

2005 JUL 13 A 9 46

**CONSENT AGREEMENT
BETWEEN
GRADY B. CAMPBELL, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Campbell 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 violations of Section 4731.22(B)(5), Ohio Revised Code, “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board;” Section 4731.22(B)(6), Ohio Revised Code, “[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;” Section 4731.22(B)(18), Ohio Revised Code, “[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,” to wit: Principles II and VIII of the American Medical Association’s Principles of Medical Ethics; and/or Section 4731.22(B)(12), Ohio Revised Code, “[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,” to wit: Tampering with Records, Section 2913.42, Ohio Revised Code.
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violations of Section 4731.22(B)(5), Ohio Revised Code; Section

4731.22(B)(6), Ohio Revised Code; Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles II and VIII of the American Medical Association's Principles of Medical Ethics; and Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2913.42, Ohio Revised Code, as set forth in Paragraph E below, 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. Dr. Campbell is licensed to practice medicine and surgery in the State of Ohio, License # 35-037334.
- D. Dr. Campbell states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. Dr. Campbell admits that on or about October 25, 2001, as the primary care physician for a patient who had a history of lung cancer, he ordered a chest x-ray to be taken during the patient's office visit to monitor for the reappearance of the cancer. Dr. Campbell states that he was unable to review the x-ray with the patient during that office visit because the x-ray developer was broken. Dr. Campbell further states that when he later reviewed what he then believed to be the patient's October 25, 2001 x-ray, he saw no changes in the patient's condition and he related that information to the patient. Dr. Campbell represents that he now knows that he was mistakenly looking at the patient's x-ray from an earlier office visit on or about November 15, 2000. Dr. Campbell states that when the patient returned to his office on or about March 4, 2002 with complaints of back pain and the chest x-ray taken at that time revealed a suspicious lesion, he discovered that the patient's October 2001 x-ray was missing from the patient's file. Dr. Campbell admits, however, that he failed to inform the patient that the prior x-ray was missing. Dr. Campbell further states that subsequent diagnostic testing, which he ordered, confirmed the existence of a tumor, and on or about March 29, 2002, the patient underwent a pneumonectomy resection.

Dr. Campbell admits that after the patient asked, in early April 2002, for copies of his x-rays to give to his surgeon, Dr. Campbell could still not locate the October 25, 2001, x-ray, and he intentionally mislabeled the dates on two of the three chest x-rays, which he then gave to the patient on or about April 8, 2002. Dr. Campbell further admits that he altered the dates on copies of the x-rays by labeling the chest x-ray taken on February 29, 2000, as being taken on November 15, 2000, and labeling the chest x-ray taken on November 15, 2000, as being taken on October 25, 2001. Dr. Campbell also admits that on or about April 26, 2002, when he located the patient's October 2001 x-ray in another patient's file, he initially tried to alter that chest x-ray by scraping off the date.

Dr. Campbell represents that in or about May 2002 he began taking steps to address his having intentionally mislabeled the copies of the x-rays he had given to his

patient. Specifically, Dr. Campbell represents that, on or about May 20, 2002, he sent the correctly labeled chest x-rays to the patient's surgeon. Dr. Campbell further represents that he met with his practice partners on or about May 22, 2002, and informed them of his transgressions in intentionally mislabeling the two x-rays that he had given to his patient, and he also discussed the matter with the patient's oncologist on or about May 23, 2002. Dr. Campbell further represents that he made numerous attempts to contact the patient to arrange for a meeting, but it was not until on or about June 10, 2002, that he informed his patient that he had mistakenly assumed that the chest x-ray he reviewed following the patient's appointment on October 25, 2001, was taken on October 25, 2001, but he later learned that he had actually reviewed an earlier x-ray, which had been taken in November 2000. Dr. Campbell further represents that he also disclosed to his patient that he had intentionally mislabeled the dates on two of the three chest x-rays, which he had given to the patient on April 8, 2002.

Dr. Campbell states that his patient died on or about November 18, 2002, as a result of the metastases of his lung cancer. Dr. Campbell further states that it is his assessment that a delay in surgery of three to four months would have made no difference in the prognosis of the patient because he believes that the tumor identified in March 2002 was a recurrence of the tumor initially diagnosed in 1992 and represented widespread metastases. Dr. Campbell further represents that a malpractice action was subsequently filed against him, and the lawsuit was dismissed in 2004 following a settlement. Dr. Campbell further represents that, to his knowledge, no one was aware of his transgressions, and that he chose to disclose such information to his patient and others, as a matter of conscience. Dr. Campbell further represents that in May 2002, he began seeing a psychologist to assist him in dealing with the personal ramifications of his conduct and to also deal with his extreme fear of malpractice suits. Dr. Campbell further states, and the Board acknowledges, that he self-reported this matter to the Board.

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

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Campbell to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of 90 days.

INTERIM PROVISIONS

2. During the period that Dr. Campbell's certificate to practice medicine and surgery in Ohio is suspended, Dr. Campbell shall comply with the following terms, conditions and limitations:
 - a. Dr. Campbell shall obey all federal, state, and local rules, and all rules governing the practice of medicine in Ohio.

Quarterly Declarations and Appearances

- b. Dr. Campbell 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. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
- c. Dr. Campbell shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur as requested by the Board, and shall include an appearance following his request for termination of this Consent Agreement and prior to release. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Required Reporting by Licensee

- d. Within thirty days of the effective date of this Consent Agreement, Dr. Campbell shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Campbell shall 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.
- e. Within thirty days of the effective date of this Consent Agreement, Dr. Campbell 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 any professional license. Dr. Campbell 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

any professional license or for reinstatement of any professional license. Further, Dr. Campbell shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

PROBATIONARY TERMS AND CONDITIONS

3. Upon reinstatement, Dr. Campbell's certificate to practice medicine and surgery in the State of Ohio shall be subject to the following **PROBATIONARY** terms and conditions:
 - a. Dr. Campbell shall continue to be subject to all the terms, conditions and limitations in the Interim Provisions, as set forth in Paragraph 2 of this Consent Agreement, unless otherwise determined by the Board.

Community Service

- b. Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Campbell shall complete, and shall provide evidence satisfactory to the Board of successful completion of, a minimum of 100 hours of community service within Ohio. Dr. Campbell shall submit a proposed plan to the Board identifying the type(s) of community service, the location(s) where such service will be provided, and the time period(s) during which services will be rendered. This proposed plan must be approved by the Board prior to the commencement of the services in order for the service hours to apply toward the minimum hours required. All documentation required under this paragraph shall be submitted in a format acceptable to the Board.

Professional/Personal Ethics Course

- c. Before the end of the first year of probation, or as otherwise approved by the Board, Dr. Campbell shall provide acceptable documentation of successful completion of a course or courses dealing with professional/personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Campbell submits the documentation of successful completion of the course or courses dealing with professional/personal ethics, he shall also submit to the Board a written report describing the course, setting forth what he learned from the course, and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

- d. In the event Dr. Campbell is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Campbell 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.

DURATION/MODIFICATION OF TERMS

Dr. Campbell shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Campbell shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Campbell 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. Campbell 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. Campbell 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.



GRADY B. CAMPBELL, M.D.



LANCE A. TALMAGE, M.D.
Secretary

7/11/05

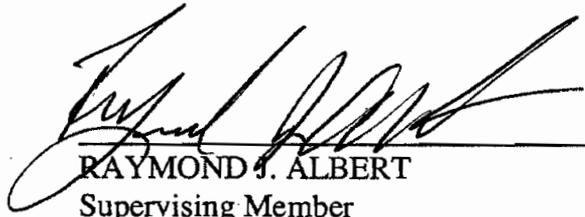
DATE

7-13-05

DATE



ERIC J. PLINKE
Attorney for Dr. Campbell



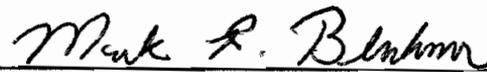
RAYMOND J. ALBERT
Supervising Member

7/12/05

DATE

7/13/05

DATE



MARK R. BLACKMER
Enforcement Attorney

July 13, 2005

DATE