

**✓ CONSENT AGREEMENT  
BETWEEN  
JOSE O. MARTINEZ, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Martinez 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 violation of Section 4731.22(B)(20), Ohio Revised Code, "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," to wit: Rules 4731-11-02(D) and/or 4731-11-04(B) and (C), Ohio Administrative Code. Pursuant to Rules 4731-11-02(F) and 4731-11-04(D), Ohio Administrative Code, violation of Rule 4731-11-02(D), Ohio Administrative Code, and/or Rule 4731-11-04(B) and (C), Ohio Administrative Code, also constitutes violation of provisions including Sections 4731.22(B)(2) and (6), Ohio Revised Code.
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-11-02(D), Rule 4731-11-04(B), and Rule 4731-11-04(C), Ohio Administrative Code, to wit: Sections 4731.22(B)(2) and (6), 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 Consent Agreement.
- C. Dr. Martinez is licensed to practice medicine and surgery in the State of Ohio, License # 35-040795.

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- D. Dr. Martinez states that he is not licensed to practice medicine and surgery in any other state or jurisdiction.
- E. Dr. Martinez admits that although he prescribed Adipex-P to one of his employees and such employee's sister for purposes of weight reduction for approximately ten months, from in or about March 2002 until January 2003, he failed to maintain any medical records for these patients. Further, although Dr. Martinez represents that he did examine such employee and her sister, he admits that he failed to meet face-to-face with his aforementioned employee's sister every thirty days while he was prescribing controlled substances to her for purposes of weight reduction.

Dr. Martinez represents that, in his over forty years of practicing medicine, this was the first and only instance in which he failed to maintain patient medical records. Dr. Martinez further represents that since discussing his failure to comply with the Board's administrative rules relating to controlled substances, including Rule 4731-11-02, Ohio Administrative Code, requiring that a physician maintain accurate medical records reflecting the examination and treatment of all patients, the utilization of controlled substances in the treatment of a patient, and the diagnosis and purpose for which any controlled substance is utilized, as well Rule 4731-11-04, Ohio Administrative Code, related to the utilization of controlled substances for weight reduction, with an agent of the Ohio State Board of Pharmacy in September 2003 and an investigator for the Board in June 2004, he has been fully compliant with those rules.

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

#### Reprimand

1. Dr. Martinez shall be and is hereby REPRIMANDED.

#### ✓ Required Controlled Substances Prescribing Course

2. Within one year from the effective date of this Consent Agreement, or as otherwise approved in advance by the Board, Dr. Martinez shall provide acceptable documentation of successful completion of a course entitled *Intensive Course in Controlled Substance Management*, which is sponsored by the Case Western Reserve University, School of Medicine. This course, after taken in compliance with this provision, may be used to satisfy the Continuing Medical Education requirements for

relicensure for the Continuing Medical Education acquisition period(s) in which it is completed.

In addition, at the time Dr. Martinez submits the documentation of successful completion of the *Intensive Course in Controlled Substance Management*, 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.

### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Martinez 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. Martinez 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. Martinez hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

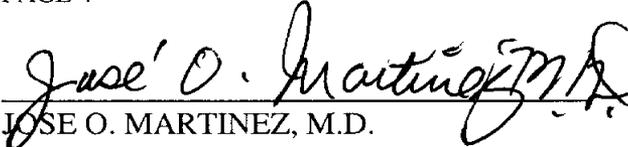
This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Martinez acknowledges that his social security number will be used if this 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.

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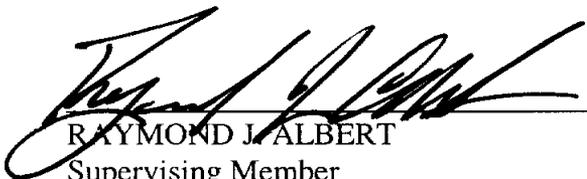
**MAY 23 2005**

  
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JOSE O. MARTINEZ, M.D.

  
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LANCE A. TALMAGE, M.D.  
Secretary

4/12/05  
DATE

6-8-05  
DATE

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member

6/8/05  
DATE

  
\_\_\_\_\_  
MARK R. BLACKMER  
Enforcement Attorney

May 26, 2005  
DATE