

State Medical Board of Ohio

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

(614) 466-3934

med.ohio.gov

February 11, 2015

Case number: 15-CRF- 016

Martin Richard Hobowsky, D.O.
53 South Chillicothe Street
P.O. Box 726
South Charleston, Ohio 45368

Dear Doctor Hobowsky:

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 April 14, 2010, you entered into a Consent Agreement with the Board [April 2010 Consent Agreement]. Under the terms of the April 2010 Consent Agreement, your license to practice osteopathic medicine and surgery was indefinitely suspended, but not less than one year. Your license was reinstated by the Board on or about October 12, 2011, but you remained subject to the monitoring conditions set forth in the April 2010 Consent Agreement.

The April 2010 Consent Agreement includes the following provision in paragraph 4:

Dr. Hobowsky 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.

Mailed 2-12-15

Despite the requirements of the April 2010 Consent Agreement, since your license was reinstated on or about October 12, 2011, you have failed to timely submit quarterly declarations that were due on the following dates: July 1, 2012; October 1, 2012; April 1, 2013; July 1, 2013; October 1, 2013; January 1, 2014; April 1, 2014; July 1, 2014; October 1, 2014; and January 1, 2015.

- (2) On or about October 29, 2014, you were interviewed by representatives of the Board at an office conference related to the Board's investigation as to whether you may suffer from a physical illness that may impact your ability to safely practice medicine and surgery. Although you admitted that you had self-diagnosed at least one significant medical condition and acknowledged that you require portable oxygen at all times, you refused to answer certain questions or to provide the Board with the requested information necessary to further assess your condition as it relates to your ability to practice medicine and surgery. Further, on or about November 12, 2014, the Board served on you its Fifth Set of Interrogatories. The Board received your answers on or about December 16, 2014. Although you provided responses to the interrogatories, you again refused to provide all of the requested information, specifically the names and addresses of your treating physicians, which are being sought by the Board in order to determine what type of medical evaluation, if any, may be required to assess your ability to practice osteopathic medicine and surgery.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "[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.

Further, your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories," as that clause is used in Section 4731.22(B)(34), 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,



Kim G. Rothermel, M.D.
Secretary



KGR/CDP/pev
Enclosures

CERTIFIED MAIL #91 7199 9991 7034 8383 9395
RETURN RECEIPT REQUESTED

**CONSENT AGREEMENT
BETWEEN
MARTIN RICHARD HOBOWSKY, D.O.,
AND
THE STATE MEDICAL BOARD OF OHIO
CASE NO. 09-CRF-103**

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

Dr. Hobowsky 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) of the 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)(24), Ohio Revised Code, for "the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States Department of Justice."
- B. The Board enters into this Consent Agreement in lieu of further formal proceedings based upon the allegations set forth in the Notice of Opportunity for Hearing issued on August 12, 2009, attached hereto as Exhibit A and incorporated herein by this reference. The Board expressly reserves the right to institute additional formal proceedings based upon any other violations of R.C. Chapter 4731., whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Hobowsky is licensed to practice osteopathic medicine and surgery in the State of Ohio, License 34-006544.
- D. Dr. Hobowsky states that he is not licensed to practice in any other state or jurisdiction.
- E. Dr. Hobowsky admits to the factual and legal allegations of the August 12, 2009, Notice of Opportunity for Hearing.

AGREED CONDITIONS

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

REVOCATION, STAYED; SUSPENSION

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

Obey all Laws

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

Absences from Ohio

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

Quarterly Declarations and Appearances

4. Dr. Hobowsky 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. Hobowsky 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.

CONDITIONS FOR REINSTATEMENT

6. The Board shall not consider reinstatement of Dr. Hobowsky's certificate to practice osteopathic medicine and surgery until all of the following conditions are met:
 - a. Dr. Hobowsky shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Hobowsky 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:

Controlled Substances Prescribing Course

- i. At the time he submits his application for reinstatement or restoration, Dr. Hobowsky shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. 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. Hobowsky submits the documentation of successful completion of the course dealing with the prescribing of controlled substances, 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 osteopathic medicine in the future.

7. In the event that Dr. Hobowsky 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. Hobowsky's fitness to resume practice.

PROBATIONARY TERMS, CONDITIONS AND LIMITATIONS

8. Upon reinstatement, Dr. Hobowsky's certificate to practice osteopathic medicine and surgery shall be subject to the following **PROBATIONARY** terms, conditions and limitations for a period of at least five years:
 - a. Dr. Hobowsky shall continue to be subject to all the terms, conditions and limitations set forth in Paragraphs 2 through 5 of this Consent Agreement.

Ban on Administering, Furnishing, or Possessing Controlled Substance; Log

- b. Dr. Hobowsky shall not prescribe, write orders for, give verbal orders for, administer, or personally furnish any controlled substances without prior Board approval.

In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Hobowsky to prescribe, order, administer or personally furnish controlled substances, Dr. Hobowsky shall keep a log of all controlled substances prescribed, ordered, administered, or personally furnished. Such log shall be submitted in a format approved by the Board thirty days prior to Dr. Hobowsky's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Hobowsky 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.

REQUIRED REPORTING BY LICENSEE

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

Dr. Hobowsky shall not request termination of this Consent Agreement for a minimum of five years following reinstatement or restoration of his certificate to practice osteopathic

medicine and surgery. In addition, Dr. Hobowsky shall not request modification to the probationary terms, limitations, and conditions contained herein for a least one year, except that Dr. Hobowsky may make such request with the mutual approval of the Secretary and Supervising Member. 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. Hobowsky, 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. Hobowsky and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

FAILURE TO COMPLY

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

ACKNOWLEDGEMENTS/LIABILITY RELEASE

Dr. Hobowsky 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. Hobowsky 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. Hobowsky 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

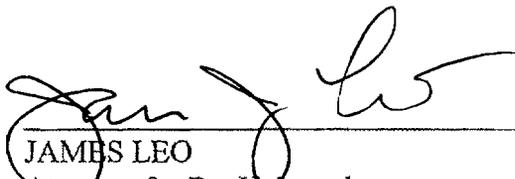
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

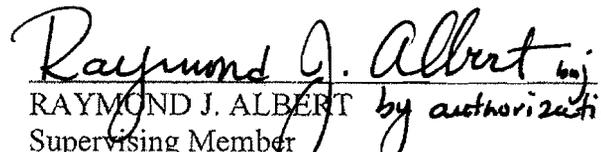

MARTIN RICHARD HOBOWSKY, D.O.


LANCE A. TALMAGE, M.D.
Secretary

3/16/10
DATE

4-14-10
DATE


JAMES LEO
Attorney for Dr. Hobowsky


RAYMOND J. ALBERT *by authorization*
Supervising Member

3/18/10
DATE

April 14, 2010
DATE


KYLE C. WILCOX
Assistant Attorney General

3-25-10
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

August 12, 2009

Case number: 09-CRF-103

Martin R. Hobowsky, D.O.
53 South Chillicothe Street
P.O. Box 726
South Charleston, Ohio 45368

Dear Doctor Hobowsky:

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 4, 2009, you voluntarily surrendered your Drug Enforcement Administration Certificate of Registration [DEA Registration]. As part of this surrender, you executed a document stating that the surrender was due, in part, to an allegation that you had failed to comply with "the Federal requirements pertaining to controlled substances[.]" In that same document, you consented to the revocation of your DEA Registration by the DEA Administrator.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above constitute "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), 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.

Mailed 8-13-09

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,

A handwritten signature in black ink, appearing to read "Lance A. Talmage, M.D.", written in a cursive style.

Lance A. Talmage, M.D.
Secretary

LAT/CDP/flb
Enclosures

CERTIFIED MAIL # 91 7108 2133 3936 3069 0943
RETURN RECEIPT REQUESTED