

**CONSENT AGREEMENT
BETWEEN
RICHARD LEE WHITMER, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

OHIO STATE MEDICAL BOARD

MAR 21 2005

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

Dr. Whitmer 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)(2), Ohio Revised Code, “[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;” violation of Section 4731.22(B)(6), Ohio Revised Code, “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;” and/or violation of Section 4731.22(B)(20), Ohio Revised Code “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 4731-21-02, Ohio Administrative Code, Utilizing Prescription Drugs for the Treatment of Intractable Pain.
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22(B)(2), (B)(6) and (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.
- C. Dr. Whitmer is licensed to practice medicine and surgery in the State of Ohio, License # 35-022868.

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- D. Dr. Whitmer states that he is not licensed to practice medicine and surgery in any other State.
- E. Dr. Whitmer admits that in his treatment of patients presenting with complaints of intractable pain, he utilized controlled substances on a protracted basis and/or in amounts or combination that may not be appropriate when treating other medical conditions, despite failing to comply with accepted and prevailing standards of care, including certain standards of care set forth in Rule 4731-21-02, Ohio Administrative Code. Examples of such deviations from acceptable and prevailing standards of care include that Dr. Whitmer engaged in such prescribing without appropriately utilizing diagnostic testing or other objective methods of evaluation the validity of the patients' complaints or the nature or severity of the patients' reported pain, without obtaining evaluations from appropriate specialists and/or making appropriate referrals, and without formulating individualized treatment plans, and/or Dr. Whitmer failed to appropriately document such actions.

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

Practice Restrictions

- 1. Dr. Whitmer shall not prescribe, administer, personally furnish, order, write orders for, or give verbal orders for any controlled substances as defined by state or federal law.

Required Reporting by Licensee

- 2. Within thirty days of the effective date of this Consent Agreement, Dr. Whitmer 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. Whitmer 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.
- 3. Within thirty days of the effective date of this Consent Agreement, Dr. Whitmer 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. Whitmer 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. Whitmer shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Whitmer 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. Whitmer has violated any term, condition or limitation of this Consent Agreement, Dr. Whitmer 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. Whitmer shall not request termination or modifications of the permanent limitations and restrictions as set forth in paragraphs 1 through 3 of this Consent Agreement.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Whitmer 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.

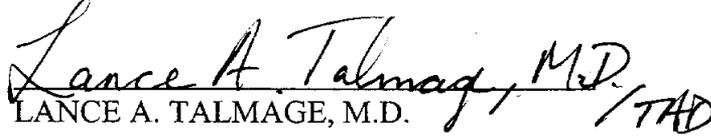
Dr. Whitmer hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

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. Whitmer acknowledges that his social security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

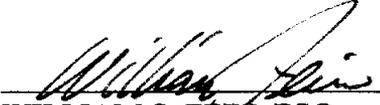
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

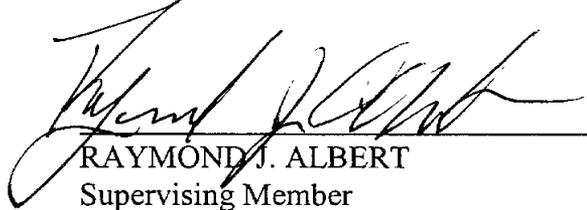

RICHARD L. WHITMER, M.D.


LANCE A. TALMAGE, M.D.
Secretary

3-13-05
DATE

4/13/05
DATE


WILLIAM S. FEEN, ESQ.
Attorney for Dr. Whitmer


RAYMOND J. ALBERT
Supervising Member

3/17/05
DATE

4/13/05
DATE


MARCIE PASTRICK, ESQ.
Enforcement Attorney

March 21, 2005
DATE