

# 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

July 8, 2009

David Ronald Miller, M.D.  
888 Uhler Road  
Marion, OH 43302

RE: 08-CRF-142

Dear Doctor Miller:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on July 8, 2009.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

Very truly yours,

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3690 8044  
RETURN RECEIPT REQUESTED

Cc: Duplicate Mailing: 330 N. Countryside Drive  
Ashland, OH 44808

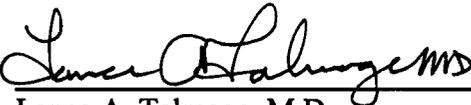
CERTIFIED MAIL RECEIPT NO. 91 7108 2133 3934 3690 8051  
RETURN RECEIPT REQUESTED  
RESTRICTED DELIVERY

*Mailed 7-9-09*

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on July 8, 2009, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of David Ronald Miller, M.D., Case Number 08-CRF-142, as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.

  
\_\_\_\_\_  
Lance A. Talmage, M.D.  
Secretary

(SEAL)

July 8, 2009  
\_\_\_\_\_  
Date

**BEFORE THE STATE MEDICAL BOARD OF OHIO**

IN THE MATTER OF :  
 : Case No. 08-CRF-142  
DAVID RONALD MILLER, M.D. :

**FINDINGS, ORDER AND JOURNAL ENTRY**

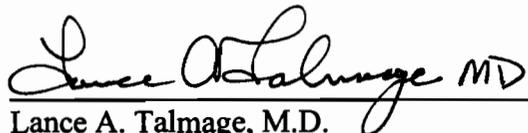
This matter came on for consideration before the State Medical Board of Ohio on David Ronald Miller, M.D. pursuant to a Notice of Opportunity for Hearing issued to David Ronald Miller, M.D., on December 10, 2008. No request for hearing having been received within the statutorily mandated time period, Hearing Examiner Ronda Shamansky, Esq., on behalf of the Board, reviewed and summarized evidence supporting the Notice, and prepared Proposed Findings and a Proposed Order.

WHEREFORE, having reviewed Ms. Shamansky Proposed Findings and Proposed Order, which is attached hereto and incorporated herein, the Board hereby adopts the Proposed Findings and Proposed Order.

Accordingly, it is hereby ORDERED that:

The certificate of David Ronald Miller, M.D., to practice osteopathic medicine and surgery in the State of Ohio is REVOKED.

This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

  
\_\_\_\_\_  
Lance A. Talmage, M.D.  
Secretary

{SEAL}

July 8, 2009  
\_\_\_\_\_  
Date

## BEFORE THE STATE MEDICAL BOARD OF OHIO JUN 11 P 1: 16

In the Matter of \*

David Ronald Miller, M.D., \*

Respondent. \*

Case No. 08-CRF-142

Hearing Examiner Shamansky

**PROPOSED FINDINGS AND PROPOSED ORDER**Basis for the Review

*Notice of Opportunity for Hearing:* In a letter dated December 10, 2008, the State Medical Board of Ohio [Board] notified David Ronald Miller, M.D., that it proposed to take disciplinary action against his certificate to practice medicine and surgery. The Board stated that its proposed action was based on allegations including the following: that Dr. Miller entered into a Step I Consent Agreement in November 2002, under which his certificate to practice was suspended for an indefinite period of time and remains inactive; that in or about November 2007, it was reported to the Board that Dr. Miller had been charged with a criminal offense; and that Dr. Miller failed to cooperate with the investigation conducted by the Board concerning this report. The Board cited examples of Dr. Miller's failure to cooperate with its investigation, including failure to respond to questions concerning criminal charges, failure to comply with a subpoena requiring him to appear for an investigatory deposition, and failure to respond to Board communications. (Exhibit [Ex.] 2C)

The Board alleged that Dr. Miller's acts constitute "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories \* \* \*" as that language is used in R.C. 4731.22(B)(34). The Board notified Dr. Miller that he was entitled to a hearing if requested in writing within 30 days of the Notice's mailing. (Ex. 2C)

*No Request for Hearing:* The Board mailed its Notice to Dr. Miller on December 11, 2008, at his most recent address of record, by certified mail, return receipt requested. The Notice was also mailed by restricted delivery to a second address where the Board believed Dr. Miller to be residing. The Notice sent to Dr. Miller's address of record was returned to the Board with a notation from the U.S. Postal Service that the letter was "Undeliverable as Addressed - No Forwarding Order on File." The second letter, which had been sent by restricted delivery, was also returned to the Board by the U.S. Postal Service, with a notation that the letter was "Unclaimed" after three attempts were made to deliver it. The Board also attempted to serve Dr. Miller personally with the Notice, but was unsuccessful. Next, the Board published the Notice in a newspaper of general circulation in the area of Dr. Miller's last known address. Notice by publication was completed on February 16, 2009. The Board's Public Services Administrator attested in a sworn affidavit signed April 1, 2009, that, as of that date, the Board had not received a hearing request from Dr. Miller. (Exs. 2, 2A, 2B)

In a memorandum dated April 9, 2009, the Public Services Administrator requested that the Hearing Unit review the evidence and prepare Proposed Findings and a Proposed Order.  
(Ex. 5)

Evidence Examined:

Exhibit 1: Affidavit of Debra Jones, Continuing Medical Education and Renewal Officer of the Board, signed March 27, 2009, confirming Dr. Miller's last known address of record.

Exhibit 2: Affidavit of Barbara Jacobs, Public Services Administrator for the Board, signed April 1, 2009, documenting the Board's actions to serve Dr. Miller with the Notice and also attesting that, as of that date, the Board had not received a hearing request from Dr. Miller.

Exhibit 2A: Affidavit of Publication from the *Marion Star* documenting publication of the Notice on February 2, February 9, and February 16, 2009.

Exhibit 2B: Letter from the Board to Dr. Miller, forwarding the Affidavit of Publication, and advising him that the Notice was deemed to have been served upon him on February 16, 2009, the last date of publication.

Exhibit 2C: Documents maintained by the Board regarding Dr. Miller.

Exhibit 3: Affidavit of Joseph DePolo, Enforcement Investigator for the Board, attesting to his efforts to serve Dr. Miller personally with the Notice.

Exhibit 4: Affidavit of Mark Blackmer, Enforcement Attorney for the Board, documenting communications with Dr. Miller:

Exhibit 4A: The Board's letter to Dr. Miller requesting information about criminal convictions.

Exhibit 4B: Dr. Miller's letter to Mr. Blackmer.

Exhibit 4C: Subpoena personally served upon Dr. Miller to compel his appearance at an investigatory deposition to be conducted April 2, 2008.

Exhibit 4D: The Board's letter to Dr. Miller confirming that the investigatory deposition had been rescheduled at Dr. Miller's request.

Exhibit 4E: Dr. Miller's letter to Mr. Blackmer.

Exhibit 4F: The Board's letter to Dr. Miller confirming that the deposition had not been cancelled.

Exhibit 4G: Dr. Miller's letter to Mr. Blackmer.

Exhibit 4H: The Board's letter to Dr. Miller offering a nonpermanent Surrender of Certificate to Practice Medicine and Surgery.

Exhibit 4I: Dr. Miller's letter to Mr. Blackmer.

Exhibit 4J: The Board's letter to Dr. Miller advising him that the deposition would go forward if Dr. Miller did not intend to sign the form surrendering his license.

Exhibit 4K: Subpoena personally served upon Dr. Miller to compel his appearance at an investigatory deposition to be conducted October 29, 2008.

Exhibit 5: Memorandum dated April 9, 2009, from the Public Services Administrator, requesting Proposed Findings and a Proposed Order.

**Proposed Findings**

1. On November 20, 2002, Dr. Miller entered into a Step I Consent Agreement in lieu of formal proceedings based upon his violation of R.C. 4731.22(B)(19).<sup>1</sup> Under the terms of this Consent Agreement, Dr. Miller's certificate to practice medicine and surgery was suspended for an indefinite period of time. His certificate to practice medicine is currently inactive, and it remains suspended pursuant to the terms of the 2002 Step I Consent Agreement.

*This proposed finding is supported by the following evidence:* Ex. 2C, 4B.

2. In November 2007, it was reported to the Board that Dr. Miller had been charged with a criminal offense, and the Board commenced an investigation.
3. On January 4, 2008, a representative of the Board sent Dr. Miller a letter, by certified and regular mail, requesting his responses to questions concerning whether he had been involved in any criminal matters in the preceding two years. Although Dr. Miller sent a letter to the Board dated January 18, 2008, he failed to respond to any of the questions asked by the Board concerning his involvement in any recent criminal matters.

*This proposed finding is supported by the following evidence:* Exs. 4, 4A, 4B

4. On March 6, 2008, Dr. Miller was personally served with a subpoena requiring him to attend an investigatory deposition at the Board's office on April 2, 2008. Pursuant to his telephonic request on March 6, 2008, the date of the deposition was rescheduled to April 17, 2008.

On March 17, 2008, the Board received a letter from Dr. Miller in which he requested documentation of his last appearance before the Board, and argued that the deposition was inappropriate and unnecessary in light of the fact that he had not asked for reinstatement of his certificate and did not plan to do so at that time. Dr. Miller asked that he be notified if the deposition was cancelled.

After providing the document that Dr. Miller requested, the Board sent Dr. Miller a letter dated April 4, 2008, advising him that his April 17, 2008 deposition would not be cancelled. Thereafter, Dr. Miller sent the Board a letter dated April 14, 2008, stating that he would accept the Board's prior offer to surrender his certificate to practice medicine. Dr. Miller did not appear at the Board's office for his scheduled deposition on April 17, 2008.

*This proposed finding is supported by the following evidence:* Exs. 4, 4C, 4D, 4F, 4G.

---

<sup>1</sup> Under R.C. 4731.22(B)(19), the Board may limit, revoke, suspend, refuse to register, reprimand or place on probation a certificate to practice, based on a licensee's "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills."

5. By letter dated May 7, 2008, a representative of the Board sent Dr. Miller a proposed Surrender of Certificate to Practice Medicine and Surgery, requesting that he sign and return the proposed Surrender by June 2, 2008. By letter dated May 12, 2008, Dr. Miller raised certain questions concerning the meaning of some of the statutes cited in the Board's last correspondence with him. However, as of June 19, 2008, Dr. Miller had not responded to two telephone messages left for him by a representative of the Board. Accordingly, the Board notified Dr. Miller in a letter dated June 19, 2008, that if he did not desire to sign the proposed Surrender by July 7, 2008, then it would be necessary to proceed with his deposition.

After the Board did not receive any response from Dr. Miller to its June 19, 2008 letter, Dr. Miller was personally served with a second subpoena on August 21, 2008, for an investigatory deposition at the Board's offices on October 29, 2008. Dr. Miller failed to appear for his deposition on October 29, 2008, and he did not otherwise inform a Board representative that he would be unable to attend the deposition.

*This proposed finding is supported by the following evidence:* Exs. 4, 4H, 4I, 4J, 4K,

6. Proposed Findings 2 through 5 set forth above support the conclusion that Dr. Miller's acts, conduct, and/or omissions, individually or collectively, demonstrate "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories \* \* \*" as that language is used in R.C. 4731.22(B)(34).

Comments on the Proposed Order:

In the Consent Agreement entered in November 2002, Dr. Miller acknowledged that he had been diagnosed with Major Depressive Disorder and that his treating psychiatrist had opined that he was psychologically unable to continue to practice medicine. In the correspondence that Dr. Miller sent to the Board in 2008, he stated that he still suffers from depression and anxiety, and is not yet able to return to active practice. Although his failure to cooperate with the Board's investigation is unacceptable and, under these circumstances, warrants the revocation of his certificate, a nonpermanent revocation is recommended because his illness may have contributed to his conduct. In the future, Dr. Miller's psychiatric condition may eventually improve, and he may regain his ability to practice medicine and comply with Board requirements. Indeed, the surrender of licensure offered to Dr. Miller by the Board was not designated as a permanent surrender of his certificate.

**Proposed Order**

It is hereby ORDERED that:

The certificate of David Ronald Miller, M.D. to practice medicine and surgery in the State of Ohio is REVOKED.

This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

  
Ronda Shamansky  
Hearing Examiner

# 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

December 10, 2008

Case number: 08-CRF- 142

David Ronald Miller, M.D.  
888 Uhler Rd.  
Marion, OH 43302

Dear Doctor Miller:

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 November 20, 2002, you entered into a Step I Consent Agreement [November 2002 Step I Consent Agreement] with the Board in lieu of formal proceedings based upon your violation of Section 4731.22(B)(19), Ohio Revised Code, which suspended your certificate to practice medicine for an indefinite period of time. Your certificate to practice medicine is currently inactive, and it remains suspended pursuant to the terms of the November 2002 Step I Consent Agreement.
- (2) In or about November 2007, it was reported to the Board that you had been charged with a criminal offense. You have failed to cooperate in an investigation conducted by the Board. Examples of such failure to cooperate include:
  - (a) On or about January 4, 2008, a representative of the Board sent you a letter, by certified and regular mail, requesting your responses to certain questions concerning whether you were involved in any criminal matters over the last two years. Although you sent a letter to the Board dated January 18, 2008, you failed to respond to any of the questions asked by the Board concerning your involvement in any recent criminal matters.
  - (b) On or about March 6, 2008, you were personally served with a subpoena for your attendance at an investigatory deposition at the Board's office on April

Mailed 12-11-08

2, 2008. Pursuant to your telephonic request on or about March 6, 2008, the date of the deposition was rescheduled to April 17, 2008.

After the Board responded to your request for certain public records, a representative of the Board sent you a letter dated April 4, 2008, indicating that your April 17, 2008 deposition would not be cancelled. Thereafter, you sent the Board a letter dated April 14, 2008, indicating that you would accept the Board's prior offer to surrender your medical license. You did not appear at the Board's office for your scheduled deposition on April 17, 2008.

- (c) By letter dated May 7, 2008, a representative of the Board sent you a proposed Surrender of Certificate to Practice Medicine and Surgery, requesting that you sign and return the proposed Surrender by June 2, 2008. Thereafter, you sent the Board a May 12, 2008 letter raising certain questions. After you did not respond to two phone messages left for you on your telephone, a representative of the Board then sent you a letter dated June 19, 2008, indicating that if you did not desire to sign the proposed Surrender by July 7, 2008, then your deposition would have to be rescheduled.

After the Board did not receive any response from you to its June 19, 2008 letter, you were personally served with a subpoena on or about August 21, 2008, for your investigatory deposition at the Board's offices on October 29, 2008. You failed to appear for your deposition on October 29, 2008, and you did not otherwise inform a Board representative that you would be unable to attend the deposition.

Your acts, conduct, and/or omissions as alleged in paragraph (2) above, individually and/or collectively, constitute "[f]ailure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue," as that clause is used in Section 4731.22(B)(34), 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.

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/MRB/flb

Enclosures

CERTIFIED MAIL #91 7108 2133 3934 3683 8389  
RETURN RECEIPT REQUESTED

Duplicate Mailing: David Ronald Miller, M.D.  
330 N. Countryside Drive  
Ashland, OH 44808

CERTIFIED MAIL #91 7108 2133 3934 3683 8396  
RETURN RECEIPT REQUESTED  
RESTRICTED DELIVERY

**OHIO STATE MEDICAL BOARD**

**NOV 07 2002**

**STEP I  
CONSENT AGREEMENT  
BETWEEN  
DAVID RONALD MILLER, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Miller 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)(19), 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 "inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptible skills."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(19), 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. Such express reservation includes, but is not limited to, the right to institute formal proceedings based upon any violations related to patient care or billing for services, regardless of whether the acts underlying such additional violations are related to the violation of Section 4731.22(B)(19), Ohio Revised Code, as set forth below.
- C. Dr. Miller is licensed to practice medicine and surgery in the State of Ohio, License # 35-037602.
- D. Dr. Miller states that he is also licensed to practice medicine and surgery in the State(s) of NO OTHERS

- E. Dr. Miller admits that he has been diagnosed with Major Depressive Disorder and has received psychiatric treatment since August 2000, including psychotherapy and medications, from David W. DeMuth, M.D. Dr. Miller further admits that Dr. DeMuth, his treating psychiatrist, has opined that Dr. Miller is psychologically unable to continue to practice medicine. Dr. Miller further admits that he is unable to practice medicine due to his psychiatric disorder and that he has not practiced medicine since in or about January 2002.

### **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. Miller knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

### **SUSPENSION OF CERTIFICATE**

1. The certificate of Dr. Miller to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.

### **Releases; Quarterly Declarations and Appearances**

2. Dr. Miller shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Miller's psychiatric disorder or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Miller further agrees to provide the Board written consent permitting any provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with his psychiatric treatment plan. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
3. Dr. Miller shall submit quarterly declarations under penalty of Board disciplinary action and/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, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth

month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

4. Dr. Miller 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 every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

#### Psychiatric Treatment

5. Within fifteen (15) days of the effective date of this Consent Agreement, Dr. Miller shall submit to the Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the Board, Dr. Miller shall undergo and continue psychiatric treatment, to include individual psychotherapy, at least twice a month, or as otherwise directed by the Board. Dr. Miller shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered by his approved treating psychiatrist for his psychiatric disorder.

Dr. Miller shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Miller's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Miller's compliance with his treatment plan; Dr. Miller's mental status; Dr. Miller's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Miller shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan.

The psychotherapy required pursuant to this paragraph may be delegated by Dr. Miller's treating psychiatrist to an appropriately licensed mental health professional approved in advance by the Board, so long as Dr. Miller's treating psychiatrist oversees/supervises such psychotherapy; includes information concerning Dr. Miller's participation and progress in psychotherapy in his or her reports; and continues to meet personally with Dr. Miller at least once per month.

Should the psychotherapy required pursuant to this provision be delegated to a licensed mental health professional, Dr. Miller shall ensure that psychotherapy reports are forwarded by his treating licensed mental health professional to the Board on a quarterly basis, or as otherwise directed by the Board. The psychotherapy reports shall contain information describing Dr. Miller's current treatment plan and any changes that have been made to the treatment plan since the

prior report; Dr. Miller's compliance with his treatment plan; Dr. Miller's mental status; Dr. Miller's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Miller shall ensure that his treating licensed mental health professional immediately notifies the Board of his failure to comply with his psychotherapy treatment plan. These psychotherapy reports shall be in addition to the psychiatric reports.

It is Dr. Miller's responsibility to ensure that quarterly reports (psychiatric and psychotherapy, if applicable) are received in the Board's offices no later than the due date for Dr. Miller's quarterly declaration.

6. The Board retains the right to require, and Dr. Miller agrees to submit, blood or urine specimens for analysis for medication that may be prescribed for Dr. Miller, or for any other purpose, at Dr. Miller's expense, upon the Board's request and without prior notice. Dr. Miller's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

#### **CONDITIONS FOR REINSTATEMENT**

7. The Board shall not consider reinstatement of Dr. Miller's certificate to practice medicine and surgery until all of the following conditions are met:
  - a. Dr. Miller shall submit an application for reinstatement, accompanied by appropriate fees, if any.
  - b. Dr. Miller shall demonstrate to the satisfaction of the Board that he can resume practice in compliance with acceptable and prevailing standards of care under the provisions of his certificate. Such demonstration shall include but shall not be limited to the following:
    - i. Evidence of continuing full compliance with this Consent Agreement.
    - ii. A written report made by the treating psychiatrist, referenced in paragraph 5 of this Consent Agreement, indicating that Dr. Miller's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care. This report shall include any recommendations for treatment, monitoring, or supervision of Dr. Miller, and any conditions, restrictions, or limitations that should be imposed on Dr. Miller's practice. This report shall also describe the basis for such determinations.

- iii. Two written reports indicating that Dr. Miller's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

The reports shall be made by psychiatrists, other than Dr. Miller's treating psychiatrist, approved by the Board for making such assessments, who shall each conduct a psychiatric examination of Dr. Miller. Prior to each examination, Dr. Miller shall provide each psychiatrist with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The report from each evaluating psychiatrist shall include the psychiatrist's diagnoses and conclusions; any recommendations for care, counseling, and treatment for the psychiatric diagnoses; any conditions, restrictions, or limitations that should be imposed on Dr. Miller's practice; and the basis for the psychiatrist's determinations.

- c. Dr. Miller shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board to be in effect for a minimum of two years or, if the Board and Dr. Miller are unable to agree on the terms of a written Consent Agreement, then Dr. Miller further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of Dr. Miller's certificate to practice medicine and surgery in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code.

8. In the event that Dr. Miller has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Miller's fitness to resume practice.

#### **REQUIRED REPORTING BY LICENSEE**

9. Within thirty days of the effective date of this Consent Agreement, Dr. Miller 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. Miller 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 reinstatement of any professional license. Further, Dr. Miller shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

10. Within thirty days of the effective date of this Consent Agreement, Dr. Miller 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. Miller 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.

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties.

#### **FAILURE TO COMPLY**

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

#### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Miller 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. Miller 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, and may be reported to appropriate organizations, data banks, and governmental bodies. Dr. Miller agrees to provide his social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

EFFECTIVE DATE

11/5/02

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.

*David Ronald Miller*

*David Ronald Miller*  
DAVID RONALD MILLER, M.D.

*Anand G. Garg*  
ANAND G. GARG, M.D.  
Secretary

October 30, 2002  
DATE

11/19/02  
DATE

*Eric J. Plinke*  
ERIC J. PLINKE  
ATTORNEY FOR DR. MILLER

*Raymond J. Albert*  
RAYMOND J. ALBERT  
Supervising Member

Oct 30, 2002  
DATE

11/19/02  
DATE

*Rebecca Albers*  
REBECCA ALBERS, ESQ.  
Assistant Attorney General

11/20/02  
DATE