

STEP II
CONSENT AGREEMENT
BETWEEN
JAMES EDWARD BREIDENSTEIN, D.O.,
AND
THE STATE MEDICAL BOARD OF OHIO

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

Dr. Breidenstein 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)(11), Ohio Revised Code, for “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;” Section 4731.22(B)(13), Ohio Revised Code, for “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;” and Section 4731.22(B)(20), Ohio Revised Code, for “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” to wit: Rule 4731 26 02, Ohio Administrative Code. Pursuant to Rule 4731 26 03(A)(1), Ohio Administrative Code, a violation of Rule 4731 26 02, Ohio Administrative Code, also violates Section 4731.22(B)(6).
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(11), Ohio Revised Code, Section 4731.22(B)(13), Ohio Revised Code, and 4731.22(B)(20), 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.

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- C. Dr. Breidenstein is seeking restoration of his certificate to practice osteopathic medicine and surgery, license number 34. 005707, which was permanently revoked, with said permanent revocation stayed, and was indefinitely suspended, but not less than twenty four months, pursuant to the Step I Consent Agreement Between James Edward Breidenstein, D.O. and the State Medical Board of Ohio [January 2010 Step I Consent Agreement], effective January 13, 2010.
- D. Dr. Breidenstein states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Breidenstein admits that he entered into the January 2010 Step I Consent Agreement after being convicted on or about May 7, 2009, of misdemeanor offenses of Sexual Imposition, Falsification, and Obstructing Official Business, related to his offensive sexual contact with two female patients and providing false information to a detective during the criminal investigation.

Dr. Breidenstein admits that, pursuant to the terms of the January 2010 Step I Consent Agreement, he was required to successfully complete a course dealing with sexual boundaries, as well as a course dealing with professional ethics and further states, and the Board acknowledges, that he successfully completed both courses. Further, Dr. Breidenstein states, and the Board has evidence to support, that he has been evaluated by Stephen B. Levine, M.D., of the Center for Marital and Sexual Health, and has been found capable of osteopathic medical practice within minimal standards of care on the condition that he utilize a chaperone when interacting with female patients. Further, Dr. Breidenstein states, and the Board has evidence to support, that he has taken and passed the SPEX examination on or about March 12, 2012.

- F. Dr. Breidenstein states, and the Board acknowledges, that Dr. Breidenstein has fulfilled the conditions for restoration of his certificate to practice osteopathic medicine and surgery in the State of Ohio, as established in the above referenced January 2010 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. Breidenstein to practice osteopathic medicine and surgery in the State of Ohio shall be RESTORED, and Dr. Breidenstein knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

PERMANENT LICENSE LIMITATION:

- 1. Dr. Breidenstein's certificate to practice osteopathic medicine and surgery in Ohio shall be permanently limited and restricted as set as follows: Dr. Breidenstein shall be continuously accompanied by a chaperone at all times when interacting with a female

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patient for any purpose at any location, except in the case of a life threatening emergency wherein Dr. Breidenstein shall be accompanied by a chaperone as soon as reasonably practicable.

PROBATIONARY TERMS:

Further, Dr. Breidenstein knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

2. Dr. Breidenstein shall obey all federal, state, and local laws, and all rules governing the practice of osteopathic medicine in Ohio; and all terms of probation imposed by the Hamilton County Municipal Court in criminal case numbers 08 CRB 38408 and 09 CRB 3364.
3. Dr. Breidenstein 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 January 2010 Step I 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.
4. Dr. Breidenstein 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 January 2010 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.
5. Dr. Breidenstein 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. Breidenstein 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. Breidenstein may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising

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Member provided that Dr. Breidenstein is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.

6. In the event Dr. Breidenstein 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

Monitoring Physician

7. Before engaging in any medical practice, Dr. Breidenstein 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. Breidenstein and who is engaged in the same or similar practice specialty.

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

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Breidenstein must immediately so notify the Board in writing. In addition, Dr. Breidenstein 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. Breidenstein 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. Breidenstein's designated monitoring physician, or to withdraw approval of any person previously approved to serve as Dr. Breidenstein's designated monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has

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

Releases

8. Dr. Breidenstein 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. Breidenstein's sexual or mental health 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. Breidenstein 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

9. Within thirty days of the effective date of this Consent Agreement, Dr. Breidenstein 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. Breidenstein 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. Breidenstein 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. Breidenstein shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Breidenstein 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

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

10. Within thirty days of the effective date of this Consent Agreement, Dr. Breidenstein 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. Breidenstein 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. Breidenstein 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.
11. Dr. Breidenstein shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Breidenstein sexual or mental health treatment or monitoring of his sexual or mental health. Further, Dr. Breidenstein 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.
12. Dr. Breidenstein 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

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If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Breidenstein 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. Breidenstein has violated any term, condition or limitation of this Consent Agreement, Dr. Breidenstein 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

The Permanent License Limitation set forth in Paragraph 1 of this Consent Agreement shall not be modified and shall not terminate. As to the probationary terms set forth in this Consent Agreement, Dr. Breidenstein shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year, except that Dr. Breidenstein may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member. Further, Dr. Breidenstein shall not request termination of the probationary period for at least five years from the effective date of this Consent Agreement. 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. Breidenstein, 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.

In the event that any term, limitation, or condition contained in this Consent Agreement is determined to be invalid by a court of competent jurisdiction, Dr. Breidenstein and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Breidenstein 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.

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Dr. Breidenstein 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. Breidenstein 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 EDWARD BREIDENSTEIN, D.O.

James Edward Breidenstein, D.O.

DATE

May 7, 2012

ELIZABETH COLLIS, ESQ.
Attorney for Dr. Breidenstein

etc by [Signature]

DATE

May 8, 2012

J. CRAIG STRAFFORD, M.D., M.P.H.
Secretary

J. Craig Stafford MD

DATE

9 May 2012

LANCE A. TALMAGE, M.D.
Acting Supervising Member

Lance A. Talmage MD

DATE

5-9-12

DAVID P. KATKO
Enforcement Attorney

David P. Katko

DATE

05/08/12

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**CONSENT AGREEMENT
BETWEEN
JAMES EDWARD BREIDENSTEIN, D.O.
AND
THE STATE MEDICAL BOARD OF OHIO
*Case No. 09-CRF-068***

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

Dr. Breidenstein 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)(11), Ohio Revised Code, for “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;” Section 4731.22(B)(13), Ohio Revised Code, for “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;” and Section 4731.22(B)(20), Ohio Revised Code, for “violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board,” to wit: Rule 4731-26-02, Ohio Administrative Code. Pursuant to Rule 4731-26-03(A)(1), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6).
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations as set forth in the Notice of Opportunity for Hearing issued on June 10, 2009 [June 2009 Notice of Opportunity], a copy of which is attached hereto and fully incorporated herein and as set forth below in Paragraph E, 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. Breidenstein is licensed to practice osteopathic medicine and surgery in the State of Ohio, License Number 34.005707.
- D. Dr. Breidenstein states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Breidenstein admits to all of the factual and legal allegations as set forth in the June 2009 Notice of Opportunity. Dr. Breidenstein states that he has not been actively engaged in the practice of osteopathic medicine and surgery since on or about November 1, 2008.

AGREED CONDITIONS

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

PERMANENT REVOCATION, STAYED; SUSPENSION:

- 1. The certificate of Dr. Breidenstein to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such revocation is STAYED, and Dr. Breidenstein's certificate shall be SUSPENDED for an indefinite period of time, but not less than 24 months.

Obeys the Law and Terms of Criminal Probation

- 2. Dr. Breidenstein shall obey all federal, state, and local laws; all rules governing the practice of osteopathic medicine and surgery in Ohio; and all terms of probation imposed by the Hamilton County Municipal Court in criminal case nos. 08-CRB-38408 and 09-CRB-3364.

Releases; Quarterly Declarations and Appearances

- 3. Dr. Breidenstein 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. Breidenstein's psychiatric, sexual, and/or mental health 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. Breidenstein 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.

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

Absences from Ohio

6. Dr. Breidenstein 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. Breidenstein 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. Breidenstein may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Breidenstein is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.

CONDITIONS FOR REINSTATEMENT OR RESTORATION

7. The Board shall not consider reinstatement or restoration of Dr. Breidenstein's certificate to practice osteopathic medicine and surgery until all of the following conditions are met:

- a. Dr. Breidenstein shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.
- b. Dr. Breidenstein 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. Evidence of continuing full compliance with this Consent Agreement.
 - ii. A written report indicating that Dr. Breidenstein'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 report shall be made by a physician from the Center for Marital & Sexual Health, or another physician evaluator knowledgeable in the area of psychiatry and human sexuality who has been approved in advance by the Board, who shall conduct a comprehensive psychiatric and sexual assessment of Dr. Breidenstein. Prior to the assessment, Dr. Breidenstein shall provide the evaluator with a copy of this Consent Agreement, and with copies of any and all records, including but not limited to patient records, related to any and all psychiatric, psychological, and/or sexual evaluations or treatment that he has received, whether such evaluations or treatment occurred before or after the effective date of this Consent Agreement. The report from the evaluator shall include the evaluator's diagnoses and conclusions; any recommendations for care, counseling, and treatment for the diagnoses; any conditions, restrictions or limitations that should be imposed on Dr. Breidenstein's practice; and the basis for the evaluator's determinations.

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

- iii. Dr. Breidenstein shall provide acceptable documentation of successful completion of a course or courses dealing with sexual boundaries. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Breidenstein submits the documentation of successful completion of the course or courses dealing with sexual

boundaries, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

- iv. Prior to submitting his application for reinstatement or restoration, Dr. St. Breidenstein shall take and pass the COMVEX-USA examination or any similar written examination which the Board may deem appropriate to assess his clinical competency.
- v. Dr. Breidenstein shall enter into a written consent agreement including a five year probationary term with annual appearances, and 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. Breidenstein are unable to agree on the terms of a written Consent Agreement, then Dr. Breidenstein 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. Breidenstein that said hearing has been scheduled, advising Dr. Breidenstein 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, Dr. Breidenstein and the Board expressly agree that the aforementioned written consent agreement shall include a licensure limitation specifically requiring that Dr. Breidenstein shall be continuously accompanied by a chaperone at all times when interacting with a female patient for any purpose at any location, except in the case of a life-threatening emergency wherein Dr. Breidenstein shall be accompanied by a chaperone as soon as reasonably practicable.

Further, upon reinstatement of Dr. Breidenstein'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.

8. Within thirty days of the effective date of this Consent Agreement, Dr. Breidenstein 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. Breidenstein 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. Breidenstein 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. Breidenstein shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Breidenstein 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.
9. Within thirty days of the effective date of this Consent Agreement, Dr. Breidenstein 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. Breidenstein 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. Breidenstein 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.

10. Dr. Breidenstein shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Breidenstein with any type of evaluation, treatment, counseling, or monitoring related to this Consent Agreement. Further, Dr. Breidenstein 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.
11. Dr. Breidenstein 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. Breidenstein, 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.

FAILURE TO COMPLY

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

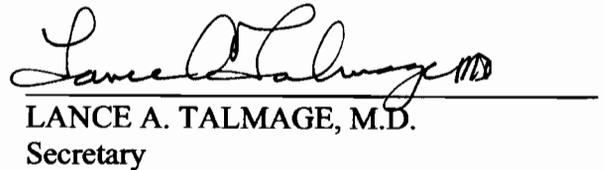
Dr. Breidenstein hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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. Breidenstein 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

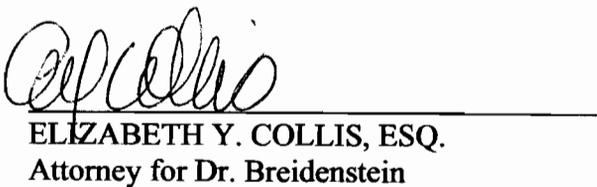
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

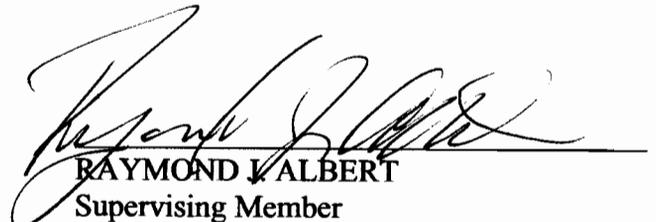

JAMES EDWARD BREIDENSTEIN, D.O.


LANCE A. TALMAGE, M.D.
Secretary

December 23, 2009
DATE

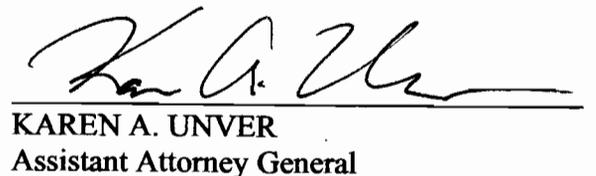
1-13-10
DATE


ELIZABETH Y. COLLIS, ESQ.
Attorney for Dr. Breidenstein


RAYMOND J. ALBERT
Supervising Member

12-30-09
DATE

1/13/10
DATE


KAREN A. UNVER
Assistant Attorney General

1/4/10
DATE



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

June 10, 2009

Case number: 09-CRF-068

James Edward Breidenstein, D.O.
6071 Countrymeadow Lane
Cincinnati, OH 45233

Dear Doctor Breidenstein:

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

- (1) On or about May 7, 2009, in Hamilton County Municipal Court, Ohio, you pled nolo contendere to and were found guilty of two misdemeanor counts of Sexual Imposition in violation of Section 2907.06, Ohio Revised Code, two misdemeanor counts of Falsification in violation of Section 2921.13, Ohio Revised Code, and one misdemeanor count of Obstructing Official Business in violation of Section 2921.31, Ohio Revised Code. The convictions were based upon your having offensive sexual contact with two female patients and your having provided false information to the detective during the course of an associated criminal investigation.

The facts as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice," as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Further, the facts as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in

Mailed 6-11-09

James Edward Breidenstein, D.O.

Page 2

Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-26-02, Ohio Administrative Code. Pursuant to Rule 4731-26-03(A)(1), Ohio Administrative Code, a violation of Rule 4731-26-02, Ohio Administrative Code, also violates Section 4731.22(B)(6), Ohio Revised Code.

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

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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/DPK/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3071 2249
RETURN RECEIPT REQUESTED



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

June 10, 2009

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