

**CONSENT AGREEMENT
BETWEEN
RICHARD PETER BURKHARDT, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO
10-CRF-046**

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

Dr. Burkhardt 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 a violation of Section 4731.22(B)(24), Ohio Revised Code, for “[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.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings pursuant to Section 4731.22(B)(24), Ohio Revised Code, 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. Burkhardt is licensed to practice medicine and surgery in the State of Ohio, license number 35.027548.
- D. Dr. Burkhardt states that he is not licensed to practice in any other state or jurisdiction.

- E. Dr. Burkhardt admits to the factual and legal allegations as set forth in the Notice of Opportunity issued by the Board on May 12, 2010, attached hereto as Exhibit A and incorporated herein.

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

PERMANENT LIMITATION / RESTRICTION:

1. The certificate of Richard Peter Burkhardt, M.D. to practice medicine and surgery in the State of Ohio shall be permanently LIMITED and RESTRICTED as follows: Dr. Burkhardt shall be prohibited from prescribing any prescription medication, either controlled or non-controlled.

REQUIRED REPORTING BY LICENSEE

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

3. Within thirty days of the effective date of this Consent Agreement, Dr. Burkhardt 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. Burkhardt 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. Burkhardt 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.
4. Dr. Burkhardt 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

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Burkhardt 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. Burkhardt has violated any term, condition or limitation of this Consent Agreement, Dr. Burkhardt 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 limitation and restriction on Dr. Burkhardt's license shall not terminate. Otherwise, the above-described terms, limitations and conditions, with the exception of the

permanent limitation/restriction as specified in paragraph 1 above, 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. Burkhardt, 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. Burkhardt and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Burkhardt 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.

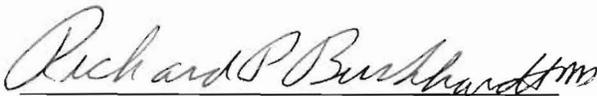
Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Burkhardt 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. Burkhardt 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

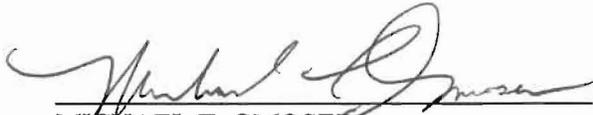
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.


RICHARD PETER BURKHARDT, M.D.


LANCE A. TALMAGE, M.D.
Secretary

12-7-2010
DATE

12-8-10
DATE


MICHAEL T. GMOSEK
Attorney for Dr. Burkhardt


RAYMOND J. ALBERT
Supervising Member

12-7-2010
DATE

12/8/10
DATE


MELINDA RYANS SNYDER
Assistant Attorney General

for
Melinda
Snyder
K.W.

12-8-10
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

May 12, 2010

Case number: 10-CRF- 046

Richard Peter Burkhardt, M.D.
303 Ashley Brook Drive
Hamilton, OH 45013

Dear Doctor Burkhardt:

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 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 19, 2010, you surrendered your Drug Enforcement Administration [DEA] Certificate of Registration [DEA Surrender] to agents of the United States DEA. A copy of the DEA Surrender is attached hereto and incorporated herein.

The DEA Surrender as alleged in paragraph (1) above, constitutes “[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.

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.

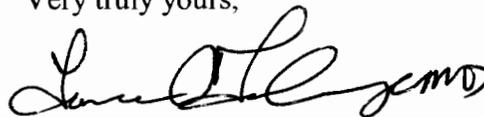
Mailed 5-13-10

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 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 5486
RETURN RECEIPT REQUESTED

cc: Michael T. Gmoser, Esq.
Holcomb, Hyde & Gmoser, LLP
311 Key Bank Building
6 South Second Street
Hamilton, OH 45011

CERTIFIED MAIL #91 7108 2133 3936 3071 5226
RETURN RECEIPT REQUESTED

VOLUNTARY SURRENDER OF CONTROLLED SUBSTANCES PRIVILEGES

DEA USE ONLY
File No.

After being fully advised of my rights, and understanding that I am not required to surrender my controlled substances privileges, I freely execute this document and choose to take the actions described herein.

- In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part;
- In view of my desire to terminate handling of controlled substances listed in schedule(s) 2 thru 5 ;

I hereby voluntarily surrender my Drug Enforcement Administration Certificate of Registration, unused order forms, and all my controlled substances listed in schedule(s) 2 thru 5 as evidence of my agreement to relinquish my privilege to handle controlled substances listed in schedule(s) 2 thru 5 . Further, I agree and consent that this document shall be authority for the Administrator of the Drug Enforcement Administration to terminate and revoke my registration without an order to show cause, a hearing, or any other proceedings, (and if not all controlled substances privileges are surrendered, be issued a new registration certificate limited to schedule(s) N/A).

I waive refund of any payments made by me in connection with my registration.

I understand that I will not be permitted to order, manufacture, distribute, possess, dispense, administer, prescribe, or engage in any other controlled substance activities whatever, until such time as I am again properly registered.

NAME OF REGISTRANT (Print) Richard Burkhardt, MD		ADDRESS OF REGISTRANT 315 High Street 6th Floor Hamilton, Ohio 45011	
DEA REGISTRATION NO. AB2833615			
SIGNATURE OF REGISTRANT OR AUTHORIZED INDIVIDUAL 		DATE Apr 19 2010	

WITNESSES:

NAME AND DATE  4-19-2010		TITLE Attorney		MEDICAL BOARD APR 19 2010
NAME AND DATE 		TITLE Division GS		

PRIVACY ACT

AUTHORITY: Section 301 of the Controlled Substances Act of 1970 (PL 91-513).
PURPOSE: Permit voluntary surrender of controlled substances.
ROUTINE USES: The Controlled Substances Act Registration Records produces special reports as required for statistical analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated:
 A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes.
 B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.
 C. Persons registered under the Controlled Substances Act (Public Law 91-513) for the purpose of verifying the registration of customers and practitioners.
EFFECT: Failure to provide the information will have no effect on the individual.