board shall require the individual to submit to treatment as a condition for reinstatement of the certificate. Further, R.C. 4731.22(B)(26) provides:

* * * Before being eligible to apply for reinstatement of a certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner’s certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual’s ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. * * *
When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. * * *

4. Rule 4731-16-02(B)(1) provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the licensee, and may issue an order of summary suspension as provided in R.C. 4731.22(G). Further, Rule 4731-16-02(B)(2) provides that if an individual has relapsed during or following treatment, the relapse shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination.

FINDINGS OF FACT

1. In August 2009, Joseph P. Sitarik, D.O., entered into a Step II Consent Agreement with the Board. It was based on his violation of R.C. 4731.22(B)(14) and 4731.22 (B)(26), relating to his impairment involving the use of cocaine.
2. As part of the Step II Consent Agreement, Dr. Sitarik agreed to comply with an array of probationary terms, conditions and limitations for a period of at least five years. These probationary terms, conditions, and limitations were in effect as of August 12, 2009, and remain in effect to the present. Among other things, the Step II Consent Agreement requires that Dr. Sitarik shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of his history of chemical dependency.
3. On November 20, 2009, Dr. Sitarik provided a urine specimen that tested positive for and was confirmed for the presence of cocaine metabolites. During the hearing, Dr. Sitarik admitted that he had used cocaine on one occasion about three days before this specimen was provided.
4. In the Step II Consent Agreement, Dr. Sitarik also agreed that, if the Secretary and Supervising Member of the Board were to determine that there is clear and convincing evidence that he had violated any term, condition or limitation of the agreement, that violation, as alleged, would also constitute 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 R.C. 4731.22(G).

CONCLUSIONS OF LAW

1. Dr. Sitarik's acts, conduct, and/or omissions as set forth above in Findings of Fact 1 through 3, individually and/or collectively, establish "[i]mpairment 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," as that language is used in R.C. 4731.22(B)(26).
2. Further, Dr. Sitarik's acts, conduct, and/or omissions as set forth in Findings of Fact 1 through 3, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that language is used in R.C. 4731.22(B)(15).
3. Last, the content of the Step II Consent Agreement together with the laboratory evidence showing Dr. Sitarik's use of cocaine in November 2008, as set forth above in Findings of Fact 1 through 4, establish that the Board had sufficient grounds for summary suspension of Dr. Sitarik's certificate pursuant to R.C. 4731.22(G).

Discussion of Proposed Order

- It is undisputed that Dr. Sitarik ingested cocaine while on probation under his Step II Consent Agreement, thus violating the agreement.
- This relapse occurred after Dr. Sitarik had been discharged from inpatient treatment in December 2008. Accordingly, this relapse was a first relapse after treatment.
- Dr. Sitarik had less than eleven months of sobriety following completion of his inpatient treatment. In these circumstances, the Ohio Administrative Code requires that Dr. Sitarik's certificate must be suspended for at least 90 days and also requires that, in order for him to be eligible for reinstatement of his certificate, he must demonstrate completion of an additional 28 days of inpatient treatment.
- If, during the hearing, Dr. Sitarik had stated unequivocally that he has no interest in returning to the practice of medicine under the Board's requirements for treatment and monitoring, or that he has no intention of ever participating in another 28 days of inpatient treatment, the Hearing Examiner would recommend a non-permanent revocation. This would allow him to reapply for licensure when and if he is ready to comply with the Board's requirements for impaired practitioners. If Dr. Sitarik had been adamant that he will never seek reinstatement if the Board requires inpatient treatment, then there would be no point in imposing terms and conditions for suspension and reinstatement.

However, Dr. Sitarik stated that he wants to return to the practice of medicine and is willing to maintain sobriety, participate in random urine screens, attend rehabilitation meetings, and comply with other monitoring requirements. Although he expressed reluctance and uncertainty as to whether he would participate in further inpatient treatment if ordered as a condition of reinstatement, his testimony was equivocal on this point, and, therefore, the Hearing Examiner has proposed terms and conditions relating to a potential return to practice following a suspension, including inpatient treatment as a condition for reinstatement.

- The Proposed Order also includes a section titled "Drug-Associated Restrictions," which is modeled after a provision in Dr. Sitarik's Step II Consent Agreement. In addition, requirements for a monitoring physician were included in the Step II Consent Agreement and are also included in the Proposed Order.

PROPOSED ORDER

- A. **REVOCATION, STAYED; SUSPENSION OF CERTIFICATE:** The certificate of Joseph P. Sitarik, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be REVOKED; such revocation is STAYED, and the certificate shall be SUSPENDED for an indefinite period of time, but not less than 180 days from December 9, 2009, when the Board summarily suspended the certificate.

B. **INTERIM MONITORING:** During the period that Dr. Sitarik's certificate to practice in Ohio is suspended, Dr. Sitarik shall comply with the following terms, conditions, and limitations:

1. **Obey the Law:** Dr. Sitarik shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio. Dr. Sitarik shall obey all terms and conditions imposed by the court in *City of East Liverpool v. Sitarik*, Case No. 2008 CR B 02095.
2. **Declarations of Compliance:** Dr. Sitarik 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 Order. The first quarterly declaration must be received in the Board's offices on or before the date his quarterly declaration would have been due pursuant to his August 2009 Step II Consent Agreement, or as otherwise directed by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

At the time Dr. Sitarik submits his declarations of compliance, Dr. Sitarik shall submit declarations under penalty of Board disciplinary action and/or criminal prosecution stating whether he has complied with all the terms, conditions, and limitations imposed by the court in *City of East Liverpool v. Sitarik*, Case No. 2008 CR B 02095.

3. **Personal Appearances:** Dr. Sitarik shall appear in person for interviews before the Board or its designated representative. The first such appearance shall take place on or before the date his appearance would have been scheduled pursuant to his Step II Consent Agreement, or as otherwise directed by the Board. Subsequent personal appearances shall occur every three months thereafter and/or as otherwise directed 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. **Sobriety**
 - a. **Abstinence from Drugs:** Dr. Sitarik shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed, or administered to him by another so authorized by law who has full knowledge of Dr. Sitarik's history of chemical dependency and/or abuse and who may lawfully prescribe for him (for example, a physician who is not a family member). Further, in the event that Dr. Sitarik is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Dr. Sitarik shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Sitarik received, the medical purpose for which he received the drug, the date the drug was initially received, and the dosage, amount, number of

refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Sitarik shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

- b. **Abstinence from Alcohol:** Dr. Sitarik shall abstain completely from the use of alcohol.

5. **Drug and Alcohol Screens; Drug Testing Facility and Collection Site**

- a. Dr. Sitarik shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Sitarik 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, and shall include Dr. Sitarik's drug(s) of choice.
- b. Dr. Sitarik shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" may also be used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Sitarik shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Sitarik shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Sitarik shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-

screening process and to preserve the confidentiality of positive screening results in accordance with Ohio Revised Code Section 4731.22(F)(5). The screening process for random testing shall require a daily call-in procedure.

Further, in the event that the Board exercises its discretion, as provided in Paragraph 6, below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.

- e. Within 30 days of the effective date of this Order, Dr. Sitarik shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site ("DFCS") in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Sitarik shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Sitarik and the Board-approved DFCS. Dr. Sitarik's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Sitarik shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, 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, Dr. Sitarik and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Sitarik shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Sitarik shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 6, below, as soon as practicable. Dr. Sitarik shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefor.
- i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine

that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Sitarik shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Sitarik, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Sitarik.

- a. Within 30 days of the date on which Dr. Sitarik is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Sitarik, he shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Sitarik shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Sitarik's residence or employment location, or to a physician who practices in the same locale as Dr. Sitarik. Dr. Sitarik shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure, 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, Dr. Sitarik shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Sitarik shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Sitarik shall immediately notify the Board in writing. Dr. Sitarik shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefor. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Sitarik shall, in order to ensure that there will be no interruption in his urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the

Board approves a different DFCS or supervising physician, if requested by Dr. Sitarik.

- d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Sitarik's designated alternative DFCS or any person proposed to serve as his supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Sitarik's declarations of compliance. It is Dr. Sitarik's responsibility to ensure that reports are timely submitted.
8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Sitarik shall provide a specimen of his blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Sitarik, or for any other purpose, at Dr. Sitarik's expense. Dr. Sitarik's refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Dr. Sitarik shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than **three** times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Sitarik shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Sitarik's declarations of compliance.

10. **Releases:** Dr. Sitarik 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. Sitarik's chemical dependency and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

Dr. Sitarik shall also provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event Dr. Sitarik 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 Order.

11. **Comply with the Terms of Aftercare Contract:** Dr. Sitarik shall maintain continued compliance with the terms of any aftercare contract entered into with his treatment provider(s), provided that, where terms of an aftercare contract conflict with terms of this Order, the terms of this Order shall control.
12. **Absences from Ohio:** Dr. Sitarik shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the suspension/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. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Dr. Sitarik resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Sitarik may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Sitarik is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

13. **Required Reporting of Change of Address:** Dr. Sitarik shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Sitarik's certificate to practice osteopathic medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Sitarik shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Compliance with Interim Conditions and Terms of Court Order:** Dr. Sitarik shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.

At the time he submits his application for reinstatement or restoration, Dr. Sitarik shall submit to the Board certification from the Court in *City of East Liverpool v. Sitarik*, Case No. 2008 CR B 02095 (as referenced in the August 2009 Step II Consent Agreement), dated no earlier than 60 days prior to Dr. Sitarik's application for reinstatement or restoration, indicating that Dr. Sitarik has maintained full compliance with the terms and conditions imposed by the court.

3. **Demonstration of Ability to Resume Practice:** Dr. Sitarik shall demonstrate to the satisfaction of the Board that he can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Sitarik has successfully completed a minimum of 28 days of inpatient/residential treatment for chemical dependency at a treatment provider approved by the Board.
 - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25. Such evidence shall include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Sitarik's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependency/abuse.

The reports shall have been 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. Sitarik. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Sitarik shall provide the assessors with copies of patient records from any evaluation and/or treatment that he has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Sitarik, and any conditions, restrictions, or limitations that should be imposed on Dr. Sitarik's practice. The reports shall also describe the basis for the assessor'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 or restoration. Further, at the discretion of the

Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

4. **Additional Evidence of Fitness To Resume Practice:** In the event that Dr. Sitarik has not been engaged in the practice of osteopathic medicine as an active practitioner for a period in excess of two years prior to his application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222 of the Revised Code to require additional evidence of his fitness to resume practice.

D. **PROBATION:** Upon reinstatement or restoration, Dr. Sitarik's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least **five** years:

1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Sitarik shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
2. **Monitoring Physician:** Before engaging in any medical practice, Dr. Sitarik shall submit to the Board in writing 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. Sitarik and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Sitarik and his medical practice, and shall review Dr. Sitarik'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. Sitarik's medical practice, and on the review of Dr. Sitarik's patient charts. Dr. Sitarik 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. Sitarik's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Sitarik must immediately so notify the Board in writing. In addition, Dr. Sitarik 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. Sitarik 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 therefor.

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

3. **Controlled Substances Log**: Dr. Sitarik shall keep a log of all controlled substances he prescribes, orders, administers, or personally furnishes. Such log shall be submitted in a format of Dr. Sitarik's choosing and approved in advance by the Board. All such logs required under this paragraph must be received in the Board's offices no later than the due date for Dr. Sitarik's declarations of compliance, or as otherwise directed by the Board. Further, Dr. Sitarik shall make his/her patient records with regard to such controlled substances available for review by an agent of the Board upon request.

4. **Drug-Associated Restrictions**: If Dr. Sitarik desires to practice in an office or facility in which his practice would be facilitated by being authorized to have possession of controlled substances during work periods, he may request permission to possess controlled substances during work periods under terms, limitations, and conditions to be determined by the Board. The Board, in its sole discretion, may determine whether to grant or deny this permission to Dr. Sitarik, and to determine the terms, limitations, and conditions under which he may possess controlled substances during work periods for purposes of his practice of medicine. The Board may choose to impose the same terms, limitations and conditions as set forth in its August 2009 Step II Consent Agreement with Dr. Sitarik, or it may choose to modify and/or supplement those terms, limitations and conditions.

If Dr. Sitarik submits such a request, and if it is granted, then the terms, limitations and/or conditions imposed by the Board shall be deemed to constitute terms, limitations and conditions of this Probation, under Section D of this Order.

5. **Modification of Terms**: Dr. Sitarik shall not request modification of the terms, conditions, or limitations of probation for at least 180 days after imposition of these probationary terms, conditions, and limitations.

6. **Tolling of Probationary Period While Out of Compliance**: In the event Dr. Sitarik is found by the Secretary of the Board to have failed to comply with any provision of this Order, 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 Order.

- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Sitarik's certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Sitarik violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Sitarik shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where he has privileges or appointments. Further, Dr. Sitarik shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments. This requirement shall continue until Dr. Sitarik receives from the Board written notification of the successful completion of his probation.

In the event that Dr. Sitarik provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services. This requirement shall continue until Dr. Sitarik receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Sitarik shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Sitarik shall provide a copy of this Order at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Sitarik receives from the Board written notification of the successful completion of his probation.
3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Sitarik shall provide a copy of this Order to all

persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Sitarik. This requirement shall continue until Dr. Sitarik receives from the Board written notification of the successful completion of his probation.

4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Sitarik shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (1) the return receipt of certified mail within 30 days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

EFFECTIVE DATE: This Order shall become effective immediately upon the mailing of the notification of approval by the Board, at which time this Order will supersede the order of summary suspension and Dr. Sitarik's Step II Consent Agreement.


Patricia A. Davidson
Hearing Examiner

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

EXCERPT FROM THE DRAFT MINUTES OF APRIL 14, 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 and Proposed Orders, and any objections filed in the matters of: George D. J. Griffin, III, M.D.; Narendra Kumar Gupta, M.D.; Daniel M. Moshos, D.O.; Joseph P. Sitarik, D.O.; Craig Warren-Marzola, D.O. A roll call was taken:

ROLL CALL:	Dr. Stafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- 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. Stafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Amato	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Suppan	- 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.

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.

.....

JOSEPH P. SITARIK, D.O.

Dr. Amato exited the meeting prior to this discussion. Dr. Suppan assumed the chair.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER IN THE MATTER OF JOSEPH P. SITARIK, D.O. MR. HAIRSTON SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh's motion to approve and confirm:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Madia	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Varyani	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- 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

December 9, 2009

Case number: 09-CRF-163

Joseph P. Sitarik, D.O.
47990 Calcutta-Smith Ferry Rd.
East Liverpool, Ohio 43920

Dear Doctor Sitarik:

Enclosed please find certified copies of the Entry of Order, the Notice of Summary Suspension and Opportunity for Hearing, and an excerpt of the Minutes of the State Medical Board, meeting in regular session on December 9, 2009, including a Motion adopting the Order of Summary Suspension and issuing the Notice of Summary Suspension and Opportunity for Hearing.

You are advised that continued practice after receipt of this Order shall be considered practicing without a certificate, in violation of Section 4731.43, Ohio Revised Code.

Pursuant to Chapter 119, Ohio Revised Code, you are hereby advised that you are entitled to a hearing on the matters set forth in the Notice of Summary Suspension and Opportunity for Hearing. If you wish to request such hearing, that request must be made in writing and be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice. Further information concerning such hearing is contained within the Notice of Summary Suspension and Opportunity for Hearing.

THE STATE MEDICAL BOARD OF OHIO


Lance A. Talmage, M.D., Secretary

LAT/SRS/flb
Enclosures

Mailed 12-10-09

CERTIFICATION

I hereby certify that the attached copies of the Entry of Order of the State Medical Board of Ohio and the Motion by the State Medical Board, meeting in regular session on December 9, 2009, to Adopt the Order of Summary Suspension and to Issue the Notice of Summary Suspension and Opportunity for Hearing, constitute true and complete copies of the Motion and Order in the Matter of Joseph P. Sitarik, D.O., Case number: 09-CRF- 163 as they appear in the Journal of the State Medical Board of Ohio.

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


Lance A. Talmage, M.D., Secretary

(SEAL)

December 9, 2009
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :
JOSEPH P. SITARIK, D.O. :
CASE NUMBER: 09-CRF- 163 :

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 9th day of December 2009.

Pursuant to Section 4731.22(G), Ohio Revised Code, and pursuant to the Step II Consent Agreement Between Joseph P. Sitarik, D.O., and the State Medical Board of Ohio, effective August 12, 2009, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member; and

Pursuant to their determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that there is clear and convincing evidence that Joseph P. Sitarik, D.O., has violated Sections 4731.22(B)(15) and 4731.22(B)(26), Ohio Revised Code, as alleged in the Notice of Summary Suspension and Opportunity for Hearing that is enclosed herewith and fully incorporated herein; and,

Pursuant to their further determination, based upon their review of the information supporting the allegations as set forth in the Notice of Summary Suspension and Opportunity for Hearing, that Dr. Sitarik's continued practice presents a danger of immediate and serious harm to the public;

The following Order is hereby entered on the Journal of the State Medical Board of Ohio for the 9th day of December, 2009:

It is hereby ORDERED that the certificate of Joseph P. Sitarik, D.O., to practice osteopathic medicine and surgery in the State of Ohio be summarily suspended.

It is hereby ORDERED that Joseph P. Sitarik D.O., shall immediately cease the practice of osteopathic medicine and surgery in Ohio and immediately refer all active patients to other appropriate physicians.

This Order shall become effective immediately.

(SEAL)


Lance A. Talmage, M.D., Secretary

December 9, 2009
Date



State Medical Board of Ohio

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

Richard A. Whitehouse, Esq.
Executive Director

med.ohio.gov

EXCERPT FROM THE DRAFT MINUTES OF DECEMBER 9, 2009

JOSEPH P. SITARIK, D.O. – ORDER OF SUMMARY SUSPENSION AND NOTICE OF OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Order of Summary Suspension and Notice of Opportunity For Hearing in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

DR. STEINBERGH MOVED TO ENTER AN ORDER OF SUMMARY SUSPENSION IN THE MATTER OF JOSEPH P. SITARIK, D.O., IN ACCORDANCE WITH SECTION 4731.22(G), OHIO REVISED CODE, AND TO ISSUE THE NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING. MR. HAIRSTON SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Varyani	- aye
	Dr. Talmage	- abstain
	Dr. Suppan	- aye
	Mr. Ogg	- aye
	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Amato	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Madia	- 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
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NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

December 9, 2009

Case number: 09-CRF- **163**

Joseph P. Sitarik, D.O.
47990 Calcutta-Smith Ferry Rd.
East Liverpool, Ohio 43920

Dear Doctor Sitarik:

The Secretary and the Supervising Member of the State Medical Board of Ohio [Board] have determined that there is clear and convincing evidence that you have violated Sections 4731.22(B)(15) and 4731.22(B)(26), Ohio Revised Code, and have further determined that your continued practice presents a danger of immediate and serious harm to the public, as set forth in paragraphs (1) through (3), below.

Therefore, pursuant to Section 4731.22(G), Ohio Revised Code, and pursuant to the Step II Consent Agreement Between Joseph P. Sitarik, D.O., and the State Medical Board of Ohio, effective August 12, 2009 [August 2009 Step II Consent Agreement], a copy of which is attached hereto and incorporated herein, and upon recommendation of Lance A. Talmage, M.D., Secretary, and Raymond J. Albert, Supervising Member, you are hereby notified that, as set forth in the attached Entry of Order, your certificate to practice osteopathic medicine and surgery in the State of Ohio is summarily suspended. Accordingly, at this time, you are no longer authorized to practice osteopathic medicine and surgery in Ohio.

Furthermore, in accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the Board intends to 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 for one or more of the following reasons:

- (1) Your current August 2009 Step II Consent Agreement is based upon your violation of Sections 4731.22(B)(14) and (B)(26), Ohio Revised Code, relating to your impairment involving the abuse of cocaine.
- (2) As part of the August 2009 Step II Consent Agreement, you agreed to comply with specified probationary terms, conditions and limitations for a period of at least five

years. In Paragraph 8 of the August 2009 Step II Consent Agreement, you agreed that you shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to you by another so authorized by law who has full knowledge of your history of chemical dependency.

Despite this requirement, a urine specimen that you provided on or about November 20, 2009, tested positive for, and was confirmed for the presence of cocaine metabolites.

- (3) In the "Failure To Comply" provision of your August 2009 Step II Consent Agreement, you contractually agreed that, if the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that you have violated any term, condition or limitation of the agreement, such violation, as alleged, also constitutes clear and convincing evidence that your 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.

Section 4731.22(B)(26), Ohio Revised Code, provides that if the Board determines that an individual's ability to practice is impaired, the Board shall suspend the individual's certificate and shall require the individual, as a condition for continued, reinstated, or renewed certification to practice, to submit to treatment and, before being eligible to apply for reinstatement, to demonstrate to the Board the ability to resume practice in compliance with acceptable and prevailing standards of care, including completing required treatment, providing evidence of compliance with an aftercare contract or written consent agreement, and providing written reports indicating that the individual's ability to practice has been assessed by individuals or providers approved by the Board and that the individual has been found capable of practicing according to acceptable and prevailing standards of care.

Further, Rule 4731-16-02(B)(1), Ohio Administrative Code, provides that if an examination discloses impairment, or if the Board has other reliable, substantial and probative evidence demonstrating impairment, the Board shall initiate proceedings to suspend the licensee, and may issue an order of summary suspension as provided in Section 4731.22(G), Ohio Revised Code.

Further, Rule 4731-16-02(B)(2), Ohio Administrative Code, additionally provides that if an individual has relapsed during or following treatment, it shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (3) above, individually and/or collectively, constitute "[i]mpairment 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," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (3) above, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as that clause is used in Section 4731.22(B)(15), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, and Chapter 4731., Ohio Revised Code, you are hereby advised that you are entitled to a hearing concerning these matters. 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.

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/SRS/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3070 8709
RETURN RECEIPT REQUESTED

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

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

Dr. Sitarik 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 a violation of Section 4731.22(B)(26), Ohio Revised Code, 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." and/or Section 4731.22(B)(14), Ohio Revised Code, for "[c]ommission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(14) and (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 Consent Agreement.
- C. Dr. Sitarik is seeking reinstatement of his certificate to practice osteopathic medicine and surgery, license number 34.004441, which was revoked, with said revocation stayed, and indefinitely suspended, but not less than 150 days, pursuant to the Step I Consent Agreement Between Joseph P. Sitarik, D.O. and the State Medical Board of Ohio [November 2008 Step I Consent Agreement], effective November 12, 2008, a copy of which is attached hereto and incorporated herein.

- D. Dr. Sitarik states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Sitarik admits that he entered treatment for chemical dependency at Glenbeigh, a Board-approved treatment provider in Rock Creek, Ohio, on or about November 24, 2008, and that he was discharged on or about December 22, 2008, after satisfactorily completing a residential program of at least 28 days.

Dr. Sitarik further admits that he successfully completed an intensive outpatient program at Glenbeigh's satellite office in Niles, Ohio from on or about December 23, 2008 through January 5, 2009. Dr. Sitarik further admits that on or about December 19, 2008, he entered into an aftercare contract with Glenbeigh. The Board acknowledges receipt of information to support that Dr. Sitarik has remained compliant with the terms of his aftercare contract with Glenbeigh, which consists of at least 104 weekly sessions over a period of a minimum of two years.

Dr. Sitarik states and the Board acknowledges that Gregory Collins, M.D., Section Head, Alcohol & Drug Recovery Center for the Cleveland Clinic, a Board approved treatment provider; and Chris Adelman, M.D. of Glenbeigh, have each provided written reports opining that Dr. Sitarik's ability to practice has been assessed and that he has been found capable of practicing osteopathic medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place. Such treatment and monitoring requirements include that he continue to participate in aftercare, undergo random urine screening, and participate in at least three AA meetings and at least one Caduceus meeting per week.

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. Sitarik to practice osteopathic medicine and surgery in the State of Ohio shall be REINSTATED, and Dr. Sitarik knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Sitarik shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio, and any terms of probation which may be imposed by the Court in criminal case number Case # 2008 CR B 02095, City of East Liverpool vs. Sitarik.
2. Dr. Sitarik 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 November 2008 Consent Agreement with the Board, or as otherwise requested by 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. Sitarik 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 November 2008 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. Sitarik 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. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the probationary terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Sitarik resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Sitarik may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Sitarik is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.
5. In the event Dr. Sitarik 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. For the purposes of facilitating Dr. Sitarik's practice in an ambulatory surgical facility, Dr. Sitarik shall be permitted to possess controlled substances during work periods at such a surgical facility, in accordance with this paragraph, and as allowed under paragraph 8 below. Otherwise, Dr. Sitarik shall not administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law.

Dr. Sitarik's possession of controlled substances during work periods at such a surgical facility shall be limited to controlled substances obtained by Dr. Sitarik for administration to patients during the work period in which the controlled substances are acquired. Prior to accepting possession of any controlled substances, Dr. Sitarik shall ensure that an accounting of the amounts and types of controlled substance being released to him has been performed and documented by another, who is legally authorized to possess such controlled substances. At or prior to the end of the work period, Dr. Sitarik shall return the unused controlled substances, to another who is legally authorized to possess such controlled substances, and shall ensure that an accounting of the amounts and types of controlled substances returned by him is performed and documented. In addition, Dr. Sitarik shall provide to the individual performing the accounting of the unused medications, a log detailing the amount and type of the controlled substance administered to each patient during the work period, as well as the name of the patient to whom the medication was administered, and shall ensure that a comparative audit is performed to determine whether or not all controlled substances released to him during the work period are appropriately accounted for, and shall further ensure that a comparative audit report is prepared reflecting the audit findings. Dr. Sitarik shall not dispose of any unused "waste" controlled substances.

In addition, Dr. Sitarik shall ensure that an assay is performed of the contents of at least one vial, or equivalent unit, of unused medications returned during a one week period; that such vial, or equivalent unit, is randomly selected; and that all assay reported are forwarded directly to the Board on a quarterly basis. The costs associated with such assay shall be borne by Dr. Sitarik.

In the event that the comparative audit report reveals a discrepancy related to controlled substances possessed, administered, and returned, or should an assay report indicate that the controlled substance tested is adulterated, Dr. Sitarik shall immediately notify the Board. Such notice shall be through telephone communication to the Board at the earliest opportunity, and shall be followed by written communication to the Board within 72 hours. In addition, Dr. Sitarik shall ensure that all such reports are immediately forwarded directly to the Board.

Otherwise, all comparative audit reports and assay reports acquired under this paragraph must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declaration. It is Dr. Sitarik's responsibility to ensure that all reports acquired pursuant to this paragraph are timely submitted.

7. Dr. Sitarik 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. Sitarik's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Sitarik shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

Sobriety

8. Dr. Sitarik shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Sitarik's history of chemical dependency. Further, in the event that Dr. Sitarik is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Sitarik shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Sitarik received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Sitarik shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
9. Dr. Sitarik shall abstain completely from the use of alcohol.

Drug and Alcohol Screens/Drug Testing Facility and Collection Site

10. Dr. Sitarik shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. Dr. Sitarik 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, and shall include Dr. Sitarik's drug(s) of choice.

Dr. Sitarik shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Sitarik acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, that provides for the Board to maintain ultimate control over the urine screening process and to preserve the confidentiality of all positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code, and the screening process shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 11 below, to approve urine screenings to be conducted at an alternative drug testing facility and/or collection site or a supervising physician, such approval shall be expressly contingent upon the Board retaining ultimate control over the urine screening process

in a manner that preserves the aforementioned confidentiality of all positive screening results.

Dr. Sitarik shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Sitarik shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, Dr. Sitarik shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Sitarik and the Board-approved drug testing facility and/or collection site. Dr. Sitarik's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement. However, Dr. Sitarik and the Board further agree that in the event Dr. Sitarik previously entered into the aforementioned financial and contractual agreements pursuant to the requirements of a prior consent agreement with the Board under which Dr. Sitarik is currently participating in an ongoing urine screening process, then this requirement shall be waived under the instant consent agreement.

Dr. Sitarik shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; 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, Dr. Sitarik and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Sitarik shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Sitarik must immediately notify the Board in writing, and make arrangements acceptable to the Board pursuant to Paragraph 11 below, as soon as practicable. Dr. Sitarik shall further ensure that the Board-approved drug testing facility and/or

collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Sitarik acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

11. Dr. Sitarik and the Board agree that it is the intent of this Consent Agreement that Dr. Sitarik shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Sitarik, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Sitarik:
 - a. Within thirty days of the date upon which Dr. Sitarik is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Sitarik, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Sitarik shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Sitarik's residence or employment location, or to a physician who practices in the same locale as Dr. Sitarik. Dr. Sitarik shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; 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, Dr. Sitarik acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.
 - b. Dr. Sitarik shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.
 - c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr.

Sitarik must immediately notify the Board in writing. Dr. Sitarik shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Sitarik shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Sitarik.

- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Sitarik's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
 - e. In the event that the Board approved an alternate drug testing facility and/or collection site, or a supervising physician, pursuant to the November 2008 Step I Consent Agreement between Dr. Sitarik and the Board, Dr. Sitarik and the Board agree that the entity, facility or person previously approved by the Board to so serve pursuant to the November 2008 Step I Consent Agreement is hereby approved to continue as Dr. Sitarik's designated alternate drug testing facility and collection site or as his supervising physician under this Consent Agreement.
12. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declaration. It is Dr. Sitarik's responsibility to ensure that reports are timely submitted.
 13. The Board retains the right to require, and Dr. Sitarik agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Sitarik, or for any other purpose, at Dr. Sitarik's expense upon the Board's request and without prior notice. Dr. Sitarik's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

Monitoring Physician

14. Before engaging in any medical practice, Dr. Sitarik shall submit to the Board in writing 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. Sitarik and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Sitarik and his medical practice, and shall review Dr. Sitarik'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. Sitarik his medical practice, and on the review of Dr. Sitarik's patient charts. Dr. Sitarik 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. Sitarik's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Sitarik must immediately so notify the Board in writing. In addition, Dr. Sitarik 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. Sitarik 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.

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

Rehabilitation Program

15. Dr. Sitarik 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. Sitarik shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs,

which must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declarations.

Aftercare

16. Dr. Sitarik shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
17. Dr. Sitarik shall maintain continued compliance with the terms of the aftercare contract entered into with a Board-approved 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.

Releases

18. Dr. Sitarik 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. Sitarik'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. To the extent permitted 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. Sitarik 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

19. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Sitarik shall promptly 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. In the event that Dr. Sitarik provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Sitarik shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Sitarik shall provide the Board with one of the following documents as proof of each

required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

20. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Sitarik further agrees to provide a copy of this Consent Agreement 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. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

21. Dr. Sitarik shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Sitarik chemical dependency treatment or monitoring. Further, Dr. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

22. Dr. Sitarik shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Sitarik 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. Sitarik has violated any term, condition or limitation of this Consent Agreement, Dr. Sitarik 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. Sitarik shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Sitarik 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.

In the event that the Board initiates future formal proceedings against Dr. Sitarik, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Sitarik 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.

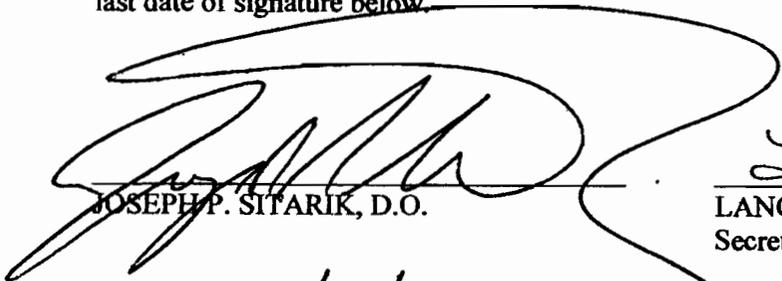
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Sitarik 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. Sitarik 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

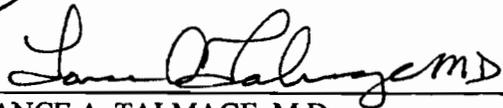
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



JOSEPH P. SITARIK, D.O.

8/5/09

DATE



LANCE A. TALMAGE, M.D.
Secretary

8-12-09

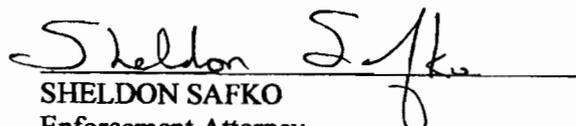
DATE



RAYMOND J. ALBERT
Supervising Member

8/12/09

DATE



SHELDON SAFKO
Enforcement Attorney

8 - 7 - 09

DATE

STATE MEDICAL BOARD
OF OHIO
2009 AUG -6 AM 10:54

STATE MEDICAL BOARD

2000 NOV 12 AM 10:16

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

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

Dr. Sitarik 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, 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," and/or Section 4731.22(B)(14), Ohio Revised Code, for "[c]ommission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26) and (B)(14), to wit: Section 2925.14(C), Ohio Revised Code, pertaining to possession of a cocaine pipe, as set forth in Paragraphs (E) and (F) 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.
- C. Dr. Sitarik is licensed to practice osteopathic medicine and surgery in the State of Ohio, License number 34.004441.
- D. Dr. Sitarik states that he is not licensed to practice in any other state or jurisdiction.

- E. Dr. Sitarik 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 drug abuse, and that his drug of choice includes cocaine.
- F. Dr. Sitarik further admits that on or about October 17, 2008, in the East Liverpool Municipal Court, Columbiana County, Ohio, he was charged with drug paraphernalia, a misdemeanor of the fourth degree, in violation of Section 2925.14(C), Ohio Revised Code. Dr. Sitarik further admits that on or about October 17, 2008, in the East Liverpool Municipal Court, Columbiana County, Ohio, he was also charged with leaving the scene of an accident, a misdemeanor of the first degree. Dr. Sitarik admits that he intends to request treatment in lieu of conviction for these charges, and acknowledges that pursuant to Rule 4731-16-02(B)(3)(b), Ohio Administrative Code, such a request constitutes independent proof of impairment.

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

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Sitarik to practice osteopathic medicine and surgery in the state of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. Sitarik's certificate shall be SUSPENDED for an indefinite period of time, but not less than 150 days.

Obey all Laws

2. Dr. Sitarik shall obey all federal, state, and local laws.

Sobriety

3. Dr. Sitarik shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Sitarik's history of chemical dependency. Further, in the event that Dr. Sitarik is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Sitarik shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Sitarik received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount,

2009 NOV 12 A 10:19

number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Sitarik shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

4. Dr. Sitarik shall abstain completely from the use of alcohol.

Absences from Ohio

5. Dr. Sitarik 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. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Sitarik resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Sitarik may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Sitarik is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.

Releases; Quarterly Declarations and Appearances

6. Dr. Sitarik 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. Sitarik'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. To the extent permitted 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. Sitarik 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.
7. Dr. Sitarik 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, or as otherwise requested by the Board.

2000 NOV 12 A 10:19

Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

8. Dr. Sitarik 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; Drug Testing Facility and Collection Site

9. Dr. Sitarik shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Sitarik 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, and shall include Dr. Sitarik's drug(s) of choice.

Dr. Sitarik shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Sitarik acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, except as provided in Paragraph 10 below, and the screening process shall require a daily call-in procedure.

Dr. Sitarik shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Sitarik shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, within thirty days of making such arrangements, Dr. Sitarik shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract

entered into between Dr. Sitarik and the Board-approved drug testing facility and/or collection site. Dr. Sitarik's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement.

Dr. Sitarik shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; 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, Dr. Sitarik and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Sitarik shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Sitarik must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 10 below, as soon as practicable. Dr. Sitarik shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Sitarik acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

10. Dr. Sitarik and the Board agree that it is the intent of this Consent Agreement that Dr. Sitarik shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Sitarik, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Sitarik:
 - a. Within thirty days of the date upon which Dr. Sitarik is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Sitarik, he shall submit to the Board in writing for its prior approval the identity of either an

alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Sitarik shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Sitarik's residence or employment location, or to a physician who practices in the same locale as Dr. Sitarik. Dr. Sitarik shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; 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, Dr. Sitarik acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Sitarik shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.
 - c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Sitarik must immediately notify the Board in writing. Dr. Sitarik shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Sitarik shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Sitarik.
 - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Sitarik's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
11. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility
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and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declaration. It is Dr. Sitarik's responsibility to ensure that reports are timely submitted.

12. The Board retains the right to require, and Dr. Sitarik agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Sitarik, or for any other purpose, at Dr. Sitarik's expense upon the Board's request and without prior notice. Dr. Sitarik's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

Rehabilitation Program

13. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik 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. Sitarik shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declarations.

14. Immediately upon completion of any required treatment for chemical dependency, Dr. Sitarik shall enter into an aftercare contract with a Board-approved treatment provider and shall maintain continued compliance with the terms of said aftercare contract, provided that, where the terms of the aftercare contract conflict with the terms of this Consent Agreement, the terms of this Consent Agreement shall control.

CONDITIONS FOR REINSTATEMENT

15. The Board shall not consider reinstatement or restoration of Dr. Sitarik's certificate to practice osteopathic medicine and surgery until all of the following conditions are met:
 - a. Dr. Sitarik shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.
 - b. Dr. Sitarik 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. Sitarik has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical abuse/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, or successful completion of, 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. Sitarik'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. Sitarik. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Sitarik 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. Sitarik, and any conditions, restrictions, or limitations that should be imposed on Dr. Sitarik'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. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- c. Dr. Sitarik shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board within 180 days of the date upon which all the above-specified conditions for reinstatement or restoration have been completed or, if the Board and Dr. Sitarik are unable to agree on the terms of a written Consent Agreement, then Dr. Sitarik 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. The Board shall provide notice to Dr. Sitarik that said hearing has been scheduled, advising Dr. Sitarik of his hearing rights, and stating the date, time, and location of the hearing at which the Board will present its evidence, after which the Board will make a determination of the matter by Board Order.

Further, upon reinstatement of Dr. Sitarik'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. Sitarik 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. Sitarik has maintained sobriety.

16. In the event that Dr. Sitarik 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. Sitarik's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

17. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Sitarik shall promptly 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. In the event that Dr. Sitarik provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Sitarik shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the
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Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

18. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Sitarik further agrees to provide a copy of this Consent Agreement 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. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
19. Dr. Sitarik shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Sitarik chemical dependency treatment or monitoring. Further, Dr. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
20. Dr. Sitarik shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

DURATION/MODIFICATION OF TERMS

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties. In the event that the Board initiates future formal proceedings against Dr. Sitarik, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is

2008 NOV 12 A 10:19

superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

FAILURE TO COMPLY

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

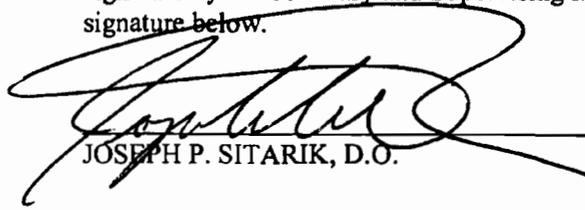
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Sitarik 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. Sitarik 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.

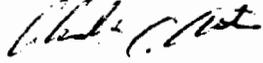

JOSEPH P. SITARIK, D.O.


LANCE A. TALMAGE, M.D.
Secretary

11/10/08
DATE

11-12-08
DATE

STEP I CONSENT AGREEMENT
JOSEPH P. SITARIK, D.O.
PAGE 12



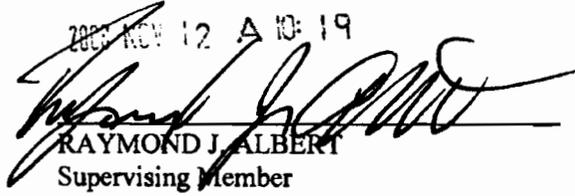
CHARLES C. AMATO
Attorney for Dr. Sitarik

Nov 10, 2008

DATE

STATE MEDICAL BOARD

2008 NOV 12 A 10:19



RAYMOND J. ALBERT
Supervising Member

11/12/08

DATE



SHELDON SAFKO
Enforcement Attorney

Nov 12, 2008

DATE

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

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

Dr. Sitarik 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 a violation of Section 4731.22(B)(26), Ohio Revised Code, 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." and/or Section 4731.22(B)(14), Ohio Revised Code, for "[c]ommission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(14) and (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 Consent Agreement.
- C. Dr. Sitarik is seeking reinstatement of his certificate to practice osteopathic medicine and surgery, license number 34.004441, which was revoked, with said revocation stayed, and indefinitely suspended, but not less than 150 days, pursuant to the Step I Consent Agreement Between Joseph P. Sitarik, D.O. and the State Medical Board of Ohio [November 2008 Step I Consent Agreement], effective November 12, 2008, a copy of which is attached hereto and incorporated herein.

- D. Dr. Sitarik states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Sitarik admits that he entered treatment for chemical dependency at Glenbeigh, a Board-approved treatment provider in Rock Creek, Ohio, on or about November 24, 2008, and that he was discharged on or about December 22, 2008, after satisfactorily completing a residential program of at least 28 days.

Dr. Sitarik further admits that he successfully completed an intensive outpatient program at Glenbeigh's satellite office in Niles, Ohio from on or about December 23, 2008 through January 5, 2009. Dr. Sitarik further admits that on or about December 19, 2008, he entered into an aftercare contract with Glenbeigh. The Board acknowledges receipt of information to support that Dr. Sitarik has remained compliant with the terms of his aftercare contract with Glenbeigh, which consists of at least 104 weekly sessions over a period of a minimum of two years.

Dr. Sitarik states and the Board acknowledges that Gregory Collins, M.D., Section Head, Alcohol & Drug Recovery Center for the Cleveland Clinic, a Board approved treatment provider; and Chris Adelman, M.D. of Glenbeigh, have each provided written reports opining that Dr. Sitarik's ability to practice has been assessed and that he has been found capable of practicing osteopathic medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place. Such treatment and monitoring requirements include that he continue to participate in aftercare, undergo random urine screening, and participate in at least three AA meetings and at least one Caduceus meeting per week.

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. Sitarik to practice osteopathic medicine and surgery in the State of Ohio shall be REINSTATED, and Dr. Sitarik knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

1. Dr. Sitarik shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio, and any terms of probation which may be imposed by the Court in criminal case number Case # 2008 CR B 02095, City of East Liverpool vs. Sitarik.
2. Dr. Sitarik 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 November 2008 Consent Agreement with the Board, or as otherwise requested by 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. Sitarik 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 November 2008 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. Sitarik 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. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the probationary terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Sitarik resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Sitarik may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Sitarik is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.
5. In the event Dr. Sitarik 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. For the purposes of facilitating Dr. Sitarik's practice in an ambulatory surgical facility, Dr. Sitarik shall be permitted to possess controlled substances during work periods at such a surgical facility, in accordance with this paragraph, and as allowed under paragraph 8 below. Otherwise, Dr. Sitarik shall not administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law.

Dr. Sitarik's possession of controlled substances during work periods at such a surgical facility shall be limited to controlled substances obtained by Dr. Sitarik for administration to patients during the work period in which the controlled substances are acquired. Prior to accepting possession of any controlled substances, Dr. Sitarik shall ensure that an accounting of the amounts and types of controlled substance being released to him has been performed and documented by another, who is legally authorized to possess such controlled substances. At or prior to the end of the work period, Dr. Sitarik shall return the unused controlled substances, to another who is legally authorized to possess such controlled substances, and shall ensure that an accounting of the amounts and types of controlled substances returned by him is performed and documented. In addition, Dr. Sitarik shall provide to the individual performing the accounting of the unused medications, a log detailing the amount and type of the controlled substance administered to each patient during the work period, as well as the name of the patient to whom the medication was administered, and shall ensure that a comparative audit is performed to determine whether or not all controlled substances released to him during the work period are appropriately accounted for, and shall further ensure that a comparative audit report is prepared reflecting the audit findings. Dr. Sitarik shall not dispose of any unused "waste" controlled substances.

In addition, Dr. Sitarik shall ensure that an assay is performed of the contents of at least one vial, or equivalent unit, of unused medications returned during a one week period; that such vial, or equivalent unit, is randomly selected; and that all assay reported are forwarded directly to the Board on a quarterly basis. The costs associated with such assay shall be borne by Dr. Sitarik.

In the event that the comparative audit report reveals a discrepancy related to controlled substances possessed, administered, and returned, or should an assay report indicate that the controlled substance tested is adulterated, Dr. Sitarik shall immediately notify the Board. Such notice shall be through telephone communication to the Board at the earliest opportunity, and shall be followed by written communication to the Board within 72 hours. In addition, Dr. Sitarik shall ensure that all such reports are immediately forwarded directly to the Board.

Otherwise, all comparative audit reports and assay reports acquired under this paragraph must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declaration. It is Dr. Sitarik's responsibility to ensure that all reports acquired pursuant to this paragraph are timely submitted.

7. Dr. Sitarik 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. Sitarik's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Sitarik shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

Sobriety

8. Dr. Sitarik shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Sitarik's history of chemical dependency. Further, in the event that Dr. Sitarik is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Sitarik shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Sitarik received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Sitarik shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
9. Dr. Sitarik shall abstain completely from the use of alcohol.

Drug and Alcohol Screens/Drug Testing Facility and Collection Site

10. Dr. Sitarik shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. Dr. Sitarik 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, and shall include Dr. Sitarik's drug(s) of choice.

Dr. Sitarik shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Sitarik acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, that provides for the Board to maintain ultimate control over the urine screening process and to preserve the confidentiality of all positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code, and the screening process shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 11 below, to approve urine screenings to be conducted at an alternative drug testing facility and/or collection site or a supervising physician, such approval shall be expressly contingent upon the Board retaining ultimate control over the urine screening process

in a manner that preserves the aforementioned confidentiality of all positive screening results.

Dr. Sitarik shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Sitarik shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, Dr. Sitarik shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Sitarik and the Board-approved drug testing facility and/or collection site. Dr. Sitarik's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement. However, Dr. Sitarik and the Board further agree that in the event Dr. Sitarik previously entered into the aforementioned financial and contractual agreements pursuant to the requirements of a prior consent agreement with the Board under which Dr. Sitarik is currently participating in an ongoing urine screening process, then this requirement shall be waived under the instant consent agreement.

Dr. Sitarik shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; 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, Dr. Sitarik and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Sitarik shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Sitarik must immediately notify the Board in writing, and make arrangements acceptable to the Board pursuant to Paragraph 11 below, as soon as practicable. Dr. Sitarik shall further ensure that the Board-approved drug testing facility and/or

collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Sitarik acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

11. Dr. Sitarik and the Board agree that it is the intent of this Consent Agreement that Dr. Sitarik shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Sitarik, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Sitarik:
 - a. Within thirty days of the date upon which Dr. Sitarik is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Sitarik, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Sitarik shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Sitarik's residence or employment location, or to a physician who practices in the same locale as Dr. Sitarik. Dr. Sitarik shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; 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, Dr. Sitarik acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.
 - b. Dr. Sitarik shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.
 - c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr.

Sitarik must immediately notify the Board in writing. Dr. Sitarik shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Sitarik shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Sitarik.

- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Sitarik's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
 - e. In the event that the Board approved an alternate drug testing facility and/or collection site, or a supervising physician, pursuant to the November 2008 Step I Consent Agreement between Dr. Sitarik and the Board, Dr. Sitarik and the Board agree that the entity, facility or person previously approved by the Board to so serve pursuant to the November 2008 Step I Consent Agreement is hereby approved to continue as Dr. Sitarik's designated alternate drug testing facility and collection site or as his supervising physician under this Consent Agreement.
12. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declaration. It is Dr. Sitarik's responsibility to ensure that reports are timely submitted.
 13. The Board retains the right to require, and Dr. Sitarik agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Sitarik, or for any other purpose, at Dr. Sitarik's expense upon the Board's request and without prior notice. Dr. Sitarik's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

Monitoring Physician

14. Before engaging in any medical practice, Dr. Sitarik shall submit to the Board in writing 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. Sitarik and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Sitarik and his medical practice, and shall review Dr. Sitarik'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. Sitarik his medical practice, and on the review of Dr. Sitarik's patient charts. Dr. Sitarik 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. Sitarik's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Sitarik must immediately so notify the Board in writing. In addition, Dr. Sitarik 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. Sitarik 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.

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

Rehabilitation Program

15. Dr. Sitarik 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. Sitarik shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs,

which must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declarations.

Aftercare

16. Dr. Sitarik shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
17. Dr. Sitarik shall maintain continued compliance with the terms of the aftercare contract entered into with a Board-approved 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.

Releases

18. Dr. Sitarik 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. Sitarik'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. To the extent permitted 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. Sitarik 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

19. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Sitarik shall promptly 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. In the event that Dr. Sitarik provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Sitarik shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Sitarik shall provide the Board with one of the following documents as proof of each

required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

20. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Sitarik further agrees to provide a copy of this Consent Agreement 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. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

21. Dr. Sitarik shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Sitarik chemical dependency treatment or monitoring. Further, Dr. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

22. Dr. Sitarik shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Sitarik 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. Sitarik has violated any term, condition or limitation of this Consent Agreement, Dr. Sitarik 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. Sitarik shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Sitarik 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.

In the event that the Board initiates future formal proceedings against Dr. Sitarik, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Sitarik 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.

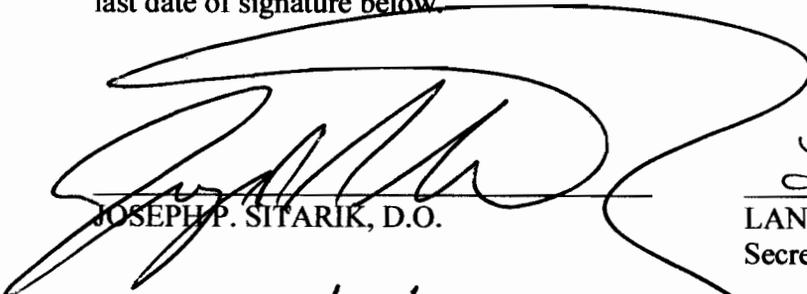
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Sitarik 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. Sitarik 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

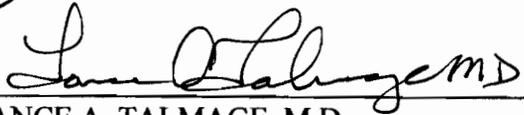
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



JOSEPH P. SITARIK, D.O.

DATE

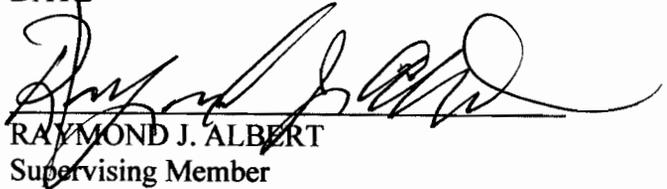
8/5/09



LANCE A. TALMAGE, M.D.
Secretary

DATE

8-12-09



RAYMOND J. ALBERT
Supervising Member

DATE

8/12/09



SHELDON SAFKO
Enforcement Attorney

DATE

8-7-09

STATE MEDICAL BOARD

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

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

Dr. Sitarik 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, 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," and/or Section 4731.22(B)(14), Ohio Revised Code, for "[c]ommission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26) and (B)(14), to wit: Section 2925.14(C), Ohio Revised Code, pertaining to possession of a cocaine pipe, as set forth in Paragraphs (E) and (F) 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.
- C. Dr. Sitarik is licensed to practice osteopathic medicine and surgery in the State of Ohio, License number 34.004441.
- D. Dr. Sitarik states that he is not licensed to practice in any other state or jurisdiction.

2008 NOV 12 A 10:18

- E. Dr. Sitarik 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 drug abuse, and that his drug of choice includes cocaine.
- F. Dr. Sitarik further admits that on or about October 17, 2008, in the East Liverpool Municipal Court, Columbiana County, Ohio, he was charged with drug paraphernalia, a misdemeanor of the fourth degree, in violation of Section 2925.14(C), Ohio Revised Code. Dr. Sitarik further admits that on or about October 17, 2008, in the East Liverpool Municipal Court, Columbiana County, Ohio, he was also charged with leaving the scene of an accident, a misdemeanor of the first degree. Dr. Sitarik admits that he intends to request treatment in lieu of conviction for these charges, and acknowledges that pursuant to Rule 4731-16-02(B)(3)(b), Ohio Administrative Code, such a request constitutes independent proof of impairment.

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

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Sitarik to practice osteopathic medicine and surgery in the state of Ohio shall be REVOKED. Such revocation is STAYED, and Dr. Sitarik's certificate shall be SUSPENDED for an indefinite period of time, but not less than 150 days.

Obey all Laws

2. Dr. Sitarik shall obey all federal, state, and local laws.

Sobriety

3. Dr. Sitarik shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Sitarik's history of chemical dependency. Further, in the event that Dr. Sitarik is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Sitarik shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Sitarik received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount,

2009 NOV 12 A 10:19

number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Sitarik shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

4. Dr. Sitarik shall abstain completely from the use of alcohol.

Absences from Ohio

5. Dr. Sitarik 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. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Sitarik resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Sitarik may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Sitarik is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.

Releases; Quarterly Declarations and Appearances

6. Dr. Sitarik 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. Sitarik'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. To the extent permitted 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. Sitarik 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.
7. Dr. Sitarik 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, or as otherwise requested by the Board.

2000 NOV 12 A 10:19

Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

8. Dr. Sitarik 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; Drug Testing Facility and Collection Site

9. Dr. Sitarik shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Sitarik 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, and shall include Dr. Sitarik's drug(s) of choice.

Dr. Sitarik shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Sitarik acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site, except as provided in Paragraph 10 below, and the screening process shall require a daily call-in procedure.

Dr. Sitarik shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Sitarik shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, within thirty days of making such arrangements, Dr. Sitarik shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract

entered into between Dr. Sitarik and the Board-approved drug testing facility and/or collection site. Dr. Sitarik's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement.

Dr. Sitarik shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; 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, Dr. Sitarik and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Sitarik shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Sitarik must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 10 below, as soon as practicable. Dr. Sitarik shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Sitarik acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

10. Dr. Sitarik and the Board agree that it is the intent of this Consent Agreement that Dr. Sitarik shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Sitarik, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Sitarik:
 - a. Within thirty days of the date upon which Dr. Sitarik is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Sitarik, he shall submit to the Board in writing for its prior approval the identity of either an

alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Sitarik shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Sitarik's residence or employment location, or to a physician who practices in the same locale as Dr. Sitarik. Dr. Sitarik shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; 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, Dr. Sitarik acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Sitarik shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.
 - c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Sitarik must immediately notify the Board in writing. Dr. Sitarik shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Sitarik shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Sitarik.
 - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Sitarik's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
11. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility

and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declaration. It is Dr. Sitarik's responsibility to ensure that reports are timely submitted.

12. The Board retains the right to require, and Dr. Sitarik agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Sitarik, or for any other purpose, at Dr. Sitarik's expense upon the Board's request and without prior notice. Dr. Sitarik's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

Rehabilitation Program

13. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik 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. Sitarik shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Sitarik's quarterly declarations.

14. Immediately upon completion of any required treatment for chemical dependency, Dr. Sitarik shall enter into an aftercare contract with a Board-approved treatment provider and shall maintain continued compliance with the terms of said aftercare contract, provided that, where the terms of the aftercare contract conflict with the terms of this Consent Agreement, the terms of this Consent Agreement shall control.

CONDITIONS FOR REINSTATEMENT

15. The Board shall not consider reinstatement or restoration of Dr. Sitarik's certificate to practice osteopathic medicine and surgery until all of the following conditions are met:
 - a. Dr. Sitarik shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.
 - b. Dr. Sitarik 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. Sitarik has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical abuse/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, or successful completion of, 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. Sitarik'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. Sitarik. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Sitarik 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. Sitarik, and any conditions, restrictions, or limitations that should be imposed on Dr. Sitarik'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. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- c. Dr. Sitarik shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board within 180 days of the date upon which all the above-specified conditions for reinstatement or restoration have been completed or, if the Board and Dr. Sitarik are unable to agree on the terms of a written Consent Agreement, then Dr. Sitarik 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. The Board shall provide notice to Dr. Sitarik that said hearing has been scheduled, advising Dr. Sitarik of his hearing rights, and stating the date, time, and location of the hearing at which the Board will present its evidence, after which the Board will make a determination of the matter by Board Order.

Further, upon reinstatement of Dr. Sitarik'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. Sitarik 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. Sitarik has maintained sobriety.

16. In the event that Dr. Sitarik 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. Sitarik's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

17. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Sitarik shall promptly 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. In the event that Dr. Sitarik provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Sitarik shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the

Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

18. Within thirty days of the effective date of this Consent Agreement, Dr. Sitarik shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Sitarik further agrees to provide a copy of this Consent Agreement 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. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
19. Dr. Sitarik shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Sitarik chemical dependency treatment or monitoring. Further, Dr. Sitarik shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
20. Dr. Sitarik shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

DURATION/MODIFICATION OF TERMS

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties. In the event that the Board initiates future formal proceedings against Dr. Sitarik, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is

2008 NOV 12 A 10:19

superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

FAILURE TO COMPLY

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

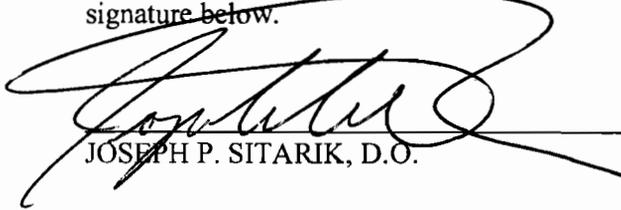
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

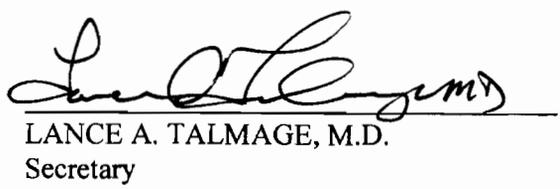
Dr. Sitarik hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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. Sitarik 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.

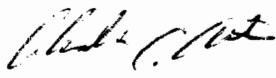

JOSEPH P. SITARIK, D.O.


LANCE A. TALMAGE, M.D.
Secretary

11/10/08
DATE

11-12-08
DATE

STEP I CONSENT AGREEMENT
JOSEPH P. SITARIK, D.O.
PAGE 12



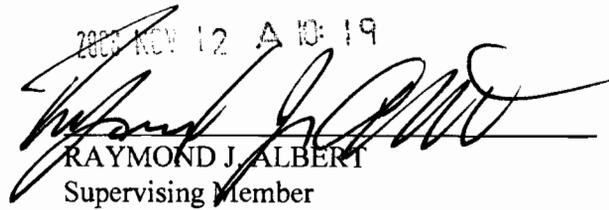
CHARLES C. AMATO
Attorney for Dr. Sitarik

Nov 10, 2008

DATE

STATE MEDICAL BOARD

2008 NOV 12 A 10:19



RAYMOND J. ALBERT
Supervising Member

11/12/08

DATE



SHELDON SAFKO
Enforcement Attorney

Nov 12, 2008

DATE