CONSENT AGREEMENT BETWEEN
JOHN W. SHAFFER, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

This CONSENT AGREEMENT is entered into by and between **JOHN W. SHAFFER, M.D.** (DR. SHAFFER") and **THE STATE MEDICAL BOARD OF OHIO** ("the BOARD"), a state agency charged with enforcing Ohio Revised Code ("O.R.C.") Chapter 4731.

DR. SHAFFER voluntarily enters into this Agreement being fully informed of his rights under O.R.C. Chapter 119, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

This CONSENT AGREEMENT contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this CONSENT AGREEMENT.

I. 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 O.R.C. §4731.22(B) 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 any of the enumerated violations.

B. The Board enters into this CONSENT AGREEMENT in lieu of further formal proceedings based upon the violations of O.R.C. §4731.22 set forth in the Notice of Opportunity for Hearing issued by the Board on July 8, 1998, attached hereto as Exhibit A and incorporated herein by this reference. The Board expressly reserves the right to institute additional formal proceedings based upon any violations of O.R.C. Chapter 4731, other than those violations recited in Exhibit A, whether occurring before or after the effective date of this CONSENT AGREEMENT.

C. DR. SHAFFER is licensed to practice medicine and surgery in the State of Ohio.

D. DR. SHAFFER admits and affirmatively states the following:

1. That he ordered and received from the manufacturer on the following dates free samples of Vicodin, a controlled substance, for the purpose of administering such controlled substance to his patients for post-operative pain in off-hour emergencies:

A. 50 Vicodin RS 5/500 mg., ordered on February 4, 1992, received on April 29, 1992;

B. 50 Vicodin ES 7.5/750 mg., ordered on February 4, 1992, received on April 29, 1992;

C. 50 Vicodin RS 5/500 mg., ordered on June 1, 1993, received on July 5, 1993; and,

D. 50 Vicodin ES 7.5/750 mg., ordered on June 1, 1993, received on July 5, 1993.

2. That prior to March 1, 1996, he self-administered two of the above-described Vicodin upon the advice of his personal physician.

3. That between February 1, 1996 and March 1, 1996, upon the manufacturer's expiration date, he disposed of all of the remaining above-described Vicodin in his possession. However, he did not have a witness present when he disposed of the Vicodin.

4. That he did not at any time administer, self-administer, dispense, deliver, prescribe or give away any of the above-described Vicodin to himself or to any other person, other than the two Vicodin he self-administered prior to March 1, 1996, and that he did not at any time self-prescribe or prescribe for family members any controlled substance.

5. That he did not create or maintain the records required by O.R.C. §3719.07(E) of his receipt, self-administering or disposal of the above-described Vicodin because he was unaware of the requirement to create and maintain such records with respect to free samples maintained in his residence for patient emergencies.

6. That he ordered from the manufacturer 48 free samples of Lorcet 10/650 mg., a controlled substance, on or about March 14, 1996, and received such controlled substance shortly thereafter, for the purpose of administering such controlled substance to his patients for post-operative pain in off-hour emergencies.

7. That he has in his possession and/or control all the above-described Lorcet received by him, and that he did not administer, self-administer, dispense, prescribe or give away to himself or to any other person any of the Lorcet received by him.

8. That the records of the Moore Medical Corp. indicate that telephone orders were placed by DR. SHAFFER and/or his wife for certain other controlled substances, specifically APAP with Codeine and Diazepam, and that such orders were received by that corporation under DR. SHAFFER's United States Drug Enforcement Agency identification number, and that such controlled substances were shipped to DR. SHAFFER's residence.

9. That he did not order or receive from Moore Medical Corp. any controlled substances, and that he has no knowledge of the ordering or receipt of such controlled substances by any other person.

II. AGREED CONDITIONS

WHEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, and in lieu of any further formal proceedings at this time, DR. SHAFFER knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

A. SUSPENSION OF CERTIFICATE

The certificate of DR. SHAFFER to practice medicine and surgery in the State of Ohio is hereby suspended for a period of thirty (30) days. Such suspension shall be effective thirty (30) days from the effective date of this CONSENT AGREEMENT. In accordance with such suspension, DR. SHAFFER shall surrender his current wallet registration card and wall certificate to the BOARD or its designee on or before the effective date of the suspension. Any period of suspension in effect prior to the receipt by the BOARD or its designee of the current wallet registration card and wall certificate shall not apply toward the period of suspension specified by this CONSENT AGREEMENT. Upon completion of the suspension period and reinstatement of DR. SHAFFER'S license, the wall certificate and current wallet registration card will be promptly returned to DR. SHAFFER.

B. PROBATION

Upon reinstatement, the certificate of DR. SHAFFER to practice medicine and surgery in the State of Ohio shall be subject to the following probationary terms, conditions and limitations for a minimum period of three (3) years:

1. DR. SHAFFER shall obey all federal, state and local laws, and all rules governing the practice of medicine in the State of Ohio.

2. DR. SHAFFER 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, 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. DR. SHAFFER 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 DR. SHAFFER written notification of scheduled appearances, it is DR. SHAFFER'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, DR. SHAFFER shall immediately submit to the Board a written request to be notified of his next scheduled appearance.

4. In the event that DR. SHAFFER should leave the State of Ohio for three (3) continuous months, or reside or practice outside the State of Ohio, DR. SHAFFER must notify the Board in writing of the dates of departure and return. Periods of time spent outside the State of Ohio will not apply to the reduction of this period under this 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 DR. SHAFFER 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 this CONSENT AGREEMENT.

6. Within six (6) months of the effective date of this CONSENT AGREEMENT, or as otherwise agreed by the Board, DR. SHAFFER shall provide acceptable documentation of successful completion of a course dealing with the prescribing of controlled substances. The exact number of hours and the specific content of

the course shall be subject to the prior approval of the Board or its designee, but shall be at least forty (40) hours in length. Any course taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the biennial registration period in which it is completed.

7. DR. SHAFFER shall refrain from self-treating, and from treating any family member, except in the event of life-threatening emergency. For the purposes of this CONSENT AGREEMENT, the term "family member" shall include DR. SHAFFER's spouse, children, children-in-law, grandchildren, siblings, parents, and parents-in-law.

8. DR. SHAFFER shall not prescribe, administer, dispense, order, write orders for, or give verbal orders for, any controlled substances for himself or for any family member.

C. REQUIRED REPORTING BY LICENSEE

1. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DR. SHAFFER 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. Further, during the effective term of this CONSENT AGREEMENT, DR. SHAFFER shall provide a copy of this CONSENT AGREEMENT to all employers or entities with which he is under contract to provide physician services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

2. Within thirty (30) days of the effective date of this CONSENT AGREEMENT, DR. SHAFFER 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. DR. SHAFFER further agrees to provide, during the term of this CONSENT AGREEMENT, a copy of this CONSENT AGREEMENT, by certified mail, return receipt requested, at time of application to the proper licensing authority of any state or jurisdiction in which he applies for licensure or reinstatement of licensure. Further, DR. SHAFFER shall provide this Board with a copy of the return receipt as proof of notification within thirty (30) days of receiving that return receipt.

D. FAILURE TO COMPLY

1. DR. SHAFFER 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, DR. SHAFFER 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's offices. Any practice during this time period shall be considered unlicensed practice in violation of O.R.C. §4731.41.

2. If, in the discretion of the Secretary and Supervising Member of the Board, DR. SHAFFER 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 the State of Ohio occurring before the effective date of this CONSENT AGREEMENT.

III. ACKNOWLEDGMENTS/LIABILITY RELEASE

DR. SHAFFER 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, O.R.C. Chapter 119, Ohio Revised Code.

DR. SHAFFER 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 O.R.C. §149.43. Further, this CONSENT AGREEMENT may be reported to appropriate organizations, data banks and governmental bodies.

IV. DURATION AND MODIFICATION OF TERMS

This CONSENT AGREEMENT shall remain in force for a minimum of three (3) years prior to any request for termination of said 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. Upon the termination of this CONSENT AGREEMENT DR. SHAFFER's certificate to practice medicine and surgery shall be fully restored.

V. 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.

JOHN W. SHAFFER, M.D.	ANAND G. GARG, M.D. Secretary
12/3/98	12/09/98
Date	Date

JOHN R. CLIMACO, ESQ.
ROBERT E. ASHTON, ESQ.
Attorneys for John W. Shaffer, M.D.

12/7/98
Date

RAYMOND J. ALBERT
Supervising Member

12/9/98
Date

ANNE BERRY STRAIT
Assistant Attorney General
Attorney for State Medical Board of Ohio

12/9/98
Date

EXHIBIT A

NOTICE OF OPPORTUNITY FOR HEARING
JULY 8, 1998

State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

July 8, 1998

John Wade Shaffer, M.D.
309 Glengary Drive
Aurora, OH 44202

Dear Doctor Shaffer:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

(1)(a) You ordered the following controlled substance samples under your DEA registration for delivery to your home:

Controlled Substance	Quantity	Date Shipped or Received
Vicodin RS 5/500 mg.	50	04/29/92
Vicodin ES 7.5/750 mg.	50	04/29/92
Vicodin RS 5/500 mg.	50	07/05/93
Vicodin ES 7.5/750 mg.	50	07/05/93
Lorcet 10/650 mg.	48	03/14/96

On May 4, 1998, you appeared for a deposition taken pursuant to an investigation by the State Medical Board of Ohio. You brought thirty-four (34) sample Lorcet pills to your deposition, but you could not account for the other 12 of the 48 Lorcet pills that you ordered. During that deposition, you stated that you did not know how many controlled substance samples were ordered by you and you admitted you could not account for most of those samples. You also stated that you ingested some of the Vicodin pills, and that you kept no patient records regarding the Vicodin samples that you ingested. You kept no inventory or dispensing records regarding the above-referenced controlled substance samples.

Mailed 7/9/98

(b) You ordered and/or paid for the following Schedule III and IV controlled substances from Moore Medical Corp. for delivery to your home under your DEA registration:

Invoice #	Date	Controlled Substance	Quantity	Schedule
6904301	01/06/92	APAP with Codeine - 300/30 mg.	200	III
7408610	07/12/93	Diazepam - 10 mg.	100	IV

You kept no inventory or dispensing records regarding the above referenced controlled substances.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "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," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: 4731-11-02 (E), Ohio Administrative Code. Pursuant to Rule 4731-11-02(F), Ohio Administrative Code, violation of Rule 4731-11-02(E), Ohio Administrative Code, also violates Sections 4731.22(B)(2) and (6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2925.11, Drug Abuse.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 3719.07, Records of controlled substances.

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 (30) days of the time of mailing of this notice.

You are further advised that 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 (30) 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, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG/dpk

Enclosures

CERTIFIED MAIL #Z 395 591 259
RETURN RECEIPT REQUESTED

cc: Adrienne Deckman, Esq.
CERTIFIED MAIL #Z 395 591 260
RETURN RECEIPT REQUESTED