

STEP II
CONSENT AGREEMENT
BETWEEN
BAK CHUL KIM, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

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

BAK CHUL KIM, M.D., 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 STATE MEDICAL BOARD OF OHIO is empowered by Sections 4731.22(B)(10) and (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 "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," and "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 violations of Sections 4731.22(B)(10) and (26), Ohio Revised Code, as set forth in Paragraph E of the January 1999 Step I Consent Agreement between BAK CHUL KIM, M.D., and the STATE MEDICAL BOARD OF OHIO, a copy of which is attached hereto and fully incorporated herein. The STATE MEDICAL BOARD OF OHIO 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 CONSENT AGREEMENT.
- C. BAK CHUL KIM, M.D., is applying for reinstatement of his license to practice medicine and surgery in the State of Ohio, which was suspended pursuant to the terms of the above referenced January 1999 Consent Agreement.

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- D. BAK CHUL KIM, M.D., STATES that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. BAK CHUL KIM, M.D., STATES and THE STATE MEDICAL BOARD OF OHIO ACKNOWLEDGES that DOCTOR KIM has complied with the reinstatement conditions as set forth in DOCTOR KIM's January 1999 Step I Consent Agreement, as follows:

On or about December 26, 1998, DOCTOR KIM entered inpatient treatment at Talbott Recovery Campus, a Board approved treatment provider in Atlanta, Georgia, for treatment of opioid dependence and depressive disorder. Talbott Recovery Campus has certified that DOCTOR KIM successfully participated in the required inpatient treatment program and was discharged on April 17, 1999.

The Toledo Hospital Alcohol and Drug Treatment Center, a Board approved treatment provider in Toledo, Ohio, has certified that from April 28, 1999, through June 9, 1999, DOCTOR KIM participated in the continuing care program at The Toledo Hospital and that DOCTOR KIM is in full compliance with the Toledo Hospital treatment program.

Since April 24, 1999, DOCTOR KIM has been monitored under the terms of an advocacy contract with the Ohio Physician's Effectiveness Program.

George M. MacNabb, M.D., of Talbott Recovery Campus, has submitted a report to the Board in which Dr. MacNabb opines that DOCTOR KIM is able to return to the practice of anesthesiology according to acceptable and prevailing standards of care. In his report, Dr. MacNabb recommends that DOCTOR KIM consider using Naltrexone as an adjunct to his recovery program when DOCTOR KIM returns to the practice of anesthesiology. Dr. MacNabb further recommends that DOCTOR KIM's urine screens include testing for Fentanyl and Sufentanyl and that DOCTOR KIM initially restrict his practice to thirty hours per week and then forty hours per week upon his return to the practice of anesthesiology. Dr. MacNabb also recommends that DOCTOR KIM participate in monitoring and attend support group meetings.

Thomas Pepper, M.D., Medical Director of Talbot Hall, a Board approved treatment provider in Columbus, Ohio, has submitted a report to the Board in which Dr. Pepper opines that DOCTOR KIM is able to engage in the practice of medicine.

T. Thomas Lee, M.D., DOCTOR KIM's treating psychiatrist since May 1998, has submitted a report to the Board in which Dr. Lee opines that from a psychiatric treatment perspective, DOCTOR KIM is capable of returning to his practice as an anesthesiologist. In his report to the Board, Dr. Lee states that DOCTOR KIM suffers from Major Depression, recurrent, and recommends that DOCTOR KIM

continue on Paxil 40 mg. once per day and meet with Dr. Lee on a once per month basis.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, the certificate of BAK CHUL KIM, M.D., to practice medicine and surgery in the State of Ohio shall be reinstated, and BAK CHUL KIM, M.D., knowingly and voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following PROBATIONARY terms, conditions and limitations:

1. DOCTOR KIM shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio;
2. DOCTOR KIM 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 the 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;
3. DOCTOR KIM shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed 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. (Example: The first quarterly appearance is scheduled for February, but based upon the doctor's serious personal illness he is permitted to delay appearance until April. The next appearance will still be scheduled for May, three months after the appearance as originally scheduled.) Although the BOARD will normally give DOCTOR KIM written notification of scheduled appearances, it is DOCTOR KIM's responsibility to know when personal appearances will occur. If he does not receive written notification from the BOARD by the end of the month in which the appearance should have occurred, DOCTOR KIM shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

4. In the event that DOCTOR KIM should leave Ohio for three (3) continuous months, or reside or practice outside the State, DOCTOR KIM 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, unless otherwise determined by motion of the BOARD in instances where the BOARD can be assured that probationary monitoring is otherwise being performed;

5. In the event DOCTOR KIM 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 periods of noncompliance will not apply to the reduction of the probationary period under the CONSENT AGREEMENT;

MONITORING OF REHABILITATION AND TREATMENT

Drug Associated Restrictions

6. DOCTOR KIM shall keep a log of all controlled substances prescribed, dispensed or administered. Such log shall be submitted in the format approved by the BOARD thirty (30) days prior to DOCTOR KIM's personal appearance before the BOARD or its designated representative, or as otherwise directed by the BOARD;
7. If DOCTOR KIM administers any medications or controlled substances he shall have the disposal of any waste medications or controlled substances witnessed and reflected in the log referred to in paragraph six (6) above;

Sobriety

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

Drug and Alcohol Screens/Supervising Physician

10. DOCTOR KIM shall submit three urine specimens per week for random screenings for alcohol and drugs, including Sufenta, Fentanyl, and Versed, or as otherwise directed by the BOARD. Two of the specimens shall be tested each week or as otherwise directed by the BOARD. DOCTOR KIM shall ensure that all screening reports are forwarded directly to the BOARD on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the BOARD;

Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR KIM shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR KIM shall submit the required urine specimens. In approving an individual to serve in this capacity, the BOARD will give preference to a physician who practices in the same locale as DOCTOR KIM. The supervising physician shall ensure that the urine specimens are submitted and tested 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;

DOCTOR KIM shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;

In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR KIM must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR KIM shall further ensure that the previously designated supervising physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefore;

All screening reports and supervising physician reports required under this paragraph must be received in the BOARD's offices no later than the due date for DOCTOR KIM's quarterly declaration. It is DOCTOR KIM's responsibility to ensure that reports are timely submitted;

11. The BOARD retains the right to require, and DOCTOR KIM agrees to submit, blood or urine specimens for analysis at DOCTOR KIM's expense upon the BOARD's request and without prior notice. DOCTOR KIM's refusal to submit a blood or urine specimen upon request of the BOARD shall result in a minimum of one year of actual license suspension;

Monitoring Physician

12. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR KIM shall submit for the BOARD's prior approval the name of a monitoring physician, who shall monitor DOCTOR KIM and provide the BOARD with quarterly reports on the doctor's progress and status. In approving an individual to serve in this capacity, the BOARD will give preference to a physician who practices in the same locale as DOCTOR KIM and who is engaged

in the same or similar practice specialty. It shall be DOCTOR KIM's responsibility to ensure that the monitoring physician's quarterly reports are submitted to the BOARD on a timely basis;

DOCTOR KIM shall ensure that such reports are forwarded to the BOARD on a quarterly basis. In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, DOCTOR KIM must immediately so notify the BOARD in writing, and make arrangements acceptable to the BOARD for another monitoring physician as soon as practicable. DOCTOR KIM shall further ensure that the previously designated monitoring physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefore;

All monitoring physician reports required under this paragraph must be received in the BOARD's offices no later than the due date for DOCTOR KIM's quarterly declaration. It is DOCTOR KIM's responsibility to ensure that reports are timely submitted;

Rehabilitation Program

13. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR KIM shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or Caduceus, no less than three (3) times per week. Substitution of any other specific program must receive prior BOARD approval;

DOCTOR KIM shall submit with each quarterly declaration required under Paragraph 2 of this CONSENT AGREEMENT acceptable documentary evidence of continuing compliance with this program;

Aftercare

14. DOCTOR KIM shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided, that where terms of the aftercare contract conflict with terms of this CONSENT AGREEMENT, the terms of this CONSENT AGREEMENT shall control;

Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR KIM shall consult with a physician from his aftercare provider, the Toledo Hospital Alcohol and Drug Treatment Center, or another BOARD approved treatment provider regarding George M. MacNabb, M.D.'s recommendation that DOCTOR KIM consider using Naltrexone as an adjunct to his recovery program when DOCTOR KIM returns to the practice of anesthesiology. DOCTOR KIM shall immediately provide the BOARD with a

written report of the consultation. DOCTOR KIM shall comply with the recommendation of the consulting physician;

Psychiatric Treatment

15. DOCTOR KIM shall continue in psychiatric treatment with Thomas Lee, M.D., monthly or as otherwise directed by the BOARD. In the event that Dr. Lee is unable or unwilling to treat him, DOCTOR KIM shall immediately notify the BOARD and submit the name and qualifications of a psychiatrist for approval by the BOARD.

DOCTOR KIM shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. DOCTOR KIM 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 DOCTOR KIM's current treatment plan and any changes that have been made to the treatment plan since the prior report; DOCTOR KIM's compliance with his treatment plan; DOCTOR KIM's mental status; DOCTOR KIM's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. DOCTOR KIM shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that DOCTOR KIM is unable to practice due to his psychiatric disorder. It is DOCTOR KIM's responsibility to ensure that quarterly reports are received in the BOARD's offices no later than the due date for DOCTOR KIM's quarterly declaration;

Releases

16. DOCTOR KIM shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment provider and psychiatrist to the BOARD, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations;

Approval of Employment

17. DOCTOR KIM shall restrict his practice of medicine to no more than thirty (30) hours per week unless otherwise authorized by the BOARD;

Required Reporting by Licensee

18. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR KIM shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide health care

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services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, DOCTOR KIM 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; and,

19. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR KIM 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. DOCTOR KIM 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, DOCTOR KIM shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

FAILURE TO COMPLY

20. Any violation of Paragraph 8 or Paragraph 9 of this CONSENT AGREEMENT shall constitute grounds to revoke or permanently revoke DOCTOR KIM's certificate. DOCTOR KIM agrees that the minimum discipline for such a violation shall include actual license suspension. This paragraph does not limit the BOARD's authority to suspend, revoke or permanently revoke DOCTOR KIM's certificate based on other violations of this CONSENT AGREEMENT.
21. DOCTOR KIM AGREES that if any declaration or report required by this CONSENT AGREEMENT is not received in the BOARD's offices on or before its due date, DOCTOR KIM shall cease practicing beginning the day next following receipt from the BOARD of notice of non-receipt, either by writing, by telephone, or by personal contact until the declaration or report is received in the BOARD offices. Any practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.
22. DOCTOR KIM AGREES that if, without prior permission from the BOARD, he fails to submit to random screenings for drugs and alcohol at least as frequently as required by Paragraph 10 of this CONSENT AGREEMENT, he shall cease practicing immediately upon receipt from the BOARD of notice of the violation and shall refrain from practicing for thirty (30) days for the first instance of a single missed screen. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.
23. DOCTOR KIM AGREES that if he fails to participate in an alcohol and drug rehabilitation program at least as frequently as required by Paragraph 13 of this

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CONSENT AGREEMENT, he shall cease practicing immediately upon receipt from the BOARD of notice of the violation, and shall refrain from practicing for fifteen (15) days following a first missed meeting. Practice during this time period shall be considered unlicensed practice in violation of Section 4731.41 of the Revised Code.

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

If the Secretary and Supervising Member of the BOARD determine that there is clear and convincing evidence that DOCTOR KIM has violated any term, condition or limitation of this CONSENT AGREEMENT, DOCTOR KIM agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

This CONSENT AGREEMENT shall remain in force for a minimum of five (5) years prior to any request for termination of said CONSENT AGREEMENT. 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

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

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

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

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


BAK CHUL KIM, M.D.

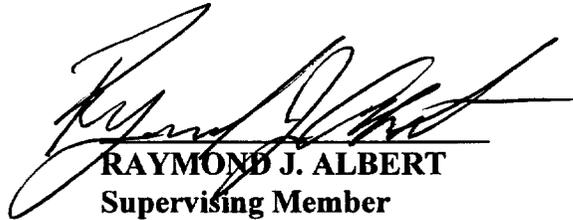
8-10-99
DATE


ERIC PLINKE, ESQ.
Attorney for Dr. KIM

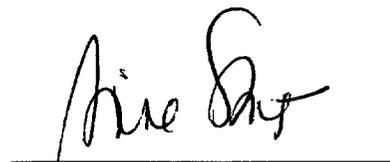
8/10/99
DATE


ANAND G. GARG, M.D.
Secretary

8/11/99
DATE


RAYMOND J. ALBERT
Supervising Member

8/11/99
DATE


ANNE B. STRAIT, ESQ.
Assistant Attorney General

8/11/99
DATE

**STEP I
CONSENT AGREEMENT
BETWEEN
BAK CHUL KIM, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

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

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BASIS FOR ACTION

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 Sections 4731.22(B)(10) and (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 "commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed," and "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 Sections 4731.22(B)(10) and (26), 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. BAK CHUL KIM, M.D., is licensed to practice medicine and surgery in the State of Ohio.
- D. BAK CHUL KIM, M.D., STATES that he is not licensed to practice medicine and surgery in any other state or jurisdiction.

- E. BAK CHUL KIM, M.D., ADMITS that in May 1998, he obtained a psychiatric evaluation from Craig Pratt, M.D., in Columbus, Ohio. DOCTOR KIM further ADMITS that he obtained the evaluation at the request of his employer, due to concerns about his mental status. DOCTOR KIM STATES that his employer's concerns and the request for the evaluation were not based upon any quality of care issues.

DOCTOR KIM further ADMITS that in May 1998, he was diagnosed as suffering from depression and was referred to psychiatric treatment with Thomas Lee, M.D., in Lima, Ohio.

DOCTOR KIM further ADMITS that he entered psychiatric treatment with Thomas Lee, M.D., in May 1998, and that Dr. Lee developed a treatment plan for DOCTOR KIM that was based upon a diagnosis of depression.

DOCTOR KIM further ADMITS that during his evaluation with Dr. Pratt in May 1998, and his subsequent psychiatric treatment with Dr. Lee, he denied any use or abuse of drugs, when in fact, he had developed an addiction to opiates.

DOCTOR KIM further ADMITS that he has used Sufenta and Versed at intervals for 1 1/2 years. DOCTOR KIM further ADMITS that he obtained these drugs by maintaining possession of the quantity of medication that should have been wasted after DOCTOR KIM administered the required dosage of medication to his anesthesia patients.

DOCTOR KIM STATES that he independently maintained abstinence from May to September 1998, but ADMITS that he returned to the use of Sufenta and Versed in October 1998.

DOCTOR KIM further STATES that on December 26, 1998, he is scheduled to be admitted to Talbot-Marsh Recovery Campus, a Board approved treatment provider in Atlanta, Georgia.

DOCTOR KIM further STATES and THE STATE MEDICAL BOARD OF OHIO ACKNOWLEDGES that on December 19, 1998, DOCTOR KIM met with an investigator for the State Medical Board of Ohio and voluntarily disclosed the aforementioned information.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, BAK CHUL KIM, M.D., knowingly and

voluntarily agrees with THE STATE MEDICAL BOARD OF OHIO, (hereinafter BOARD), to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The certificate of DOCTOR KIM, to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than six months;

Sobriety

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

Releases; Quarterly Declarations and Appearances

4. DOCTOR KIM 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 DOCTOR KIM's chemical dependency, psychiatric diagnosis, or related conditions, or for purposes of complying with the 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. DOCTOR KIM further agrees to provide the BOARD written consent permitting any treatment provider and psychiatrist from whom he obtains treatment to notify the BOARD in the event he fails to agree to or comply with any treatment contract, aftercare contract, and psychiatric treatment plan. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this CONSENT AGREEMENT.
5. DOCTOR KIM 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 the 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;

6. DOCTOR KIM shall appear in person for quarterly interviews before the BOARD or its designated representative, or as otherwise directed 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. (Example: The first quarterly appearance is scheduled for February, but based upon the doctor's serious personal illness he is permitted to delay appearance until April. The next appearance will still be scheduled for May, three months after the appearance as originally scheduled.) Although the BOARD will normally give DOCTOR KIM written notification of scheduled appearances, it is DOCTOR KIM's responsibility to know when personal appearances will occur. If he does not receive written notification from the BOARD by the end of the month in which the appearance should have occurred, DOCTOR KIM shall immediately submit to the BOARD a written request to be notified of his next scheduled appearance;

Drug & Alcohol Screens; Supervising Physician

7. DOCTOR KIM shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the BOARD. DOCTOR KIM shall ensure that all screening reports are forwarded directly to the BOARD on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board;

Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DOCTOR KIM shall submit to the BOARD for its prior approval the name of a supervising physician to whom DOCTOR KIM shall submit the required urine specimens. 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;

DOCTOR KIM shall ensure that the supervising physician provides quarterly reports to the BOARD, on forms approved or provided by the BOARD, verifying whether all urine screens have been conducted in compliance with this CONSENT AGREEMENT, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his responsibilities;

In the event that the designated supervising physician becomes unable or unwilling to so serve, DOCTOR KIM must immediately notify the BOARD in writing, and make arrangements acceptable to the BOARD for another supervising physician as soon as practicable. DOCTOR KIM shall further ensure that the previously designated supervising physician also notifies the BOARD directly of the inability to continue to serve and the reasons therefore;

All screening reports and supervising physician reports required under this paragraph must be received in the BOARD's offices no later than the due date for DOCTOR KIM's quarterly declaration. It is DOCTOR KIM's responsibility to ensure that reports are timely submitted;

CONDITIONS FOR REINSTATEMENT

8. The BOARD shall not consider reinstatement of DOCTOR KIM's certificate to practice medicine and surgery unless and until all of the following conditions are met:
 - a. DOCTOR KIM shall submit an application for reinstatement, accompanied by appropriate fees, if any;
 - b. DOCTOR KIM 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. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that DOCTOR KIM has successfully completed any required inpatient treatment;
 - ii. Evidence of continuing full compliance with an aftercare contract, consent agreement, and psychiatric treatment plan;
 - iii. Three written reports indicating that DOCTOR KIM's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care;
- Two reports shall be made individuals or providers approved by the BOARD under Section 4731.25, Ohio Revised Code, for making such assessments. Prior to the assessment, DOCTOR

KIM shall provide the evaluators with copies of patient records from any evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of DOCTOR KIM, and shall describe the basis for the evaluators' determinations;

One report shall be made by a psychiatrist who has conducted a psychiatric examination of DOCTOR KIM. Prior to the examination, DOCTOR KIM shall provide the 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 the evaluating psychiatrist shall include the psychiatrist's diagnosis and conclusions; any recommendations for care, counseling, and treatment; and the basis for the psychiatrist's determination.

- c. DOCTOR KIM shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the BOARD or, if the BOARD and DOCTOR KIM are unable to agree on the terms of a written CONSENT AGREEMENT, then DOCTOR KIM 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 DOCTOR KIM'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 and, upon termination of the consent agreement or Board Order, submission to the BOARD for at least two years of annual progress reports made under penalty of BOARD disciplinary action or criminal prosecution stating whether DOCTOR KIM has maintained sobriety.

9. In the event that DOCTOR KIM 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 DOCTOR KIM's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

10. Within thirty (30) days of the effective date of this Agreement, DOCTOR KIM 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 a license to practice. DOCTOR KIM 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 licensure or reinstatement of licensure. Further, DOCTOR KIM shall provide this BOARD with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.
11. Within thirty (30) days of the effective date of this Agreement, DOCTOR KIM shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide physician services or is receiving training; and the Chief of Staff at each hospital where he has 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 STATE MEDICAL BOARD OF OHIO, DOCTOR KIM appears to have violated or breached any term or condition 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.

ACKNOWLEDGMENTS/LIABILITY RELEASE

DOCTOR KIM 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 KIM 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.

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

EFFECTIVE DATE

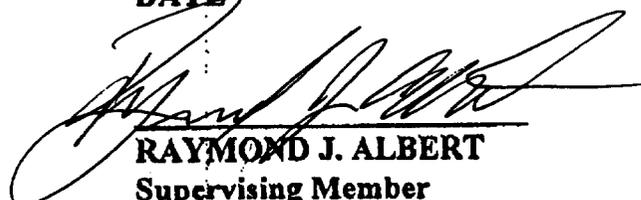
It is expressly understood that this CONSENT AGREEMENT is subject to ratification by the BOARD prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.


BAK CHUL KIM, M.D.

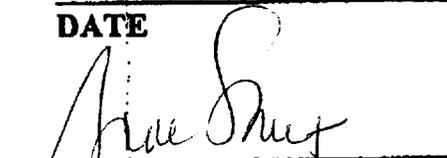
12-24-98
DATE


ANAND G. GARG, M.D.
Secretary

1/13/99
DATE


RAYMOND J. ALBERT
Supervising Member

1/13/99
DATE


ANNE B. STRAIT, ESQ.
Assistant Attorney General

1/13/99
DATE