

**STEP II
CONSENT AGREEMENT
BETWEEN
JAMES MARTIN MCGINNIS, D.O.,
AND
THE STATE MEDICAL BOARD OF OHIO**

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

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

BASIS FOR ACTION

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

- A. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for “impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraph E of the Step I Consent Agreement Between James Martin McGinnis, D.O, and the State Medical Board of Ohio that became effective on April 15, 2004, [April 2004 Step I Consent Agreement], a copy of which is attached hereto and fully incorporated herein, and as set forth in Paragraph E herein. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. McGinnis is licensed to practice osteopathic medicine and surgery in the State of Ohio, License # 34-005660.
- D. Dr. McGinnis states that he is also licensed to practice osteopathic medicine and surgery in the State of New Jersey, and that his license to practice osteopathic medicine and surgery in the State of Kentucky is presently on inactive status.

- E. Dr. McGinnis admits that on or about March 29, 2004, he was admitted to the Neil Kennedy Recovery Clinic, a Board-approved treatment provider in Youngstown, Ohio, for residential treatment related to his alcohol dependency, and that he was discharged, treatment complete, on or about April 26, 2004. Dr. McGinnis states, and the Board acknowledges receipt of information to support, that since being discharged from the Neil Kennedy Recovery Clinic, he has remained compliant with his recovery plan, including participating in at least three AA meetings per week and submitting to random urine screens on a weekly basis. Dr. McGinnis states, and the Board acknowledges receipt of information to support, that Dr. McGinnis entered into a continuing care contract with the Neil Kennedy Recovery Clinic on or about April 26, 2004, that he thereafter transferred to an aftercare contract with The Woods at Parkside, a Board-approved treatment provider in Columbus, Ohio, on June 25, 2004, and that he is in compliance with such aftercare contract.

Dr. McGinnis states, and the Board acknowledges, that Edna Jones, M.D., of The Woods at Parkside, and Steven A. King, M.D., and Ronald Scott, M.D., of the Neil Kennedy Recovery Clinic, have each provided written reports indicating that Dr. McGinnis's ability to practice has been assessed and he has been found capable of practicing medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring conditions are in place, including that Dr. McGinnis continue with psychiatric treatment and counseling related to his Major Depressive Disorder.

Accordingly, Dr. McGinnis states, and the Board acknowledges receipt of information to support, that Dr. McGinnis has fulfilled the conditions for reinstatement of his certificate to practice osteopathic medicine and surgery in the State of Ohio as established in the April 2004 Step I Consent Agreement.

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

1. Dr. McGinnis shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. McGinnis 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 April 2004 Step I Consent Agreement with the Board.

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

3. Dr. McGinnis 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 April 2004 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. McGinnis shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
5. In the event Dr. McGinnis is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

MONITORING OF REHABILITATION AND TREATMENT

Drug Associated Restrictions

6. Dr. McGinnis shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. McGinnis's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. McGinnis shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.
7. Dr. McGinnis shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. McGinnis to administer or personally furnish controlled substances, Dr. McGinnis 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. McGinnis's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. McGinnis 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. McGinnis shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. McGinnis's history of chemical dependency.
9. Dr. McGinnis shall abstain completely from the use of alcohol.

Drug and Alcohol Screens/Supervising Physician

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

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

Within thirty days of the effective date of this Consent Agreement, Dr. McGinnis shall submit to the Board for its prior approval the name and curriculum vitae of a supervising physician to whom Dr. McGinnis shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. McGinnis. Dr. McGinnis and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

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

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

All screening reports and supervising physician reports required under this paragraph

must be received in the Board's offices no later than the due date for Dr. McGinnis's quarterly declaration. It is Dr. McGinnis's responsibility to ensure that reports are timely submitted.

11. The Board retains the right to require, and Dr. McGinnis agrees to submit, blood or urine specimens for analysis at Dr. McGinnis's expense upon the Board's request and without prior notice. Dr. McGinnis's refusal to submit a blood or urine specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

Psychiatric Treatment

12. Within thirty days of the effective date of this Consent Agreement, Dr. McGinnis shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. McGinnis shall undergo and continue psychiatric treatment, to include individual psychotherapy, at least once every four weeks, or as otherwise directed by the Board. Dr. McGinnis shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered by his approved treating psychiatrist for his psychiatric disorder.

Dr. McGinnis shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. McGinnis's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. McGinnis's compliance with his treatment plan; Dr. McGinnis's mental status; Dr. McGinnis's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. McGinnis shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. McGinnis is unable to practice due to his psychiatric disorder.

The psychotherapy required pursuant to this paragraph may be delegated by Dr. McGinnis's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, so long as Dr. McGinnis's treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. McGinnis's participation and progress in psychotherapy in his or her quarterly reports; and continues to meet personally with Dr. McGinnis at least once every three months. Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. McGinnis shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. McGinnis's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. McGinnis's compliance with his treatment plan; Dr. McGinnis's mental status; Dr. McGinnis's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. McGinnis shall ensure that his treating licensed

mental health professional immediately notifies the Board of his failure to comply with his psychotherapy treatment plan and/or any determination that Dr. McGinnis is unable to practice due to his psychiatric disorder. These psychotherapy reports shall be in addition to the psychiatric reports.

It is Dr. McGinnis's responsibility to ensure that all quarterly reports (psychiatric and psychotherapy, if applicable) are received in the Board's offices no later than the due date for Dr. McGinnis's quarterly declaration.

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

Monitoring Physician

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

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

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

designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

Rehabilitation Program / Aftercare

14. Within thirty days of the effective date of this Consent Agreement, Dr. McGinnis 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.

In addition, Dr. McGinnis shall attend a minimum of one aftercare meeting per week, which shall be in addition to his participation in an alcohol and drug rehabilitation program as required above. In the event that Dr. McGinnis's regular aftercare meeting is not held in a given week, Dr. McGinnis shall participate in an additional meeting of an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus. Substitution of any other specific program must receive prior Board approval.

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

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

Releases

17. Dr. McGinnis shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment provider to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.

Required Reporting by Licensee

18. Within thirty days of the effective date of this Consent Agreement, Dr. McGinnis shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. McGinnis shall provide a copy of this Consent Agreement to all employers or

entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

19. Within thirty days of the effective date of this Consent Agreement, Dr. McGinnis shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. McGinnis further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. McGinnis shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
20. Dr. McGinnis shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. McGinnis chemical dependency treatment or monitoring.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. McGinnis 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. McGinnis has violated any term, condition or limitation of this Consent Agreement, Dr. McGinnis 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. McGinnis shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. McGinnis shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. McGinnis 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. McGinnis 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. McGinnis 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.



JAMES MARTIN MCGINNIS, D.O.

7/13/04

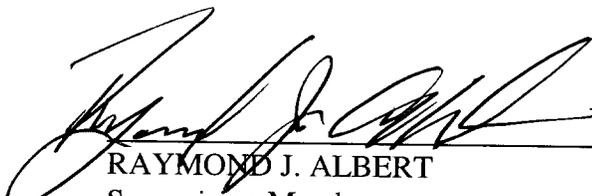
DATE



LANCE A. TALMAGE, M.D.
Secretary

7-14-04

DATE



RAYMOND J. ALBERT
Supervising Member

7/14/04

DATE



REBECCA J. MARSHALL, ESQ.
Enforcement Attorney

July 13, 2004

DATE

STEP I
CONSENT AGREEMENT
BETWEEN
JAMES MARTIN MCGINNIS, D.O.,
AND
THE STATE MEDICAL BOARD OF OHIO

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

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

BASIS FOR ACTION

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

- A. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement. Such express reservation includes, but is not limited to, the right to institute formal proceedings based upon any violations related to patient care, regardless of whether the acts underlying such additional violations are related to the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth herein.
- C. Dr. McGinnis is licensed to practice osteopathic medicine and surgery in the State of Ohio, License # 34-005660.
- D. Dr. McGinnis states that he is ~~not~~ licensed to practice osteopathic medicine and surgery in ~~any other state or jurisdiction.~~ New Jersey and Kentucky.

- E. Dr. McGinnis admits that on or about September 11, 2003, in the Ironton Municipal Court, Lawrence County, Ohio, he was convicted of Driving Under the Influence of Alcohol, in violation of Section 4511.19, Ohio Revised Code. Dr. McGinnis further admits that during or about September 2003, he voluntarily submitted to a 72-hour chemical dependency evaluation at Shepherd Hill Hospital, a Board-approved treatment provider in Newark, Ohio, that resulted in a determination that he was alcohol dependent. Dr. McGinnis further admits that, thereafter, he continued to practice medicine until on or about December 18, 2003, at which time he voluntarily entered residential treatment for chemical dependency at the Neil Kennedy Recovery Clinic, a Board-approved treatment provider in Youngstown, Ohio.

Dr. McGinnis further admits that on or about March 8, 2004, he was contacted by telephone by one of the Board's Enforcement Attorneys, at which time Dr. McGinnis stated that he had completed only ten days of in-patient treatment at the Neil Kennedy Recovery Clinic prior to being discharged, and indicated that he had intended to independently pursue further evaluation at another Board-approved treatment provider regarding his chemical dependency status and current ability to practice medicine, but that he had not yet scheduled such evaluation. Dr. McGinnis further admits that on or about March 22, 2004, he submitted to a Board-ordered 72-hour evaluation at Shepherd Hill Hospital, which again resulted in a determination that Dr. McGinnis was impaired in his ability to practice osteopathic medicine according to acceptable and prevailing standards of care due to alcohol dependency. Dr. McGinnis further admits that on or about March 29, 2004, he re-entered residential treatment at the Neil Kennedy Recovery Clinic, and that such treatment remains ongoing to date.

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

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. McGinnis to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than ninety days.

Sobriety

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

Releases; Quarterly Declarations and Appearances

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

Drug & Alcohol Screens; Supervising Physician

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

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

Within thirty days of the effective date of this Consent Agreement, Dr. McGinnis shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. McGinnis shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. McGinnis. Dr. McGinnis and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

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

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

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

Rehabilitation Program

8. Within thirty days of the effective date of this Consent Agreement, Dr. McGinnis 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. McGinnis shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. McGinnis' quarterly declarations.

CONDITIONS FOR REINSTATEMENT

9. The Board shall not consider reinstatement of Dr. McGinnis' certificate to practice osteopathic medicine and surgery until all of the following conditions are met:

- a. Dr. McGinnis shall submit an application for reinstatement, accompanied by appropriate fees, if any.
- b. Dr. McGinnis 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. McGinnis has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical dependence, as set forth in Section 4731-16-08(A)(13), Ohio Administrative Code, completed consecutively.
 - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - iii. Evidence of continuing full compliance with this Consent Agreement.
 - iv. Two written reports indicating that Dr. McGinnis' 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. McGinnis. Prior to the assessments, Dr. McGinnis 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. McGinnis, and any conditions, restrictions, or limitations that should be imposed on Dr. McGinnis' practice. The reports shall also describe the basis for the evaluator's determinations.

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

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

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

10. In the event that Dr. McGinnis 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. McGinnis' fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

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

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

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. McGinnis 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. McGinnis 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. McGinnis hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

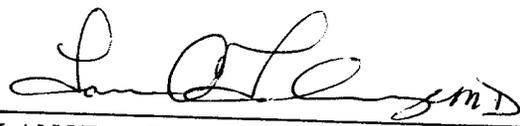
This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. McGinnis acknowledges that his social security number will be used if this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



JAMES MARTIN MCGINNIS, D.O.



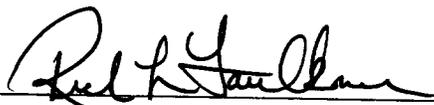
LANCE A. TALMAGE, M.D.
Secretary

4/12/04

DATE

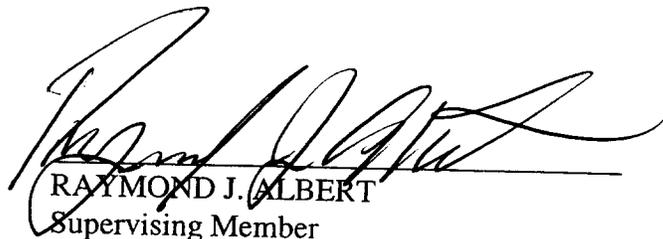
4-14-04

DATE



RICK FAULKNER, ESQ.
Attorney for Dr. McGinnis

4/12/04
DATE



RAYMOND J. ALBERT
Supervising Member

4/15/04
DATE



REBECCA J. MARSHALL, ESQ.
Enforcement Attorney

April 13, 2004
DATE