

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF :

:

HARRY L. AMSBARY, M.D. :

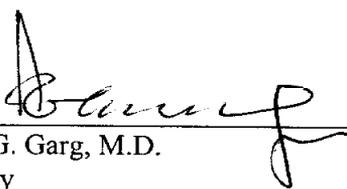
**ENTRY OF ORDER**

On March 25, 2003, Harry L. Amsbary, M.D. executed a Voluntary Surrender of his Certificate to practice medicine and surgery in the State of Ohio with a consent to revocation, which document is attached hereto and fully incorporated herein.

In consideration of the foregoing and of Dr. Amsbary's express waiver of the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board members vote to revoke said certificate, it is hereby ORDERED that Certificate No. 35-037329 authorizing Harry L. Amsbary, M.D., to practice medicine be permanently REVOKED, effective March 31, 2003.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 31<sup>st</sup> day of March, 2003, and the original thereof shall be kept with said Journal.

(SEAL)

  
\_\_\_\_\_  
Anand G. Garg, M.D.  
Secretary

March 31, 2003  
\_\_\_\_\_  
Date

**STATE OF OHIO  
THE STATE MEDICAL BOARD  
SURRENDER OF CERTIFICATE  
TO PRACTICE MEDICINE AND SURGERY**

I, Harry L. Amsbary, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein.

I, Harry L. Amsbary, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, No. 35-037329, to the State Medical Board of Ohio, thereby relinquishing all rights to practice medicine and surgery in Ohio.

I understand that as a result of the surrender herein that I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio. This surrender shall be effective upon the date of the signed acceptance by the Secretary and Supervising Member of the State Medical Board of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement of certificate to practice medicine and surgery No. 35-037329, or issuance of any other certificate pursuant to Chapters 4730., 4731., 4760. or 4762., Ohio Revised Code, on or after the date of signing this Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I hereby authorize the State Medical Board of Ohio to enter upon its Journal an Order permanently revoking my certificate to practice medicine and surgery, No. 35-037329, in conjunction with which I expressly waive the provision of Section 4731.22(B), Ohio Revised Code, requiring that six (6) Board Members vote to revoke said certificate, and further expressly and forever waive all rights as set forth in Chapter 119., Ohio Revised Code, including but not limited to my right to counsel, right to a hearing, right to present evidence, right to cross-examine witnesses, and right to appeal the Order of the Board revoking my certificate to practice medicine and surgery.

I, Harry L. Amsbary, M.D., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code, and may be reported to appropriate organizations, data banks, and governmental bodies. I, Harry L. Amsbary, M.D., agree to provide my social security number to the Board and hereby authorize the Board to utilize that number in conjunction with that reporting.

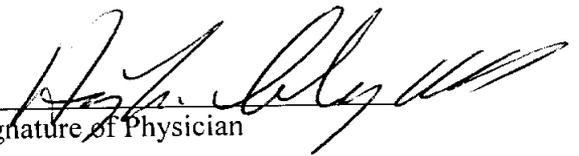
I stipulate and agree that I am taking the action described herein in lieu of formal disciplinary proceedings pursuant to Section 4731.22(B)(11) and (B)(13), Ohio Revised

Code, based upon my having pleaded guilty, in a Plea Agreement filed January 21, 2003, in the Circuit Court of Wood County, West Virginia, to two misdemeanor offenses of "Battery" in violation of West Virginia Code §61-2-9(c), as alleged in Count Seven of the Indictment (Patient B. F.), returned May 6, 2002, against me by the Wood County Grand Jury, and as charged in an Information (Patient A. V.), filed on or about January 21, 2003, by the Prosecuting Attorney of Wood County.

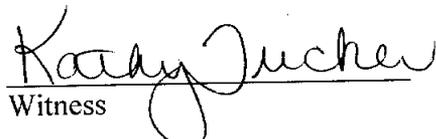
In the above Plea Agreement, I agreed that I would immediately cease treating patients, and that, upon the Court's acceptance and approval of the Plea Agreement I will, within a reasonable time, not to exceed thirty (30) days, surrender any license or licenses to practice medicine and surgery that I currently hold from any jurisdiction and will not in the future attempt to practice medicine and surgery again. Copies of the Indictment, Information, and Plea Agreement are attached hereto and incorporated herein.

Further, I also stipulate and agree that I am taking the action described herein in lieu of formal disciplinary proceedings pursuant to Section 4731.22(B)(22), Ohio Revised Code, based upon the West Virginia Board of Medicine Consent Order entered February 14, 2003, a copy of which is attached hereto and incorporated herein, which ordered (1) my license to practice medicine and surgery in West Virginia is hereby surrendered, effective February 20, 2003, and (2) I agreed not to make application at any time in the future for a license to practice medicine and surgery in the State of West Virginia and I understand that, based upon the above Plea Agreement, if I do so, I will be denied such a license.

Signed this 25<sup>th</sup> day of March 2003.

  
\_\_\_\_\_  
Signature of Physician

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Witness

Sworn to and subscribed before me this 25 day of March 2003.

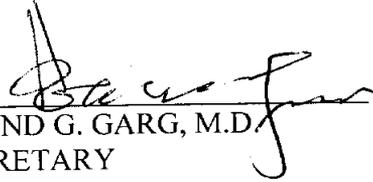
\_\_\_\_\_  
Notary Public

SEAL

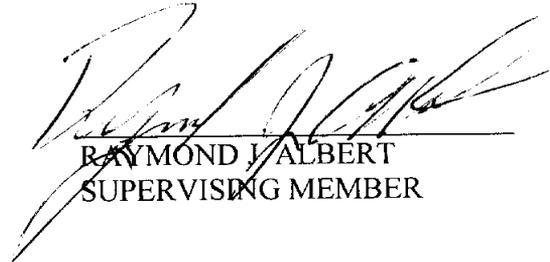
(This form must be either witnessed OR notarized)

Surrender of Certificate  
Harry L. Amsbary, M.D.  
Page 3

Accepted by the State Medical Board of Ohio:

  
ANAND G. GARG, M.D.  
SECRETARY

3/31/03  
DATE

  
RAYMOND J. ALBERT  
SUPERVISING MEMBER

3/31/03  
DATE

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff,

vs.

//

02-F-84-R  
-03-M-\_\_\_\_\_

HARRY L. AMSBARY,

Defendant.

FILED IN OPEN COURT

JAN 21 2003 *mb*

CAROLE JONES  
CLERK CIRCUIT COURT

INFORMATION

West Virginia Code: 61-2-9  
Battery

THE PROSECUTING ATTORNEY CHARGES:

That on or about the \_\_\_\_ day of November, 2001, in Wood County, West Virginia, HARRY L. AMSBARY committed the offense of "Battery" by unlawfully and intentionally making physical contact of an insulting or provoking nature to another, to wit: A. V., against the peace and dignity of the State.

*Ginny Conley*  
\_\_\_\_\_  
GINNY CONLEY  
PROSECUTING ATTORNEY

STATE OF WEST VIRGINIA,  
COUNTY OF WOOD, TO-WIT:

I, CAROLE JONES, Clerk of the Circuit Court of Wood County, West Virginia, hereby certify that the foregoing is a true and complete copy as the same appears from the records of said Court.

Given under my hand and seal of said Circuit Court, this the 21<sup>st</sup> day of Jan 2003

*Carole Jones*  
\_\_\_\_\_  
Clerk of the Circuit Court of  
Wood County, West Virginia

By: *L. Amster* Deputy

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

COPY

STATE OF WEST VIRGINIA,

Plaintiff,

vs.

///

CASE NO. 02-F-84

HARRY L. AMSBARY,

Defendant.

INDICTMENT

COUNT ONE

FILED IN OPEN COURT

MAY - 6 2002

CAROLE JONES  
CLERK CIRCUIT COURT

COUNT TWO

COUNT THREE

COUNT FOUR

COUNT FIVE

COUNT SIX

COUNT SEVEN

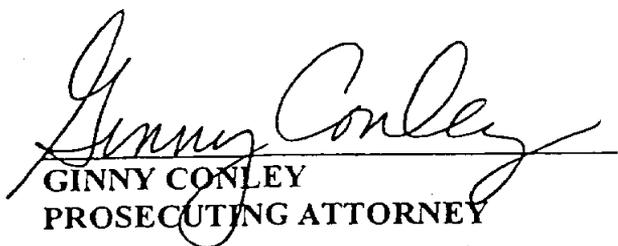
West Virginia Code: 61-2-9(c)  
Battery

**THE GRAND JURY FURTHER CHARGES:**

That on or about the \_\_\_\_ day of December 2001, in Wood County, West Virginia, Harry L. Amsbary committed the offense of "Battery" by unlawfully and intentionally making contact of an insulting or provoking nature with B.F., against the peace and dignity of the State.

COUNT EIGHT

A TRUE BILL

  
GINNY CONLEY  
PROSECUTING ATTORNEY

  
FOREMAN OF THE GRAND JURY

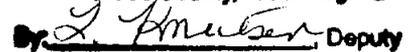
Found upon the testimony of  
Decker Moody

STATE OF WEST VIRGINIA,  
COUNTY OF WOOD, TO-WIT:

I, CAROLE JONES, Clerk of the Circuit Court  
of Wood County, West Virginia, hereby certify  
that the foregoing is a true and complete copy  
as the same appears from the records of said  
Court.

Given under my hand and seal of said Circuit  
Court, this the 6th day of May, 2003

  
Clerk of the Circuit Court of  
Wood County, West Virginia

By  Deputy

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

VS.

CASE No. 02-F-84

HARRY L. AMSBARY,

DEFENDANT.

FILED IN OPEN COURT

JAN 21 2003 *mb*

CAROLE JONES  
CLERK CIRCUIT COURT

PLEA AGREEMENT

THIS DAY CAME THE DEFENDANT HARRY L. AMSBARY IN PERSON AND WITH HIS ATTORNEYS, WILLIAM B. RICHARDSON, JR., AND WILLIAM E. KIGER, AND THE STATE OF WEST VIRGINIA BY GINNY CONLEY, PROSECUTING ATTORNEY OF WOOD COUNTY. THEREUPON COUNSEL FOR THE PARTIES ADVISED THE COURT THAT THE DEFENDANT AND THE STATE OF WEST VIRGINIA HAVE REACHED AN AGREEMENT CONCERNING THE DEFENDANT ENTERING PLEAS OF GUILTY TO TWO CHARGES OF THE MISDEMEANOR OFFENSE OF "BATTERY" IN VIOLATION OF *WEST VIRGINIA CODE, 61-2-9*, AS ALLEGED IN COUNT SEVEN OF THE INDICTMENT RETURNED AGAINST THE DEFENDANT BY THE WOOD COUNTY GRAND JURY ON MAY 6, 2002, AND AS CHARGED IN AN INFORMATION FILED BY THE PROSECUTING ATTORNEY OF WOOD COUNTY. THE AGREEMENT REACHED BETWEEN THE DEFENDANT AND THE STATE OF WEST VIRGINIA IS AS FOLLOWS:

1. THE DEFENDANT WILL ENTER A PLEA OF GUILTY TO THE MISDEMEANOR OFFENSE OF "BATTERY" IN VIOLATION OF *WEST VIRGINIA CODE, 61-2-9*, AS CHARGED IN COUNT SEVEN OF THE AFORESAID INDICTMENT";

2. THE DEFENDANT WILL ENTER A PLEA OF GUILTY TO THE MISDEMEANOR OFFENSE OF

"BATTERY" IN VIOLATION OF *WEST VIRGINIA CODE, 61-2-9*, AS CHARGED IN THE AFORESAID INFORMATION;

3. THE DEFENDANT ACKNOWLEDGES THAT HE HAS BEEN INFORMED AND DOES UNDERSTAND THAT PROSECUTION OF THE MISDEMEANOR OFFENSE OF "BATTERY" CHARGED IN THE AFORESAID INFORMATION IS BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS WHICH REQUIRES PROSECUTIONS FOR MISDEMEANOR OFFENSES TO BE INSTITUTED WITHIN ONE (1) YEAR FROM THE DATE THE OFFENSE WAS ALLEGEDLY COMMITTED BUT HE, IN ORDER TO OBTAIN THE BENEFIT OF THIS PLEA AGREEMENT, DOES HEREBY WAIVE, RELINQUISH AND SURRENDER ANY RIGHT THAT HE MAY NOW OR IN THE FUTURE HAVE TO RAISE THE STATUTE OF LIMITATIONS AS A DEFENSE TO THAT CHARGE;

4. THE STATE OF WEST VIRGINIA, IN CONSIDERATION OF THE DEFENDANT'S ENTRY OF THE AFORESAID PLEAS OF GUILTY AND PURSUANT TO RULE 11(E)(1)(A) AND (D) OF THE *WEST VIRGINIA RULES OF CRIMINAL PROCEDURE*, AGREES THAT THE DEFENDANT WILL NOT BE FURTHER PROSECUTED FOR THE REMAINING OFFENSES CHARGED IN THE AFORESAID INDICTMENT AND WILL REQUEST THAT THE COURT DISMISS THE SAME WITH PREJUDICE AND, FURTHER, THAT NO ADDITIONAL INDICTMENTS OR INFORMATIONS FOR OTHER KNOWN OFFENSES ARISING OUT OF PAST TRANSACTIONS WILL BE SOUGHT;

5. THE DEFENDANT ACKNOWLEDGES THAT HE HAS BEEN INFORMED AND DOES UNDERSTAND THAT AS A RESULT OF HIS ENTRY OF THE AFORESAID PLEAS OF GUILTY HE WILL BE EXPOSED TO RECEIVING TWO (2) SENTENCES OF CONFINEMENT IN A REGIONAL JAIL FOR NOT MORE THAN TWELVE (12) MONTHS EACH AND TWO (2) FINES OF NOT MORE THAN FIVE HUNDRED (\$500.00) DOLLARS EACH;

6. THE DEFENDANT ACKNOWLEDGES THAT HE HAS BEEN INFORMED AND DOES UNDERSTAND THAT THERE IS NO AGREEMENT OR RECOMMENDATION CONCERNING WHETHER THE SENTENCES IMPOSED BY

THE COURT WILL BE ORDERED TO BE SERVED CONCURRENTLY OR CONSECUTIVELY AND THAT THE MATTER OF CONCURRENT OR CONSECUTIVE SENTENCING IS BEING LEFT IN THE COURT'S DISCRETION;

7. THE STATE OF WEST VIRGINIA, IN CONSIDERATION OF THE DEFENDANT'S ENTRY OF THE AFORESAID PLEAS OF GUILTY, DOES HEREBY MAKE A NON-BINDING RECOMMENDATION TO THE COURT PURSUANT TO RULE 11(E)(1)(B) OF THE *WEST VIRGINIA RULES OF CRIMINAL PROCEDURE*, THAT THE SENTENCES IMPOSED BY THE COURT BE SUSPENDED AND THAT THE DEFENDANT BE GRANTED THE PRIVILEGE OF PROBATION PURSUANT TO *WEST VIRGINIA CODE, 62-12-1, ET SEQ*;

8. THE DEFENDANT ACKNOWLEDGES THAT HE HAS BEEN INFORMED AND DOES UNDERSTAND THAT THE RECOMMENDATION MADE BY THE STATE OF WEST VIRGINIA AS SET FORTH IN THE PRECEDING PARAGRAPH IS NOT BINDING UPON THE COURT AND THAT IF THE COURT DECLINES TO FOLLOW SAID RECOMMENDATION, IN WHOLE OR IN PART, HE WILL NOT HAVE THE RIGHT TO WITHDRAW HIS PLEAS OF GUILTY BUT WILL BE REQUIRED TO ACCEPT THE SENTENCES WHICH THE COURT DEEMS APPROPRIATE;

9. THE DEFENDANT AGREES THAT HE WILL IMMEDIATELY CEASE TREATING PATIENTS AND THAT, UPON THE COURT'S ACCEPTANCE AND APPROVAL OF THIS PLEA AGREEMENT HE WILL, WITHIN A REASONABLE TIME NOT TO EXCEED THIRTY (30) DAYS, SURRENDER ANY LICENSE OR LICENSES TO PRACTICE MEDICINE AND SURGERY THAT HE CURRENTLY HOLDS FROM ANY JURISDICTION AND WILL NOT IN THE FUTURE ATTEMPT TO PRACTICE MEDICINE AND SURGERY AGAIN;

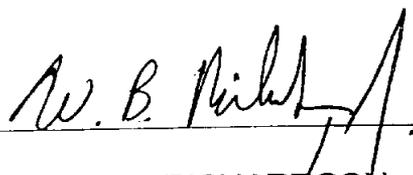
10. THE DEFENDANT AGREES THAT HE IS NOT ENTERING AN "ALFORD" TYPE PLEA TO EITHER CHARGE; AND

11. THE DEFENDANT AND THE STATE OF WEST VIRGINIA ACKNOWLEDGE AND AGREE THAT THE ABOVE SETS FORTH THEIR ENTIRE AGREEMENT CONCERNING THIS MATTER AND THAT THERE ARE NO PROMISES OR REPRESENTATIONS BETWEEN THEM OTHER THAN AS SET FORTH HEREIN.

WITNESS OUR SIGNATURES ON THIS 21<sup>ST</sup> DAY OF JANUARY, 2003:



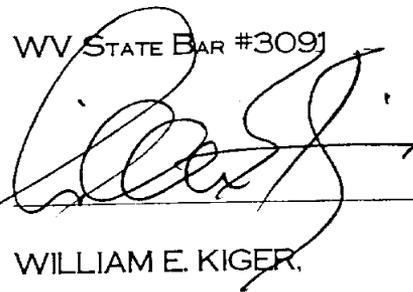
HARRY L. AMSBARY, DEFENDANT



WILLIAM B. RICHARDSON, JR.,

CO-COUNSEL FOR THE DEFENDANT

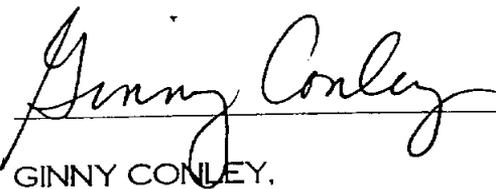
WV STATE BAR #3091



WILLIAM E. KIGER,

CO-COUNSEL FOR THE DEFENDANT

WV STATE BAR #2036



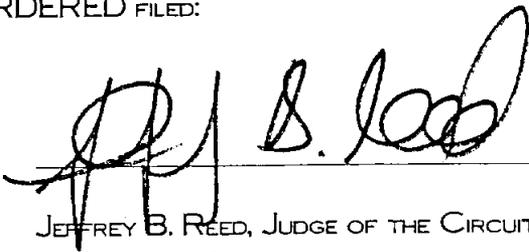
GINNY CONLEY,

PROSECUTING ATTORNEY OF WOOD COUNTY

WV STATE BAR # 6365

1-21-02

RECEIVED BY THE COURT AND ORDERED FILED:



JEFFREY B. REED, JUDGE OF THE CIRCUIT COURT

DATE \_\_\_\_\_

STATE OF WEST VIRGINIA,  
COUNTY OF WOOD, TO-WIT:

I, CAROLE JONES, Clerk of the Circuit Court of Wood County, West Virginia, hereby certify that the foregoing is a true and complete copy as the same appears from the records of said Court.

Given under my hand and seal of said Circuit Court, this the 21<sup>st</sup> day of Jan, 2003



Clerk of the Circuit Court of  
Wood County, West Virginia

By: L. Martin, Deputy

**BEFORE THE WEST VIRGINIA BOARD OF MEDICINE**

**IN RE: HARRY L. AMSBARY, M.D.,**

**CONSENT ORDER**

The West Virginia Board of Medicine ("Board") and Harry L. Amsbary, M.D. ("Dr. Amsbary") freely and voluntarily enter into the following Consent Order pursuant to West Virginia Code §30-3-1 et seq.

**FINDINGS OF FACT**

1. Dr. Amsbary has held a license to practice medicine and surgery in the State of West Virginia, License No. 11139, since 1977.
2. The Complaint Committee of the Board initiated a complaint against Dr. Amsbary in July, 2002, based upon an indictment filed in the Circuit Court of Wood County, West Virginia relating to counts of sexual abuse and battery.
3. During the Complaint Committee's investigation, Dr. Amsbary entered into a Plea Agreement dated January 21, 2003, in the Circuit Court of Wood County in the case *State of West Virginia vs. Harry L. Amsbary*, Case No. 02-F-84, a true and accurate copy of which Plea Agreement is attached hereto.
4. Paragraph 9 of said Plea Agreement states that Dr. Amsbary agrees that he will "immediately cease treating patients and that, upon the Court's acceptance

and approval of this Plea Agreement he will, within a reasonable time not to exceed thirty (30) days, surrender any license or licenses to practice medicine and surgery that he currently holds from any jurisdiction and will not in the future attempt to practice medicine and surgery again.”

5. Said Plea Agreement has been received by the Circuit Court and ordered filed on January 21, 2003.

### CONCLUSIONS OF LAW

1. Based on the aforesaid Plea Agreement, probable cause may exist to file charges against Dr. Amsbary pursuant to the provisions of West Virginia Code §30-3-14(c)(17) and 11 CSR 1A 12.1(e) and 11 CSR 1A 12.2(d), all relating to dishonorable, unethical, and unprofessional conduct.

2. As the aforesaid Plea Agreement specifies the surrender of Dr. Amsbary’s medical license, it is appropriate to terminate the dispute between Dr. Amsbary and the Board through entry into this Consent Order.

### CONSENT

Harry L. Amsbary, M.D., by affixing his signature hereon, agrees solely and exclusively for purposes of this agreement and the entry of the Order provided for and stated herein, and proceedings conducted in accordance with this Order to the following:

1. Dr. Amsbary acknowledges that he is fully aware that, without his consent, here given, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code §30-3-14(h) and §29A-5-1, *et seq.*;

2. Dr. Amsbary acknowledges that he has the following rights, among others: the right to a formal hearing before the West Virginia Board of Medicine, the right to reasonable notice of said hearing, the right to be represented by counsel at his own expense, and the right to cross-examine witnesses against him;

3. Dr. Amsbary waives all rights to such a hearing;

4. Dr. Amsbary consents to the entry of this Order relative to his practice of medicine in the State of West Virginia; and.

5. Dr. Amsbary understands that this Order is considered public information, and that matters contained herein may be reported, as required by law, to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

### **ORDER**

**WHEREFORE**, on the basis of the foregoing Findings of Fact and Conclusions of Law and the foregoing Consent of Dr. Amsbary, the Board hereby **ORDERS** as follows:

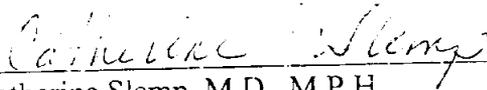
1. The license to practice medicine and surgery of Dr. Amsbary, License No. 11139, is hereby **SURRENDERED**, effective February 20, 2003.

2. Dr. Amsbary agrees not to make application at any time in the future for a license to practice medicine and surgery in the State of West Virginia and understands that, based on the aforesaid Plea Agreement, should he do so, he will be denied such a license.

Entered this 14th day of February, 2003.

WEST VIRGINIA BOARD OF MEDICINE

  
\_\_\_\_\_  
Angelo N. Georges, M.D.  
President

  
\_\_\_\_\_  
Catherine Slemp, M.D., M.P.H.  
Secretary

  
\_\_\_\_\_  
Harry L. Amsbary, M.D.

Date: 2/6/03

STATE OF VA

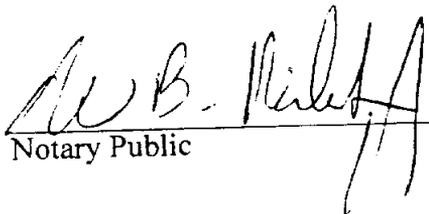
COUNTY OF Wood

I, W. B. Richardson, Jr., a Notary Public for said county and

state do hereby certify that Harry L. Amsbary, M.D., whose name is signed above has  
this day acknowledged the same before me.

Given under my hand this 6 day of February, 2003.

My commission expires 12/27/07.

  
\_\_\_\_\_  
Notary Public



IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA.

PLAINTIFF.

VS.

CASE No. 02-F-84

HARRY L AMSBARY.

DEFENDANT.

FILED IN OPEN COURT

JAN 21 2003 *mb*

CAROLE JONES  
CLERK CIRCUIT COURT

PLEA AGREEMENT

THIS DAY CAME THE DEFENDANT HARRY L AMSBARY IN PERSON AND WITH HIS ATTORNEYS, WILLIAM B. RICHARDSON, JR. AND WILLIAM E. KIGER, AND THE STATE OF WEST VIRGINIA BY GINNY CONLEY, PROSECUTING ATTORNEY OF WOOD COUNTY. THEREUPON COUNSEL FOR THE PARTIES ADVISED THE COURT THAT THE DEFENDANT AND THE STATE OF WEST VIRGINIA HAVE REACHED AN AGREEMENT CONCERNING THE DEFENDANT ENTERING PLEAS OF GUILTY TO TWO CHARGES OF THE MISDEMEANOR OFFENSE OF "BATTERY" IN VIOLATION OF *WEST VIRGINIA CODE 61-2-9*, AS ALLEGED IN COUNT SEVEN OF THE INDICTMENT RETURNED AGAINST THE DEFENDANT BY THE WOOD COUNTY GRAND JURY ON MAY 6, 2002, AND AS CHARGED IN AN INFORMATION FILED BY THE PROSECUTING ATTORNEY OF WOOD COUNTY. THE AGREEMENT REACHED BETWEEN THE DEFENDANT AND THE STATE OF WEST VIRGINIA IS AS FOLLOWS:

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2. THE DEFENDANT WILL ENTER A PLEA OF GUILTY TO THE MISDEMEANOR OFFENSE OF

"BATTERY" IN VIOLATION OF *WEST VIRGINIA CODE 61-2-9*, AS CHARGED IN THE AFORESAID INFORMATION

3. THE DEFENDANT ACKNOWLEDGES THAT HE HAS BEEN INFORMED AND DOES UNDERSTAND THAT PROSECUTION OF THE MISDEMEANOR OFFENSE OF "BATTERY" CHARGED IN THE AFORESAID INFORMATION IS BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS WHICH REQUIRES PROSECUTIONS FOR MISDEMEANOR OFFENSES TO BE INSTITUTED WITHIN ONE (1) YEAR FROM THE DATE THE OFFENSE WAS ALLEGEDLY COMMITTED BUT HE, IN ORDER TO OBTAIN THE BENEFIT OF THIS PLEA AGREEMENT, DOES HEREBY WAIVE, RELINQUISH AND SURRENDER ANY RIGHT THAT HE MAY NOW OR IN THE FUTURE HAVE TO RAISE THE STATUTE OF LIMITATIONS AS A DEFENSE TO THAT CHARGE.

4. THE STATE OF WEST VIRGINIA, IN CONSIDERATION OF THE DEFENDANT'S ENTRY OF THE AFORESAID PLEAS OF GUILTY AND PURSUANT TO RULE 11(E)(1)(A) AND (D) OF THE *WEST VIRGINIA RULES OF CRIMINAL PROCEDURE*, AGREES THAT THE DEFENDANT WILL NOT BE FURTHER PROSECUTED FOR THE REMAINING OFFENSES CHARGED IN THE AFORESAID INDICTMENT AND WILL REQUEST THAT THE COURT DISMISS THE SAME WITH PREJUDICE AND, FURTHER, THAT NO ADDITIONAL INDICTMENTS OR INFORMATIONS FOR OTHER KNOWN OFFENSES ARISING OUT OF PAST TRANSACTIONS WILL BE SOUGHT.

5. THE DEFENDANT ACKNOWLEDGES THAT HE HAS BEEN INFORMED AND DOES UNDERSTAND THAT AS A RESULT OF HIS ENTRY OF THE AFORESAID PLEAS OF GUILTY HE WILL BE EXPOSED TO RECEIVING TWO (2) SENTENCES OF CONFINEMENT IN A REGIONAL JAIL FOR NOT MORE THAN TWELVE (12) MONTHS EACH AND TWO (2) FINES OF NOT MORE THAN FIVE HUNDRED (\$500.00) DOLLARS EACH.

6. THE DEFENDANT ACKNOWLEDGES THAT HE HAS BEEN INFORMED AND DOES UNDERSTAND THAT THERE IS NO AGREEMENT OR RECOMMENDATION CONCERNING WHETHER THE SENTENCES IMPOSED BY

THE COURT WILL BE ORDERED TO BE SERVED CONCURRENTLY OR CONSECUTIVELY AND THAT THE MATTER OF CONCURRENT OR CONSECUTIVE SENTENCING IS BEING LEFT IN THE COURT'S DISCRETION;

7. THE STATE OF WEST VIRGINIA, IN CONSIDERATION OF THE DEFENDANT'S ENTRY OF THE AFORESAID PLEAS OF GUILTY, DOES HEREBY MAKE A NON-BINDING RECOMMENDATION TO THE COURT PURSUANT TO RULE 11(E)(1)(B) OF THE *WEST VIRGINIA RULES OF CRIMINAL PROCEDURE*, THAT THE SENTENCES IMPOSED BY THE COURT BE SUSPENDED AND THAT THE DEFENDANT BE GRANTED THE PRIVILEGE OF PROBATION PURSUANT TO *WEST VIRGINIA CODE, 62-12-1, ET SEQ.*

8. THE DEFENDANT ACKNOWLEDGES THAT HE HAS BEEN INFORMED AND DOES UNDERSTAND THAT THE RECOMMENDATION MADE BY THE STATE OF WEST VIRGINIA AS SET FORTH IN THE PRECEDING PARAGRAPH IS NOT BINDING UPON THE COURT AND THAT IF THE COURT DECLINES TO FOLLOW SAID RECOMMENDATION, IN WHOLE OR IN PART, HE WILL NOT HAVE THE RIGHT TO WITHDRAW HIS PLEAS OF GUILTY BUT WILL BE REQUIRED TO ACCEPT THE SENTENCES WHICH THE COURT DEEMS APPROPRIATE;

9. THE DEFENDANT AGREES THAT HE WILL IMMEDIATELY CEASE TREATING PATIENTS AND THAT, UPON THE COURT'S ACCEPTANCE AND APPROVAL OF THIS PLEA AGREEMENT HE WILL, WITHIN A REASONABLE TIME NOT TO EXCEED THIRTY (30) DAYS, SURRENDER ANY LICENSE OR LICENSES TO PRACTICE MEDICINE AND SURGERY THAT HE CURRENTLY HOLDS FROM ANY JURISDICTION AND WILL NOT IN THE FUTURE ATTEMPT TO PRACTICE MEDICINE AND SURGERY AGAIN;

10. THE DEFENDANT AGREES THAT HE IS NOT ENTERING AN "ALFORD" TYPE PLEA TO EITHER CHARGE AND

11. THE DEFENDANT AND THE STATE OF WEST VIRGINIA ACKNOWLEDGE AND AGREE THAT THE ABOVE SETS FORTH THEIR ENTIRE AGREEMENT CONCERNING THIS MATTER AND THAT THERE ARE NO PROMISES OR REPRESENTATIONS BETWEEN THEM OTHER THAN AS SET FORTH HEREIN.

WITNESS OUR SIGNATURES ON THIS 21<sup>ST</sup> DAY OF JANUARY, 2003:



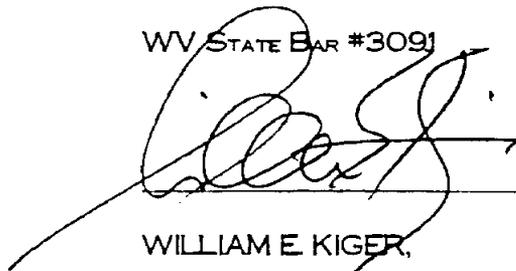
HARRY L. AMSBARY, DEFENDANT



WILLIAM B. RICHARDSON, JR.,

CO-COUNSEL FOR THE DEFENDANT

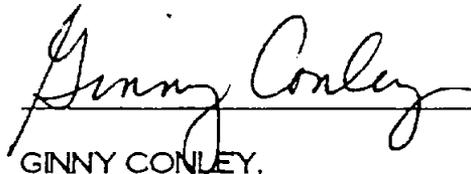
WV STATE BAR #3091



WILLIAM E. KIGER,

CO-COUNSEL FOR THE DEFENDANT

WV STATE BAR #2036



GINNY CONLEY,

PROSECUTING ATTORNEY OF WOOD COUNTY

WV STATE BAR # 6365

1-21-02

RECEIVED BY THE COURT AND ORDERED FILED:

*[Handwritten Signature]*

JEFFREY B. REED, JUDGE OF THE CIRCUIT COURT

DATE \_\_\_\_\_

STATE OF WEST VIRGINIA,  
COUNTY OF WOOD, TO-WIT:

I, CAROLE JONES, Clerk of the Circuit Court of Wood County, West Virginia, hereby certify that the foregoing is a true and complete copy as the same appears from the records of said Court.

Given under my hand and seal of said Circuit Court, this the 23 day of Jan, 02

*[Handwritten Signature: Carole Jones]*  
Clerk of the Circuit Court of  
Wood County, West Virginia

By: *[Handwritten Signature]*, Deputy

