

STATE MEDICAL BOARD
OF OHIO
98 JUN 16 PM 3:40

**CONSENT AGREEMENT
BETWEEN
JOHN H. BOYLES, JR., M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

This CONSENT AGREEMENT is entered into by and between JOHN H. BOYLES, JR., M.D., and THE STATE MEDICAL BOARD OF OHIO, a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

JOHN H. BOYLES, JR., M.D., voluntarily enters into this 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.

This CONSENT AGREEMENT contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this CONSENT AGREEMENT.

BASIS FOR ACTION

This CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

- A. THE STATE MEDICAL BOARD OF OHIO 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 any of the enumerated violations.
- B. THE STATE MEDICAL BOARD OF OHIO enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violations of Section 4731.22, Ohio Revised Code, regarding treatment of patients between 1988 and 1992, as set forth in the Notice of Opportunity for Hearing issued by the BOARD on January 14, 1998, 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 Chapter 4731 of the Ohio Revised Code whether occurring before or after the effective date of this AGREEMENT.
- C. JOHN H. BOYLES, JR., M.D., is licensed to practice medicine and surgery in the State of Ohio.
- D. JOHN H. BOYLES, JR., M.D., ADMITS the factual and legal allegations set forth in the Notice of Opportunity for Hearing issued by the BOARD on January 14, 1998, attached hereto as Exhibit A and incorporated herein by reference.

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, JOHN H. BOYLES, JR., M.D., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following terms, conditions and limitations:

REPRIMAND

- I. JOHN H. BOYLES, JR., M.D., shall be and is hereby REPRIMANDED.

PROBATIONARY CONDITIONS

- II. The certificate of JOHN H. BOYLES, JR., M.D. to practice medicine and surgery in the State of Ohio shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of a minimum of three (3) years:
 1. DOCTOR BOYLES shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio.
 2. DOCTOR BOYLES shall submit quarterly declarations under penalty of BOARD disciplinary action 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 16th 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;
 3. DOCTOR BOYLES shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed by the BOARD.

If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. (Example: The first quarterly appearance is scheduled for February, but based upon the doctor's serious personal illness he is permitted

to delay appearance until April. The next appearance will still be scheduled for May, three months after the appearance as originally scheduled.) Although the BOARD will normally give DOCTOR BOYLES written notification of scheduled appearances, it is DOCTOR BOYLES' responsibility to know when personal appearances will occur. If he does not receive written notification from the BOARD by the end of the month in which the appearance should have occurred, DOCTOR BOYLES shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance.

4. In the event that DOCTOR BOYLES should leave Ohio for three (3) continuous months, or reside or practice outside the State, DOCTOR BOYLES must notify the BOARD in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this period under the CONSENT AGREEMENT, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that probationary monitoring is otherwise being performed.
5. In the event DOCTOR BOYLES is found by the Secretary of the BOARD to have failed to comply with any provision of this agreement, and is so notified of that deficiency in writing, such periods of noncompliance will not apply to the reduction of the probationary period under this CONSENT AGREEMENT.

MONITORING OF PRACTICE

Monitoring Physician

6. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR BOYLES shall submit for the BOARD's prior approval the name of a monitoring physician who specializes in and practices primarily in the areas of allergy and immunology, who shall review DOCTOR BOYLES' patient charts including, but not limited to, examining DOCTOR BOYLES' record keeping, patient histories, charting, patient examinations, diagnoses, treatment orders and selection of drugs or other treatment modalities, including, but not limited to, the practice of immunology, treatment of allergy, and conditions involving the thyroid. The monitoring physician shall submit a written report of such review to the BOARD on a quarterly basis. Such chart review may be done on a random

basis, with the frequency and number of charts reviewed to be determined by the BOARD. It shall be DOCTOR BOYLES' responsibility to ensure that the monitoring physician's quarterly reports are submitted to the BOARD on a timely basis.

Further, the monitoring physician shall otherwise monitor DOCTOR BOYLES and provide the BOARD with quarterly reports on the doctor's progress and status. DOCTOR BOYLES shall ensure that such reports are forwarded to the BOARD on a quarterly basis. In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, DOCTOR BOYLES must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another monitoring physician as soon as practicable. DOCTOR BOYLES shall further ensure that the previously designated monitoring physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefore.

All monitoring physician reports required under this paragraph must be received in the BOARD's offices no later than the due date for DOCTOR BOYLES' quarterly declaration. It is DOCTOR BOYLES' responsibility to ensure that reports are timely submitted.

7. The BOARD or the monitoring physician may randomly select records for review regarding patients treated by DOCTOR BOYLES after January 1, 1995.

Required Reporting by Licensee

8. Within thirty (30) days of the effective date of this AGREEMENT, DOCTOR BOYLES shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide physician services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, DOCTOR BOYLES shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he shall contract to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

9. Within thirty (30) days of the effective date of this AGREEMENT, DOCTOR BOYLES 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 a license to practice. DOCTOR BOYLES 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 licensure or reinstatement of licensure. Further, DOCTOR BOYLES shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

FAILURE TO COMPLY

10. DOCTOR BOYLES agrees that if any declaration or report required by this AGREEMENT is not received in the BOARD's offices on or before its due date, DOCTOR BOYLES shall cease practicing beginning the day next following receipt from the BOARD of notice of non-receipt, either by writing, by telephone, or by personal contact until the declaration or report is received in the BOARD offices. Any practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.

If, in the discretion of the Secretary and Supervising Member of THE STATE MEDICAL BOARD OF OHIO, DOCTOR BOYLES appears to have violated or breached any term or condition of this Agreement, THE STATE MEDICAL BOARD OF OHIO 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 Agreement.

If the Secretary and Supervising Member of the BOARD determine that there is clear and convincing evidence that DOCTOR BOYLES has violated any term, condition or limitation of this CONSENT AGREEMENT, DOCTOR BOYLES 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 the purposes of initiating a summary suspension pursuant to Section 4731.22(D), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

The PROBATION shall remain in force for a minimum of three (3) years prior to any request for termination of said PROBATION. Otherwise, the above described probationary terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

DOCTOR BOYLES acknowledges that he has had an opportunity to ask questions concerning the terms of this 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.

DOCTOR BOYLES hereby releases the STATE MEDICAL BOARD OF OHIO, 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.

EFFECTIVE DATE

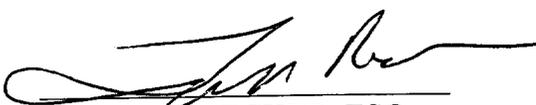
It is expressly understood that this CONSENT AGREEMENT is subject to ratification by the BOARD prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.


DOCTOR JOHN H. BOYLES, JR., M.D.


ANAND G. GARG, M.D.
Secretary

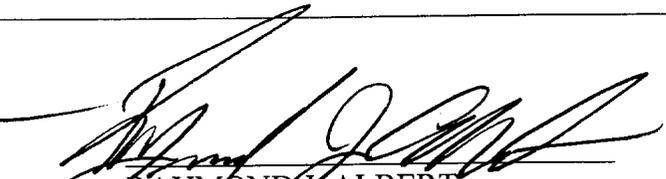
5/14/98
DATE

06/15/98
DATE



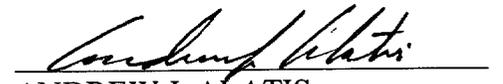
FRANK R. RECKER, ESQ.
Attorney for John H. Boyles, Jr., M.D.

5-19-98
DATE



RAYMOND J. ALBERT
Supervising Member

7/7/98
DATE



ANDREW J. ALATIS
Assistant Attorney General

6-11-98
DATE



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43266-0315 • (614) 466-3934 • Website: www.state.oh.us/med/

January 14, 1998

John Hayes Boyles, Jr., M.D.
7076 Corporate Way
Centerville, OH 45459

Dear Doctor Boyles:

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

- (1) In the routine course of your practice, you undertook the care of Patients 1 through 5, as identified on the attached patient key (key confidential and not subject to public disclosure). In your treatment of Patients 1 through 5, you failed to record an adequate patient history essential to a proper diagnosis. The patient records do not reflect an appropriate discussion of each patient's major complaints or a sequential history by which the patients' specific problems could be evaluated, whether the appropriate tests were done, and whether therapy was directed toward each patient's complaints. The patient records further failed to reflect an adequate examination, or evaluation of these patients, and the records failed to adequately reflect your treatment of these patients.
- (2) There was no justification in the medical records of Patients 1 through 5 for the serial dilution testing and chemical tests ordered by you. Patients 1 through 5 were also subjected to "PFT" allergy testing for foods, although there was no justification in the medical records for these tests.
- (3) You treated Patients 1, 2, 3, and 5 with thyroid preparations, even though your records do not justify such treatment. For example,
 - (a) Patient 1's thyroid function tests were reported as normal; nevertheless, you prescribed a thyroid preparation as treatment for this patient.

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- (b) Patient 2's thyroid function tests were normal; nevertheless, you prescribed a thyroid preparation. Further, Patient 2's Radioallergosorbent Test ("RAST") was negative and serial dilution testing was essentially negative. However, you prescribed immunotherapy for Patient 2 without medical justification.
- (c) The thyroid function test for Patient 3 was normal; nevertheless, you tested this patient for anti-thyroid antibodies without documentation within the medical records as to the necessity for this test.
- (d) Patient 5's thyroid tests were close to normal and Patient 5 evidenced a positive result for anti-thyroid antibodies. Under these circumstances, you should have referred Patient 5 to an endocrinologist.
- (4) Patient 4's RAST tests and serial dilution tests were essentially negative. There was no medical justification for the allergy injections you gave to Patient 4 in 1990.

Your acts, conduct, and/or omissions as alleged in paragraphs (2) through (4) above, individually and/or collectively, constitute "[f]ailure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," as those clauses are used in Section 4731.22(B)(2), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (4) above, individually and/or collectively, constitute "[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," as that clause is used in 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 (30) days of the time of mailing of this notice.

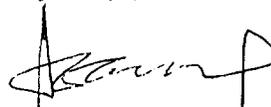
You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence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

In the event that there is no request for such hearing received within thirty (30) 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,

suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/dpk
Enclosures

CERTIFIED MAIL #Z 395 591 344
RETURN RECEIPT REQUESTED

cc: Frank R. Recker, Esq.
CERTIFIED MAIL #Z 395 591 343
RETURN RECEIPT REQUESTED