BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

CARL F. OESTERMEYER, M.D. *

ORDER AND ENTRY

On or about April 8, 1998, notice was issued to Carl F. Oestermeyer, M.D., that the State Medical Board of Ohio intended to consider disciplinary action against his license to practice medicine and surgery in the State of Ohio. The Board's notice was based on Dr. Oestermeyer's alleged impairment of ability to practice due to an alcoholism relapse.

The Board received a letter dated August 12, 1998, from Kevin Byers, Dr. Oestermeyer's attorney, informing the Board that Dr. Oestermeyer had passed away in his sleep during the night of August 1, 1998.

The Board having been subsequently notified of Dr. Oestermeyer's demise, it is hereby ORDERED that the above referenced matter be and is hereby dismissed as MOOT.

Anand G. Garg, M.D.
Secretary

3/10/99
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/

April 8, 1998

Carl F. Oestermeyer, M.D.
11907 Westlake Road
Vermilion, OH 44089

Dear Doctor Oestermeyer:

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) On or about August 28, 1990, you entered into a minimum five year Consent Agreement with the State Medical Board of Ohio in lieu of formal proceedings based upon your violation of Section 4731.22(B)(26), Ohio Revised Code.

In the August 1990 Consent Agreement, you admitted that you had suffered from alcoholism since at least 1976, and that you had experienced "a number of relapses", with your most recent relapse occurring in April 1990.

On or about April 18, 1996, you were released from the terms of your 1990 Consent Agreement with the Board. A copy of the 1990 Consent Agreement is attached hereto and incorporated herein.

(2) On or about June 27, 1997, you contacted the Board to report that you were entering a treatment program. Thereafter, you advised a Medical Board Investigator that you had entered treatment after testing positive for alcohol on two breathalyzer tests that were conducted at your place of employment as an emergency room physician. You further stated that you had been drinking the night before the positive tests, and felt that the nurse on duty in the emergency room had probably noted a smell of alcohol and reported you.

(3) Your patient records from outpatient treatment that you received from June 19, 1997, to July 10, 1997, at Southwest General Health Center, in Middleburg Heights, Ohio, a program not approved as a treatment provider for licensees under Section 4731.25, Ohio Revised Code, indicate that you were seeking treatment because your employer was "requiring cd tx as pt. blew a bal of 0.03 at begin of shift"; that prior to this treatment you were at "ADDS in Medina" but could not

Mailed 4/9/98

attend treatment five times per week; and that you had been sober for one year "prior to this slip."

(4) Your acts as alleged in paragraphs (1), (2), and (3) above constitute a relapse under the definition of Rule 4731-16-01(B), Ohio Administrative Code.

Your acts, conduct, and/or omissions as alleged in paragraphs (1)-(4) above, individually and/or collectively, constitute "[i]mpairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice," as that clause is used in Section 4731.22(B)(26), Ohio Revised Code.

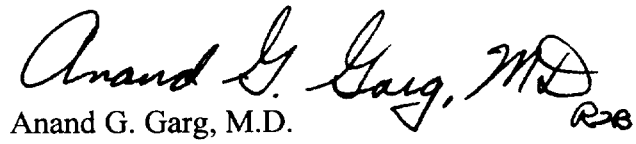
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing 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/bjs
Enclosures

CERTIFIED MAIL #P 152 984 757
RETURN RECEIPT REQUESTED

CONSENT AGREEMENT
BETWEEN
CARL OESTERMEYER, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

CARL OESTERMEYER, M.D. 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 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)(26), 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 impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

B. THE STATE MEDICAL BOARD OF OHIO enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), 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 Agreement.

C. CARL OESTERMEYER, M.D. is licensed to practice medicine and surgery in the State of Ohio.

D. CARL OESTERMEYER, M.D., admits that he has had an alcoholism problem since at least 1976; that he has had a number of relapses following which he voluntarily sought treatment; and that his most recent relapse occurred on or about April 1, 1990 and that he was admitted into Firelands Community Hospital Treatment Center on or about April 5, 1990 for a twenty-eight day in-patient treatment program.

WHEREFORE, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, DOCTOR OESTERMEYER knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following probationary terms, conditions and limitations:

1. DOCTOR OESTERMEYER shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio;

2. DOCTOR OESTERMEYER shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of this Consent Agreement;

3. DOCTOR OESTERMEYER shall appear in person for interviews before the full BOARD or its designated representative at three month intervals, or as otherwise directed by the BOARD;

4. In the event that DOCTOR OESTERMEYER should leave Ohio for three continuous months, or reside or practice outside the State, DOCTOR OESTERMEYER, 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;

5. DOCTOR OESTERMEYER shall keep a log of all controlled substances prescribed, dispensed, or administered by him. Such log shall be submitted in the format approved by the BOARD thirty (30) days prior to DOCTOR OESTERMEYER's personal appearance before the BOARD or its designated representative, or as otherwise directed by the BOARD.

6. DOCTOR OESTERMEYER shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to him by another so authorized by law who has full knowledge of DOCTOR OESTERMEYER's history of chemical dependency;

7. DOCTOR OESTERMEYER shall abstain completely from the use of alcohol;

8. DOCTOR OESTERMEYER shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR OESTERMEYER is to ensure that all screening reports are forwarded directly to the BOARD on a monthly basis;

   DOCTOR OESTERMEYER shall submit the required urine specimens to a supervising physician to be approved by the BOARD. The supervising physician shall ensure that the urine specimens are obtained on a random basis, that the giving of the specimen is witnessed by a reliable person, and that appropriate control over the specimen is maintained. In addition, the supervising physician shall immediately inform the BOARD of any positive screening results.

   The supervising physician shall monitor DOCTOR OESTERMEYER and provide the BOARD with reports on the doctor's progress and status.

   In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR OESTERMEYER must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable;

9. The Board retains the right to require, and DOCTOR OESTERMEYER agrees to submit, blood or urine specimens for analysis upon request and without prior notice;

10. Within 30 days of the effective date of this Consent Agreement, DOCTOR OESTERMEYER shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, acceptable to the BOARD no less than three (3) times per week. At his appearances before the BOARD or its designated representative, DOCTOR OESTERMEYER shall submit documentary evidence of continuing compliance with this program;

11. DOCTOR OESTERMEYER shall provide all employers and the Chief of Staff at each hospital where he has, applies for, or obtains privileges with a copy of this Consent Agreement;

12. DOCTOR OESTERMEYER shall contact the Physician's Effectiveness Program of the Ohio State Medical Association to arrange for assistance in recovery/aftercare as required by Paragraph 10 of this Agreement.

The above described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties. However, this Agreement shall remain in force for a minimum of five (5) years prior to any request for termination of said Agreement.

If, in the discretion of the Secretary of THE STATE MEDICAL BOARD OF OHIO, DOCTOR OESTERMEYER appears to have violated or breached any terms or conditions 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.

DOCTOR OESTERMEYER 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 OESTERMEYER 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, and shall become effective upon the last date of signature below.

Carl Oestermeyer M.D.
CARL OESTERMEYER, M.D.

8/24/90
DATE

Henry G. Cramblett
HENRY G. CRAMBLETT, M.D.
Secretary

8/27/90
DATE

John E. Rauch DO
JOHN E. RAUCH, D.O.
Supervising Member

8/27/90
DATE

John C. Dowling
JOHN C. DOWLING, Esquire
Assistant Attorney General

8/28/90
DATE

Rev. 10/89