

**CONSENT AGREEMENT
BETWEEN
RUSSELL A. NICKELS, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

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

RUSSELL A. NICKELS, M.D. voluntarily 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.

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.

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)(20), 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 "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."

B. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(A), Ohio Revised Code, to revoke or refuse to grant a certificate for a person for committing "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board."

C. THE STATE MEDICAL BOARD OF OHIO is empowered by Section 4731.22(B)(5), 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 "publishing a false, fraudulent, deceptive, or misleading statement."

D. 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 set forth in the Notice of Opportunity for

Hearing issued by the BOARD on December 6, 1995, attached hereto 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 Revised Code, whether occurring before or after the effective date of this Agreement.

E RUSSELL A. NICKELS, M.D. is licensed to practice medicine and surgery in the State of Ohio, with certificate number 35-030241.

F. RUSSELL A. NICKELS, M.D. ADMITS that in completing his application card for renewal of his certificate to practice medicine or surgery for the 1994-1996 biennial registration period, he did certify that he had completed during the preceding biennium the requisite hours of continuing medical education, as required by Section 4731.281, Ohio Revised Code.

G. RUSSELL A. NICKELS, M.D. ADMITS that, in fact, he had not completed the requisite hours of continuing medical education as required by Section 4731.281, Ohio Revised Code, at the time of certification, but did complete the requisite hours subsequently.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of further formal proceedings at this time, RUSSELL A. NICKELS, M.D., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO to the following terms, conditions and limitations:

1. The certificate of RUSSELL A. NICKELS, M.D. to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of thirty (30) days.
2. Upon reinstatement, the certificate of RUSSELL A. NICKELS, M.D., to practice medicine and surgery in the State of Ohio shall be subject to the following PROBATIONARY terms, conditions and limitations for the next three (3) biennial registration periods:
 - (a) RUSSELL A. NICKELS, M.D., shall submit documentation acceptable to the BOARD of satisfactory completion of the requisite hours of CME. Such documentation shall be due in the BOARD's offices no later than thirty (30) days after the stated deadline for filing the application for renewal.
 - (b) Should RUSSELL A. NICKELS, M.D. elect not to renew his Ohio certificate during the duration of this agreement, DOCTOR NICKELS shall notify the BOARD in writing prior to the date his CME documentation is due pursuant to paragraph 2(a). Periods of

time during which DOCTOR NICKELS does not maintain his certificate as current will not apply to the reduction of the three (3) biennial registration periods for which documentation must be submitted. Further, if DOCTOR NICKELS' certificate remains inactive for more than two years, the Board may impose additional requirements for reinstatement pursuant to Section 4731.222, Ohio Revised Code.

If, in the discretion of the Secretary and Supervising Member of the BOARD, DOCTOR NICKELS 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 Agreement.

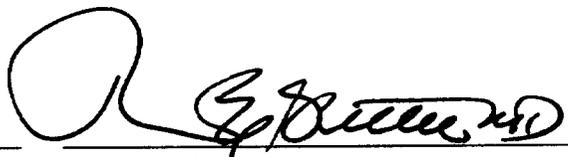
DOCTOR NICKELS acknowledges that he has had an opportunity to ask questions concerning the terms of this CONSENT AGREEMENT and that all questions asked have been answered in a satisfactory manner.

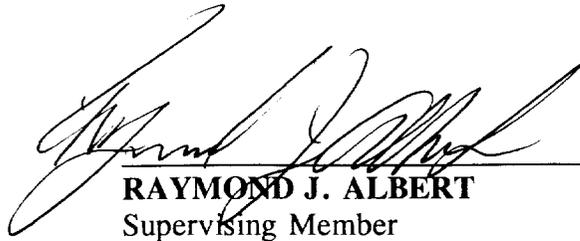
Any action initiated by the BOARD based on alleged violations of this CONSENT AGREEMENT shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

DOCTOR NICKELS 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. 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 that it shall become effective upon the last date of signature below.

Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

 _____ RUSSELL A. NICKELS, M.D.	 _____ THOMAS E. GRETTER, M.D. Secretary
<u>3-21-96</u> _____ DATE	<u>4/17/96</u> _____ DATE



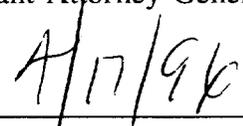
RAYMOND J. ALBERT
Supervising Member



DATE



ANNE BERRY STRAIT
Assistant Attorney General



DATE



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

December 6, 1995

Russell A. Nickels, M.D.
430 Winchuck River Road
Brookings, OR 97415

Dear Doctor Nickels:

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 applying for registration of your certificate to practice medicine or surgery for the current registration period, you certified that you had completed during the last biennial period of acquisition of Continuing Medical Education (CME) (July 1, 1992 - June 30, 1994) the requisite hours of CME as required by Section 4731.281, Ohio Revised Code.
- (2) In April 1995, the State Medical Board of Ohio informed you by a certified mail letter that you were required to complete a log listing your CME for the July 1, 1992 - June 30, 1994 period and to provide documentation that you had actually completed at least forty (40) hours of Category I CME credits. On April 14, 1995, the State Medical Board received your log dated April 5, 1995, listing and documenting sixty (60) hours of Category I CME and listing ninety (90) hours of Category II CME. However, only twenty-five and one-half (25.5) hours of the listed and documented Category I CME occurred during the applicable time period. You have failed to submit documentation of at least forty (40) hours of Category I CME credits completed during the above time period.
- (3) Your response to the audit notice as detailed in paragraph (2), above, rebuts the presumption that you did complete the requisite hours of CME, and/or demonstrates that you failed to keep detailed records of CME taken.

Your acts in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so,

Mailed 12/7/95

December 6, 1995

constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts in certifying to the State Medical Board that you had completed the statutorily required CME, as set forth in the above paragraph (1), when you had not, in fact, done so, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, such failure to obtain the requisite CME and submit documentation of same constitutes "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 Section 4731.22(B)(20), Ohio Revised Code, to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

- (4) On your certification log of CME for the time period July 1, 1992 - June 30, 1994, you listed a course sponsored by the Federal Aviation Administration (FAA) in Aviation Medicine for twenty (20) hours of Category I CME which you stated had been scheduled for May 1994; however, you claimed that the course scheduled for May had been canceled by the FAA and rescheduled for December 1994. You attended the December 1994 course which was not within the applicable time period.

In fact, the FAA did not cancel the May 1994 course in Aviation Medicine; it was conducted in San Antonio, TX, on May 8-12, 1994.

Your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (4) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), 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.

December 6, 1995

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,



Thomas E. Gretter, M.D.
Secretary

TEG/bjm
Enclosures

CERTIFIED MAIL # P 348 886 990
RETURN RECEIPT REQUESTED

rev.2/15/95