

**STEP II
CONSENT AGREEMENT
BETWEEN
MICHAEL R. BAUM, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Baum 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)(26), Ohio Revised Code, for "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;" and Section 4731.22(B)(20), Ohio Revised Code, for 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."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, and Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-15-01, Ohio Administrative Code, as set forth in Paragraph E below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. Dr. Baum is seeking reinstatement of his certificate to practice medicine and surgery, license number 35.043893, which was indefinitely suspended, but not less than ninety days, pursuant to the Step I Consent Agreement Between Michael R. Baum, M.D., and the State Medical Board of Ohio [May 2010 Step I Consent Agreement], effective May 12, 2010, a copy of which is attached hereto and incorporated herein.

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- D. Dr. Baum states that he is also licensed to practice medicine and surgery in the state of West Virginia.
- E. Dr. Baum admits, and the Board acknowledges receipt of information to support, that on or about April 22, 2010, he entered residential treatment for chemical dependency at The Cleveland Clinic Foundation [Cleveland Clinic], a Board-approved treatment provider, and was discharged on or about May 19, 2010, treatment complete, with diagnoses of alcohol abuse and dependence, and remote drug abuse and dependence, in remission.

Dr. Baum states, and the Board acknowledges receipt of information to support, that he is in compliance with the aftercare contract he entered into with the Cleveland Clinic on or about May 17, 2010, including participating in at least three Twelve Step meetings per week, submitting to random weekly tests for the presence of drugs and alcohol, and attending aftercare sessions at Crossroads Counseling Services, St. Clairsville, Ohio. Dr. Baum states that said aftercare contract remains in effect.

Dr. Baum states, and the Board acknowledges receipt of information to support, that Gregory B. Collins, M.D., Section Head of the Alcohol and Drug Recovery Center of the Cleveland Clinic, has provided a written report indicating that Dr. Baum's ability to practice has been assessed and opined he is capable of practicing according to acceptable and prevailing standards of care. Dr. Baum states further, and the Board acknowledges receipt of information to support, that Chris Adelman, M.D., Medical Director of Rosary Hall, St. Vincent Charity Hospital, a Board-approved treatment provider, has provided a written report indicating that Dr. Baum's ability to practice has been assessed and has opined that he is capable of practicing according to acceptable and prevailing standards of care, as long as certain monitoring conditions are in place, including that he remain actively involved in a recovery program.

Dr. Baum states, and the Board acknowledges receipt of information to support, that Dr. Baum has fulfilled the conditions for reinstatement of his certificate to practice medicine and surgery in the state of Ohio as established in the May 2010 Step I Consent Agreement.

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 Dr. Baum to practice medicine and surgery in the state of Ohio shall be REINSTATED, and Dr. Baum knowingly and voluntarily agrees with the Board to the following PROBATIONARY terms, conditions and limitations:

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1. Dr. Baum shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Baum 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 date his quarterly declaration would have been due pursuant to his May 2010 Consent Agreement with the Board, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
3. Dr. Baum shall appear in person for an interview before the full Board or its designated representative. The first such appearance shall take place on the date his appearance would have been scheduled pursuant to his May 2010 Step I Consent Agreement with the Board. 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.
4. Dr. Baum shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the probationary terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Baum resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Baum may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Baum is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.
5. In the event Dr. Baum is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

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MONITORING OF REHABILITATION AND TREATMENT

Drug Associated Restrictions

6. Dr. Baum shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, on the date upon which Dr. Baum's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Baum shall make his patient records with regard to such prescribing available for review by an agent of the Board immediately upon request.
7. Dr. Baum shall not, without prior Board approval, administer, personally furnish, or possess (except as allowed under Paragraph 8 below) any controlled substances as defined by state or federal law. In the event that the Board agrees at a future date to modify this Consent Agreement to allow Dr. Baum to administer or personally furnish controlled substances, Dr. Baum shall keep a log of all controlled substances prescribed, administered or personally furnished. Such log shall be submitted in the format approved by the Board and shall be submitted to the Board no later than the date upon which Dr. Baum's quarterly declaration is due, or as otherwise directed by the Board. Further, Dr. Baum shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board immediately upon request.

Sobriety

8. Dr. Baum shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Baum's history of chemical dependency. Further, in the event that Dr. Baum is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Baum shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Baum received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Baum shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
9. Dr. Baum shall abstain completely from the use of alcohol.

Drug and Alcohol Screens/Drug Testing Facility and Collection Site

10. Dr. Baum shall submit to random urine screenings for drugs and alcohol at least two times per month, or as otherwise directed by the Board. Dr. Baum shall ensure that

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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, and shall include Dr. Baum's drug(s) of choice.

Dr. Baum shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Baum acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, that provides for the Board to maintain ultimate control over the urine screening process and to preserve the confidentiality of all positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code, and the screening process shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 11 below, to approve urine screenings to be conducted at an alternative drug testing facility and/or collection site or a supervising physician, such approval shall be expressly contingent upon the Board retaining ultimate control over the urine screening process in a manner that preserves the aforementioned confidentiality of all positive screening results.

Dr. Baum shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Baum shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Baum shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, Dr. Baum shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Baum and the Board-approved drug testing facility and/or collection site. Dr. Baum's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement. However, Dr. Baum and the Board further agree that in the event Dr. Baum previously entered into the aforementioned financial

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and contractual agreements pursuant to the requirements of a prior consent agreement with the Board under which Dr. Baum is currently participating in an ongoing urine screening process, then this requirement shall be waived under the instant consent agreement.

Dr. Baum shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Baum and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Baum shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Baum must immediately notify the Board in writing, and make arrangements acceptable to the Board pursuant to Paragraph 11 below, as soon as practicable. Dr. Baum shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Baum acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

11. Dr. Baum and the Board agree that it is the intent of this Consent Agreement that Dr. Baum shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Baum, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Baum:
 - a. Within thirty days of the date upon which Dr. Baum is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Baum, he shall

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submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Baum shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Baum's residence or employment location, or to a physician who practices in the same locale as Dr. Baum. Dr. Baum shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Baum acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Baum shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.
- c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Baum must immediately notify the Board in writing. Dr. Baum shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Baum shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Baum.
- d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Baum's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

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- e. In the event that the Board approved an alternate drug testing facility and/or collection site, or a supervising physician, pursuant to the May 2010 Step I Consent Agreement between Dr. Baum and the Board, Dr. Baum and the Board agree that the entity, facility or person previously approved by the Board to so serve pursuant to the May 2010 Step I Consent Agreement is hereby approved to continue as Dr. Baum's designated alternate drug testing facility and collection site or as his supervising physician under this Consent Agreement.
12. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Baum's quarterly declaration. It is Dr. Baum's responsibility to ensure that reports are timely submitted.
13. The Board retains the right to require, and Dr. Baum agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Baum, or for any other purpose, at Dr. Baum's expense upon the Board's request and without prior notice. Dr. Baum's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

Monitoring Physician

14. Before engaging in any medical practice, Dr. Baum shall submit to the Board in writing the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary or Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Baum and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Baum and his medical practice, and shall review Dr. Baum's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Baum and his medical practice, and on the review of Dr. Baum's patient charts. Dr. Baum shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Baum's quarterly declaration.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Baum must immediately so notify the Board in writing. In

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addition, Dr. Baum shall make arrangements acceptable to the Board for another monitoring physician within thirty days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Baum shall ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

The Board expressly reserves the right to disapprove any person proposed to serve as Dr. Baum's designated monitoring physician, or to withdraw approval of any person previously approved to serve as Dr. Baum's designated monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Rehabilitation Program

15. Dr. Baum shall maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Baum shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Baum's quarterly declarations.

Aftercare

16. Dr. Baum shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
17. Dr. Baum shall maintain continued compliance with the terms of the aftercare contract entered into with a Board-approved 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.

Releases

18. Dr. Baum 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. Baum's chemical dependency 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. To the extent permitted by law, the above-

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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. Baum further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.

Required Reporting by Licensee

19. Within thirty days of the effective date of this Consent Agreement, Dr. Baum shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training, and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Baum shall promptly 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. In the event that Dr. Baum provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Baum shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Baum shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

20. Within thirty days of the effective date of this Consent Agreement, Dr. Baum shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Baum further agrees to provide a copy of this Consent Agreement at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Baum shall provide the Board with one of the following documents as proof of each required notification

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within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

21. Dr. Baum shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Baum chemical dependency treatment or monitoring. Further, Dr. Baum shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
22. Dr. Baum shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Baum 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 Dr. Baum has violated any term, condition or limitation of this Consent Agreement, Dr. Baum 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.

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DURATION/MODIFICATION OF TERMS

Dr. Baum shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Baum shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year, except that Dr. Baum may make such request with the mutual approval and joint recommendation of the Secretary and Supervising Member. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

In the event that the Board initiates future formal proceedings against Dr. Baum, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

In the event that any term, limitation, or condition contained in this Consent Agreement is determined to be invalid by a court of competent jurisdiction, Dr. Baum and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Baum 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. Baum 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. Baum 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.

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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.

Michael R. Baum M.D.
MICHAEL R. BAUM, M.D.

Lance A. Talmage
LANCE A. TALMAGE, M.D.
Secretary

7/22/10
DATE

8-11-10
DATE

Patrick F. Smith
PATRICK F. SMITH, ESQ.
Attorney for Dr. Baum

Jack C. Amato
JACK C. AMATO, M.D.
Acting Supervising Member

7/28/10
DATE

8/1/10
DATE

Karen Mortland
KAREN MORTLAND
Enforcement Attorney

July 30, 2010
DATE

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**STEP I
CONSENT AGREEMENT
BETWEEN
MICHAEL R. BAUM, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO**

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Dr. Baum 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)(26), Ohio Revised Code, for "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;" and Section 4731.22(B)(20), Ohio Revised Code, for 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."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, and Section 4731.22(B)(20), Ohio Revised Code, to wit: Rule 4731-15-01, Ohio Administrative Code, as set forth in Paragraph E. below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. Dr. Baum is licensed to practice medicine and surgery in the State of Ohio, License number 35.043893.
- D. Dr. Baum states that he is also licensed to practice medicine and surgery in the state of West Virginia.

- E. Dr. Baum admits that his certificate to practice medicine and surgery was subject to an order of the Board dated January 24, 1986 [1986 Board Order], which revoked his certificate to practice, stayed the revocation, and placed probationary terms and conditions upon his certificate for a period of eight years, including terms and conditions to monitor him for the use of drugs. Dr. Baum admits that the 1986 Board Order was based upon facts including that he had been diagnosed with alcohol dependency disorder and that he had received treatment for alcoholism, including a course of Antabuse. Dr. Baum admits further that the 1986 Board Order was based upon additional facts including that he had admitted that he was a heavy drinker, that he had periodically consumed alcohol in conjunction with Percocet, that he had written prescriptions for Percocet for non-medical purposes, that he had diverted the drugs to his own use for recreational purposes, that he had provided medication to others without prior medical examination, and that he had received treatment in lieu of conviction for drug-related criminal charges from the Franklin County, Ohio, Court of Common Pleas. Dr. Baum states that he was released from the terms and conditions of the 1986 Board Order in 1992.

Dr. Baum admits that from in or about 1999 to the present, he has consumed alcoholic beverages on occasion. Dr. Baum admits that his consumption of alcohol constitutes a relapse and that he did not report this relapse to the Board as required by Rule 4731-15-01, Ohio Administrative Code. Dr. Baum admits further that when interviewed by a Board investigator, who inquired whether Dr. Baum would voluntarily provide a urine sample to the Board for screening for the presence of alcohol or drugs, Dr. Baum agreed to do so. Further, Dr. Baum acknowledges that while the immunoassay was negative for ethyl alcohol, the urine sample was positive, and GC confirmed, for the presence of ethyl glucuronide, a metabolite of alcohol.

Dr. Baum admits that on or about April 5, 2010, he received a letter from the Board dated March 31, 2010, ordering him to undergo a seventy-two hour inpatient evaluation at a Board-approved treatment provider to determine whether he is impaired in his ability to practice medicine and surgery 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. Dr. Baum admits that he is entering this Consent Agreement in lieu of undergoing such evaluation, and admits further that he is impaired in his ability to practice because of habitual use of alcohol. Dr. Baum states that he has never consumed alcohol while on call or while caring for patients.

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

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Baum to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than ninety days.

Obey all Laws

2. Dr. Baum shall obey all federal, state, and local laws.

Sobriety

3. Dr. Baum shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Dr. Baum's history of chemical dependency. Further, in the event that Dr. Baum is so prescribed, dispensed or administered any controlled substance, carisoprodol, or tramadol, Dr. Baum shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber; the name of the drug Dr. Baum received; the medical purpose for which he received said drug; the date such drug was initially received; and the dosage, amount, number of refills, and directions for use. Further, within thirty days of the date said drug is so prescribed, dispensed, or administered to him, Dr. Baum shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
4. Dr. Baum shall abstain completely from the use of alcohol.

Absences from Ohio

5. Dr. Baum shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have the discretion to grant a waiver of part or all of the monitoring terms set forth in this Consent Agreement for occasional periods of absence of fourteen days or less. In the event that Dr. Baum resides and/or is employed at a location that is within fifty miles of the geographic border of Ohio and any of its contiguous states, Dr. Baum may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Baum is able to otherwise maintain full compliance with all other terms, conditions and limitations set forth in this Consent Agreement.

Releases; Quarterly Declarations and Appearances

6. Dr. Baum 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. Baum's chemical dependency 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. To the extent permitted by law, 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. Baum further agrees to provide the Board written consent permitting any treatment provider from whom he obtains treatment to notify the Board in the event he fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
7. Dr. Baum 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, or as otherwise requested by the Board. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
8. Dr. Baum 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.

Drug & Alcohol Screens; Drug Testing Facility and Collection Site

9. Dr. Baum shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Baum 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, and shall include Dr. Baum's drug(s) of choice.

Dr. Baum shall abstain from the use of any substance and the consumption of poppy seeds or any other food or liquid that may produce a low level positive result in a toxicology screen. Dr. Baum acknowledges that he understands that the consumption or use of such substances, including but not limited to substances such as mouthwash or hand cleaning gel, may cause a positive drug screen that may not be able to be

differentiated from intentional ingestion, and therefore such consumption or use is prohibited under this Consent Agreement.

All such urine screenings for drugs and alcohol shall be conducted through a Board-approved drug testing facility and collection site pursuant to the global contract between said facility and the Board, that provides for the Board to maintain ultimate control over the urine screening process and to preserve the confidentiality of all positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code, and the screening process shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph 10 below, to approve urine screenings to be conducted at an alternative drug testing facility and/or collection site or a supervising physician, such approval shall be expressly contingent upon the Board retaining ultimate control over the urine screening process in a manner that preserves the aforementioned confidentiality of all positive screening results.

Dr. Baum shall submit, at his expense and on the day selected, urine specimens for drug and/or alcohol analysis. All specimens submitted by Dr. Baum shall be negative, except for those substances prescribed, administered, or dispensed to him in conformance with the terms, conditions and limitations set forth in this Consent Agreement. Refusal to submit such specimen, or failure to submit such specimen on the day he is selected or in such manner as the Board may request, shall constitute a violation of this Consent Agreement.

Further, within thirty days of the effective date of this Consent Agreement, Dr. Baum shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug testing facility and/or collection site in order to facilitate the urine screening process in the manner required by this Consent Agreement. Further, Dr. Baum shall promptly provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Baum and the Board-approved drug testing facility and/or collection site. Dr. Baum's failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Consent Agreement.

Dr. Baum shall ensure that the urine screening process performed through the Board-approved drug testing facility and/or collection site requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Baum and the Board-approved drug testing facility and collection site shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Baum shall ensure that the Board-approved drug testing facility and/or collection site provides quarterly reports to the Board, in a format acceptable to the Board, verifying

whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.

In the event that the Board-approved drug testing facility and/or collection site becomes unable or unwilling to serve as required by this Consent Agreement, Dr. Baum must immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph 10 below, as soon as practicable. Dr. Baum shall further ensure that the Board-approved drug testing facility and/or collection site also notifies the Board directly of its inability to continue to serve and the reasons therefore.

Dr. Baum acknowledges that the Board expressly reserves the right to withdraw its approval of any drug testing facility and/or collection site in the event that the Secretary and Supervising Member of the Board determine that the drug testing facility and/or collection site has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

10. Dr. Baum and the Board agree that it is the intent of this Consent Agreement that Dr. Baum shall submit his urine specimens to the Board-approved drug testing facility and collection site chosen by the Board. However, in the event that utilizing said Board-approved drug testing facility and/or collection site creates an extraordinary hardship upon Dr. Baum, as determined in the sole discretion of the Board, then subject to the following requirements, the Board may approve an alternate drug testing facility and/or collection site, or a supervising physician, to facilitate the urine screening process for Dr. Baum:
 - a. Within thirty days of the date upon which Dr. Baum is notified of the Board's determination that utilizing the Board-approved drug testing facility and/or collection site constitutes an extraordinary hardship upon Dr. Baum, he shall submit to the Board in writing for its prior approval the identity of either an alternate drug testing facility and collection site, or the name of a proposed supervising physician, to whom Dr. Baum shall submit the required urine specimens. In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Baum's residence or employment location, or to a physician who practices in the same locale as Dr. Baum. Dr. Baum shall ensure that the urine screening process performed through the alternate drug testing facility and/or collection site, or through the supervising physician, requires a daily call-in procedure; that the urine specimens are obtained on a random basis; and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Baum acknowledges that the alternate drug testing facility and collection site, or the supervising physician, shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

- b. Dr. Baum shall ensure that the alternate drug testing facility and/or collection site, or the supervising physician, provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, and whether all urine screens have been negative.
 - c. In the event that the designated alternate drug testing facility and/or collection site, or the supervising physician, becomes unable or unwilling to so serve, Dr. Baum must immediately notify the Board in writing. Dr. Baum shall further ensure that the previously designated alternate drug testing facility and collection site, or the supervising physician, also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in order to ensure that there will be no interruption in his urine screening process, upon the previously approved alternate drug testing facility, collection site, or supervising physician becoming unable to serve, Dr. Baum shall immediately commence urine screening at the Board-approved drug testing facility and collection site chosen by the Board, until such time, if any, that the Board approves a subsequent alternate drug testing facility, collection site, or supervising physician, if requested by Dr. Baum.
 - d. The Board expressly reserves the right to disapprove any entity or facility proposed to serve as Dr. Baum's designated alternate drug testing facility and/or collection site, or any person proposed to serve as his supervising physician, or to withdraw approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
11. All screening reports required under this Consent Agreement from the Board-approved drug testing facility and/or collection site, or from the alternate drug testing facility and/or collection site or supervising physician, must be received in the Board's offices no later than the due date for Dr. Baum's quarterly declaration. It is Dr. Baum's responsibility to ensure that reports are timely submitted.
12. The Board retains the right to require, and Dr. Baum agrees to submit, blood, urine, breath, saliva and/or hair specimens for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Baum, or for any other purpose, at Dr. Baum's expense upon the Board's request and without prior notice. Dr. Baum's refusal to submit a specimen upon request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary or Supervising Member of the Board.

Rehabilitation Program

13. Within thirty days of the effective date of this Consent Agreement, Dr. Baum shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Baum shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Baum's quarterly declarations.

14. Immediately upon completion of any required treatment for chemical dependency, Dr. Baum shall enter into an aftercare contract with a Board-approved treatment provider and shall maintain continued compliance with the terms of said aftercare contract, provided that, where the terms of the aftercare contract conflict with the terms of this Consent Agreement, the terms of this Consent Agreement shall control.

CONDITIONS FOR REINSTATEMENT

15. The Board shall not consider reinstatement or restoration of Dr. Baum's certificate to practice medicine and surgery until all of the following conditions are met:
- a. Dr. Baum shall submit an application for reinstatement or restoration, as appropriate, accompanied by appropriate fees, if any.
 - b. Dr. Baum 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 Dr. Baum has successfully completed any required inpatient treatment, including at least twenty-eight days of inpatient or residential treatment for chemical abuse/dependence, as set forth in Rules 4731-16-02 and 4731-16-08, Ohio Administrative Code, completed consecutively.
 - ii. Evidence of continuing full compliance with, or successful completion of, a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.

- iii. Evidence of continuing full compliance with this Consent Agreement.
 - iv. Two written reports indicating that Dr. Baum'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 physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Baum. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Baum 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 Dr. Baum, and any conditions, restrictions, or limitations that should be imposed on Dr. Baum's practice. The reports shall also describe the basis for the evaluator's determinations.
All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.
 - v. In the event that the Board initiates future formal proceedings against Dr. Baum, including but not limited to issuance of a Notice of Opportunity for Hearing, Dr. Baum shall be ineligible for reinstatement until such proceedings are fully resolved by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.
- c. Dr. Baum shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board within 180 days of the date upon which all the above-specified conditions for reinstatement or restoration have been completed or, if the Board and Dr. Baum are unable to agree on the terms of a written Consent Agreement, then Dr. Baum 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. The Board shall provide notice to Dr. Baum that said hearing has been scheduled, advising Dr. Baum of his hearing rights, and stating the date, time, and location of the hearing at which the Board will present its evidence, after which the Board will make a determination of the matter by Board Order.

Further, upon reinstatement of Dr. Baum'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. Moreover, upon termination of the consent agreement or Board Order, Dr. Baum shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Dr. Baum has maintained sobriety.

16. In the event that Dr. Baum 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. Baum's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

17. Within thirty days of the effective date of this Consent Agreement, Dr. Baum shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services (including but not limited to third party payors) or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Baum shall promptly 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. In the event that Dr. Baum provides any health care services or health care direction or medical oversight to any emergency medical services organization or emergency medical services provider, within thirty days of the effective date of this Consent Agreement Dr. Baum shall provide a copy of this Consent Agreement to the Ohio Department of Public Safety, Division of Emergency Medical Services. Further, Dr. Baum shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
18. Within thirty days of the effective date of this Consent Agreement, Dr. Baum shall provide a copy of this Consent Agreement to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Dr. Baum further agrees to provide a

copy of this Consent Agreement 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. Baum shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.

19. Dr. Baum shall promptly provide a copy of this Consent Agreement to all persons and entities that provide Dr. Baum chemical dependency treatment or monitoring. Further, Dr. Baum shall provide the Board with one of the following documents as proof of each required notification within thirty days of the date of each such notification: (1) the return receipt of certified mail within thirty days of receiving that return receipt, (2) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Consent Agreement was hand delivered, (3) the original facsimile-generated report confirming successful transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was faxed, or (4) an original computer-generated printout of electronic mail communication documenting the email transmission of a copy of the Consent Agreement to the person or entity to whom a copy of the Consent Agreement was emailed.
20. Dr. Baum shall notify the Board in writing of any change of principal practice address or residence address within thirty days of such change.

DURATION/MODIFICATION OF TERMS

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties. In the event that the Board initiates future formal proceedings against Dr. Baum, including but not limited to issuance of a Notice of Opportunity for Hearing, this Consent Agreement shall continue in full force and effect until such time that it is superseded by ratification by the Board of a subsequent Consent Agreement or issuance by the Board of a final Board Order.

In the event that any term, limitation, or condition contained in this Consent Agreement is determined to be invalid by a court of competent jurisdiction, Dr. Baum and the Board agree that all other terms, limitations, and conditions contained in this Consent Agreement shall be unaffected.

FAILURE TO COMPLY

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

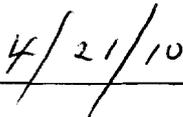
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



MICHAEL R. BAUM, M.D.



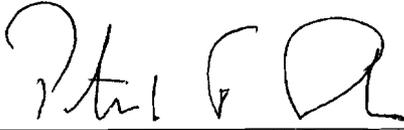
LANCE A. TALMAGE, M.D.
Secretary



DATE



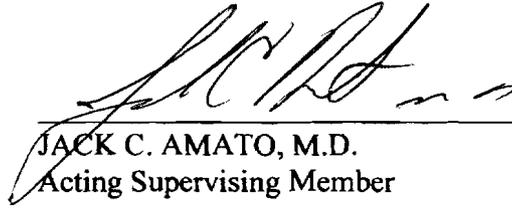
DATE



PATRICK F. SMITH, ESQ.
Attorney for Dr. Baum

4/22/10

DATE



JACK C. AMATO, M.D.
Acting Supervising Member

5/12/10

DATE



KAREN MORTLAND
Enforcement Attorney

4/22/10

DATE

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio ~~43213~~ 43266-0315

January 27, 1986

Michael R. Baum, M.D.
714 North Maple, Apt. C-10
Marysville, Ohio 43043

Dear Doctor Baum:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Carol Rolfes, Member, State Medical Board of Ohio; a certified copy of the Motions by the State Medical Board, meeting in regular session on January 8, 1986, amending said Report and Recommendation as the Findings and Order of the State medical Board.

You are hereby notified that you may appeal this Order to the Court of Common Pleas of the county in which your place of business is located, or the county in which you reside. If you are not a resident and have no place of business in this state, you may appeal to the Court of Common Pleas of Franklin County, Ohio.

To appeal as stated above, you must file a notice of appeal with the Board setting forth the Order appealed from, and the grounds of the appeal. You must also file a copy of such notice with the Court. Such notices of appeal shall be filed within fifteen (15) days after the date of mailing of this letter and in accordance with Section 119.12, Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Henry G. Cramblett by us
Henry G. Cramblett, M.D.
Secretary

HGC:em

Enclosures

CERTIFIED MAIL NO. P 569 364 841
RETURN RECEIPT REQUESTED

cc: Terry Tataru, Esq.

CERTIFIED MAIL NO. P 569 364 842
RETURN RECEIPT REQUESTED

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio ~~43215~~ 43266-0315

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Carol Rolfes, Hearing Member, State Medical Board of Ohio; and the attached copy of the Motions by the State Medical Board, meeting in regular session on January 8, 1986, amending said Report and Recommendation as the Findings and Order of the State Medical Board, constitutes a true and complete copy of the Findings and Order of the State Medical Board in the matter of Michael R. Baum, M.D., as it appears in the Journal of the State Medical Board of Ohio.

(SEAL)

Henry G. Cramblett, M.D.
Henry G. Cramblett, M.D.
Secretary

January 23, 1986
Date

STATE OF OHIO
THE STATE MEDICAL BOARD

IN THE MATTER OF *
 *
MICHAEL R. BAUM, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 8th day of January, 1986.

Upon the Report and Recommendation of Carol Rolfes, the Hearing Member in this matter designated pursuant to R.C. 4731.23, a true copy of which is attached hereto and incorporated herein, which Report and Recommendation was amended by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board for the 8th day of January, 1986.

It is hereby ORDERED:

That the license of Michael R. Baum, M.D., to practice medicine and surgery in the State of Ohio be revoked. Such revocation is stayed and Dr. Baum is placed on probation for a term of eight (8) years or as otherwise directed by the Board provided that he complies with the following terms and conditions:

1. Dr. Baum shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Baum shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of probation.
3. Dr. Baum shall appear in person for interviews before the full Board or its designated representative at three month intervals, or as otherwise requested by the Board.
4. In the event that Dr. Baum should leave Ohio for three continuous months, or to reside or to practice outside the State, Dr. Baum must notify the State Medical Board in writing of the dates of departure or return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.

STATE OF OHIO
THE STATE MEDICAL BOARD

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Michael R. Baum, M.D.

5. Dr. Baum shall not prescribe, administer, dispense, order or possess (except as prescribed, administered, or dispensed to him by another person so authorized by law) controlled substances as defined by state or federal law, except for those listed in Schedules IV and V, for a minimum of two years from the effective date of this Order, except that in his capacity as acting medical director of the Southern Ohio Correctional Institution at Lucasville, Ohio, Dr. Baum shall be permitted to write orders for Schedule II and Schedule III controlled substances to inmate patients to be administered by other personnel.
6. Within 30 days of the effective date of this Order, Dr. Baum shall submit to the full Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the full Board, Dr. Baum shall undergo and continue psychiatric treatment no less than once per month, or as otherwise directed by the Board. Dr. Baum shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a monthly basis, or as frequently as the Board otherwise directs.
7. Dr. Baum shall submit daily specimens for random urine screenings for drugs by a physician to be approved by the Board. Such screenings shall be conducted weekly on a random basis, or as otherwise determined by the Board. Dr. Baum shall ensure that the weekly screening reports are forwarded directly to the Board on a monthly basis. The Board retains the right to require Dr. Baum to submit urine specimens for analysis without prior notice. In the event that Dr. Baum fails to submit to a daily urine specimen as required by this Order due to unavoidable circumstances which are not the fault of Dr. Baum, he shall within 24 hours notify the Board in writing of the circumstances which prevented him from complying with this requirement. The Board may excuse an occasional missed urine specimen submission if it determines that the reasons therefor were in fact unavoidable and not the fault of Dr. Baum.

STATE OF OHIO
THE STATE MEDICAL BOARD

Page 3

Michael R. Baum, M.D.

8. Dr. Baum is to undertake and maintain participation in an alcohol rehabilitation program acceptable to the Board no less than three (3) times per week. In the Quarterly Reports to the Board, Dr. Baum shall provide documentary evidence of continuing compliance with this program. In addition, Dr. Baum shall undertake and maintain active participation in the Impaired Physician's Program.
9. Dr. Baum shall abstain completely from the personal use or possession of drugs, except those available for purchase over the counter or those prescribed, administered, or dispensed to him by another person so authorized by law.
10. Dr. Baum shall abstain completely from the use of alcohol.
11. If Dr. Baum violates probation in any respect, the Board, after giving the Respondent notice and the opportunity to be heard, may set aside the stay order and impose the revocation of Dr. Baum's medical certificate.
12. Upon successful completion of probation, Dr. Baum's medical certificate will be fully restored.

The effective date of the Order is to be IMMEDIATELY upon receipt of notice.

(SEAL)

Henry G. Cramblett #6400
Henry G. Cramblett, M.D.
Secretary

January 24, 1986
Date

STATE OF OHIO
THE STATE MEDICAL BOARD

REPORT AND RECOMMENDATION
IN THE MATTER OF MICHAEL R. BAUM, M.D.

The matter of Michael R. Baum, M.D., came before me, Carol Rolfes, Member of the State Medical Board of Ohio, on July 23, 1985.

RECEIVED
NOV 22 1985

INTRODUCTION AND SUMMARY OF EVIDENCE

'85 NOV 22 A8:22

1. By letter dated May 9, 1984 (State's Exhibit #1), the State Medical Board of Ohio notified Dr. Michael R. Baum of its proposal to take disciplinary action against his license to practice medicine and surgery in the State of Ohio on the basis of the following allegations:
 - A. That Dr. Baum's issuance of prescriptions for the controlled substance Percocet-5 to patients identified in the May 9, 1985 citation letter had been for purposes other than exclusively legitimate medical use by those individuals, and that no patient records regarding those individuals had been maintained by the Respondent.
 - B. Further, that Dr. Baum was unable to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs, or chemicals, or as a result of a mental or physical condition.
2. Dr. Baum, through his attorney, Terry Tataru, requested a hearing on the Board's proposed action by letter dated May 14, 1985. (State's Exhibit #2)
3. By letter dated May 17, 1985, the State Medical Board initially scheduled Dr. Baum's hearing, and subsequently postponed that hearing pursuant to Section 119.09, Ohio Revised Code. (State's Exhibit #3)
4. Dr. Baum was notified of the rescheduled hearing date by letter dated June 21, 1985. (State's Exhibit #4)
5. Dr. Baum was advised by letter dated June 3, 1985 from Medical Board Secretary Henry G. Cramblett, M.D., that he had been scheduled for psychiatric evaluation by Dr. Ralph Henn on June 10, 1985 pursuant to Section 4731.22(B)(15), Ohio Revised Code. (State's Exhibit #5)
6. Dr. Baum was present at the July 23, 1985 hearing and was accompanied by his attorney, Terry Tataru.

7. Assistant Attorney General Lauren M. Ross appeared on behalf of the State.
8. In her opening remarks, Ms. Ross outlined the State's contention that Dr. Baum had written 44 Percocet prescriptions for certain acquaintances over a two and a half year period, and that he had taken most of the Percocet himself in conjunction with alcohol to achieve an intoxicating effect. Dr. Baum's prescribing in this matter was alleged to be in violation of Sections 4731.22(B)(2), (3) and (6), Ohio Revised Code. Ms. Ross further stated that in spite of treatment received by Dr. Baum in lieu of conviction for making a false prescription for a Schedule II controlled substance, a risk remained that he would abuse alcohol and/or drugs, in violation of Section 4731.22(B)(15), Ohio Revised Code.
9. Mr. Tataru made an opening statement on behalf of Dr. Baum admitting that the doctor once had a potential problem with alcohol and Percocet, that he had in fact written most of the prescriptions noted in the May 9, 1985, citation letter for non-medical purposes, and that the drugs had been diverted to the Respondent's own use for recreational purposes. Mr. Tataru explained that Dr. Baum had successfully completed a treatment program in lieu of conviction and had been declared rehabilitated by the Franklin County Court of Common Pleas on March 11, 1985. He added that Dr. Baum had been undergoing random urine screenings since December, 1984, all of which had been negative. He also noted that all of the psychological and psychiatric evaluations to be submitted to the record indicated that Dr. Baum was capable of practicing medicine and surgery.
10. Prior to calling her first witness, Ms. Ross identified State's Exhibits 1 through 5, noted above, which had been stipulated to by the parties to establish the Board's jurisdiction. Ms. Ross also identified the following stipulated exhibits:
 - A. State's Exhibit #1-A, a supplement to State's Exhibit #1 entitled "Patient Key", which identifies individuals listed in the citation letter by number in order to preserve their confidentiality.
 - 1) The parties further stipulated that the individual identified as "Patient 1" was the Respondent, and that the prescriptions issued to "Patient 3" and "Patient 4" were issued to the same person.
 - B. State's Exhibit #6 through #14, photocopies of prescriptions listed in the citation letter, which the parties stipulated had in fact been written by Dr. Baum.
 - C. State's Exhibit #15, a Bill of Information filed in the Franklin County Court of Common Pleas charging the Respondent with one felony count of making a false prescription.

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- D. State's Exhibit #16, an Entry of the Franklin County Court of Common Pleas qualifying the Respondent for treatment in lieu of conviction.
 - E. State's Exhibit #17, the March 11, 1985 Court of Common Pleas entry dismissing the criminal matter against Dr. Baum.
 - F. State's Exhibit #18, the psychiatric evaluation of the Respondent conducted by Dr. Ralph Henn pursuant to the Board's order.
 - G. State's Exhibit #19, a January 4, 1985 evaluation prepared by David Tennenbaum, a clinical psychologist.
 - H. State's Exhibit #20, an evaluation prepared by Bernard M. Kuhr, M.D., dated January 29, 1985.
 - I. State's Exhibit #21, a psychiatric evaluation of the Respondent prepared by William Tod, M.D., dated December 11, 1984.
11. State's Exhibits #1 through #21 were received in evidence and made part of the record with the understanding that State's Exhibits #1-A and #6 through #14 would be sealed to protect patient confidentiality.
12. Ms. Ross proceeded by calling the Respondent, Michael R. Baum, M.D., as the State's first witness. Dr. Baum testified on cross-examination, as follows:
- A. That he is 31 years old and graduated from the Ohio State University College of Medicine in 1979. He became licensed in Ohio that year. He is not licensed in any other state.
 - B. That subsequent to graduation he undertook a five year residency in surgery at Ohio State, which he completed in July, 1984. He was one of four chief residents in the program.
 - C. That he began a surgery practice in Marysville, Ohio in July, 1984 and is associated with Union County Memorial Hospital.
 - D. That he is familiar with Percocet-5 and believes it to be a Schedule II controlled substance.
 - E. That the individuals identified as Patients 2 through 9 are all personal friends or acquaintances of his.
 - F. That at the time he wrote the first Percocet prescription for Patient 3-4 in December, 1981, he had examined the patient and diagnosed his injury as a sprained ankle. He testified that the patient had kept the majority of the pills but that subsequently the patient had given him several of the pills which he took in conjunction with alcohol. He estimated that he had received some or all of the Percocet obtained with five of the eleven prescriptions he later wrote for Patient 3-4.

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- G. That he was a heavy drinker and began using Percocet in conjunction with alcohol periodically after he first tried it in December, 1984. He obtained the Percocet by writing prescriptions in the names of other individuals who would have them filled and then bring the pills back to him. He continued to take Percocet recreationally on a periodic basis until early 1984, when he was confronted by an investigator from the State Pharmacy Board and a detective from the Upper Arlington Police Department.
- H. That following the filing of criminal charges against him in August, 1984, he was required to undergo psychiatric treatment in lieu of conviction. He noted that he began seeing Dr. William Todd several months prior to the imposition of this requirement, and has continued to see him.
- I. That he had paid for the prescriptions written to Patient 2, Patient 3-4's former wife, on several occasions. He testified that he had given some of the Percocet to Patient 2, although he had not performed any medical examination during the period covered by the prescriptions "that would subsequently justify the prescription." (Transcript at 24)
- J. That some time prior to the period covered by the prescriptions issued to Patient 6, the patient had been hospitalized for a depressed skull fracture sustained in an industrial accident. He testified that he had not been Patient 6's treating physician and had not reviewed his medical records or consulted with anyone about the patient's condition. He further stated that Patient 6 had told him he was not receiving any other medication. The Respondent added that he did not believe it was unacceptable medical practice to prescribe Percocet for Patient 6 so long after his head injury.
- K. That he had treated Patient 7 on one occasion at University Hospital after the patient had sustained a lower extremity fracture in a motor vehicle accident.
- L. That he does not recall if he was treating Patient 5 for a medical ailment at the time he wrote the Percocet prescription marked as State's Exhibit #10.
- M. That he wrote the two prescriptions marked as State's Exhibit #14 to Patient 9 on the same date and gave her money to have them filled. He testified that Patient 9 kept one or two of the pills and returned the rest to him.
- N. That he started drinking alcohol when he was sixteen years old. He began treatment for alcoholism in July, 1984 and is currently on Antabuse. He attends Alcoholics Anonymous meetings once or twice each week and meets with his psychiatrist, Dr. William Todd, in group therapy once a week and individually once every three weeks.

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- O. That since joining Alcoholics Anonymous he has been to bars to meet people or has "been with people who have gone to bars."
(Transcript at 31)
13. The State's second witness, Ms. Mary Kay Ford, was duly sworn and proceeded to testify, as follows:
- A. That she met the Respondent, Dr. Michael Baum, at a bar where her ex-husband was working in 1979 or 1980.
 - B. That the Respondent has never performed any sort of medical examination on her or made any diagnosis concerning a medical condition she might have had.
 - C. That Dr. Baum wrote prescriptions for Percocet in her name which she received directly from him or through her ex-husband. She testified that she would have the prescriptions filled and return the drugs to Dr. Baum or her ex-husband. On some occasions, Dr. Baum would give her money to have the prescriptions filled; on other occasions her ex-husband gave her the money, which she presumed he had been given by Dr. Baum.
 - D. That although she would be given a few of the pills from the prescriptions she filled, the majority of the medication was returned to Dr. Baum.
 - E. That she saw the Respondent take Percocet once or twice, and had seen him use cocaine.
 - F. That she had been in a treatment program for codeine dependency.
14. The State next called Teresa A. Plante, who was duly sworn and testified as follows:
- A. That she met Dr. Baum at a bar in 1980 and subsequently worked for him cleaning his apartment.
 - B. That Dr. Baum had written two prescriptions in her name, given her money, and asked her to have the prescriptions filled at separate pharmacies. She returned all the medication she obtained to Dr. Baum.
 - C. That she has never seen Dr. Baum take Percocet.
 - D. That she sees Dr. Baum occasionally in bars, most recently a month prior to the hearing.
 - E. That after she gave a statement to the Upper Arlington Police in 1984 about the prescriptions written in her name, Dr. Baum had come to her house "a couple of times" and asked her to make up a story about what the prescriptions were for and why they were written in her name. She testified that she had told him she would do as he asked so that he would leave her alone.

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15. Following the testimony of Ms. Plante, the State rested.
16. Mr. Tataru proceeded with his presentation of the Respondent's case by calling Dr. William E. Todd, a specialist in psychiatry who has been treating Dr. Baum since July 26, 1984. Dr. Todd's testimony on direct examination outlined the following:
 - A. That in a history taken at their first meeting on July 26, 1984, Dr. Baum had admitted to writing prescriptions for Percocet and taking Percocet in conjunction with alcohol for recreational purposes; that Dr. Baum had been frightened after being confronted by a Pharmacy Board investigator and a police detective in early 1984 and immediately discontinued use of any chemicals; that Dr. Baum initially suffered from depression; that he and Dr. Baum agreed to outpatient treatment; that he began prescribing Antabuse on July 26, 1984, and has prescribed it consistently since that time.
 - B. That Dr. Baum began participating in weekly group therapy sessions on August 2, 1984, and had individual psychotherapy every two or three weeks.
 - C. That he began doing urine screenings for Dr. Baum in December, 1984 at Mr. Tataru's suggestion.
 - D. That he is certain that Dr. Baum is not continuing to abuse drugs or alcohol because he has been taking Antabuse and has exhibited no evidence of drug toxicity. In addition, all of the urine screenings performed since December, 1984 have been negative except one, which was positive for a tricyclic antidepressant; however, the witness determined that the test was mistaken because Dr. Baum, "had not been prescribed or taking any antidepressant drugs; and he had not taken any neuroleptics, and they are not the type of drugs to be abused anyway." (Transcript at 66)
 - E. That the urine screenings do not test for alcohol.
 - F. That he has diagnosed Dr. Baum as having an alcohol dependency disorder, but that in his opinion the Respondent is capable of practicing medicine at this time according to acceptable prevailing standards of care even with this diagnosis due to "his motivation, his cooperation with treatment and his strong desire to get back into the practice of medicine." (Transcript at 69)
 - G. That he recommends that Dr. Baum continue to participate in Alcoholics Anonymous and continue to have periodic psychiatric follow up, although he could attend group and individual psychotherapy sessions less frequently.

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17. On cross-examination by Ms. Ross, Dr. Todd provided the following information:
- A. That he did not recall that Dr. Baum had received any prior psychiatric or psychological treatment, although the Respondent had failed to appear for an appointment on November 5, 1984 and called a week later to explain that he had been confined to Licking Memorial Hospital. He later became aware that Dr. Baum had checked himself out of a patient program run by Dr. William Kennedy at Licking Memorial.
 - B. That he was the physician assigned by the Franklin County Court of Common Pleas to treat Dr. Baum pursuant to a court order in September, 1984. The requirement for that treatment expired in March, 1985, after Dr. Baum's probation ended.
 - C. That he knew that Dr. Baum had been examined by psychiatrist Ralph Henn, M.D., in June, 1985. In response to a statement in Dr. Henn's report that, "There remains a continuing risk of his (Dr. Baum's) reversion to use of intoxicants," the witness commented that he felt "there is a very slight chance. I don't see a serious chance." He added that he agreed with Dr. Henn that Dr. Baum needed some sort of continuing evaluation or more treatment due to the nature of his work. He noted that, "If Dr. Baum were not a physician, I feel he would be able to get along without any further treatment." (Transcript at 74)
18. In response to Mr. Tataru's questions on re-direct examination, Dr. Todd testified:
- A. That he had reviewed the report not only of Dr. Henn, but also those prepared by Drs. Tennenbaum and Kuhr, and that these reports all indicated that Dr. Baum was able to practice medicine.
 - B. That he had also reviewed the urine screening reports prepared while Dr. Baum was in the program at Licking Memorial Hospital, and that all of these had been negative.
19. In response to questions from the Hearing Officer, Dr. Todd testified:
- A. That he did not test Dr. Baum for alcohol because he felt that there was no reason to monitor for alcohol as long as the doctor was taking Antabuse. He stated that he was assured that the Respondent was taking the Antabuse because, "about the time he needed a refill of a prescription, he asked for one." (Transcript at 77)
 - B. That in his experience and to his knowledge, the antidepressant Elavil is not an abused drug, and he has no information that Dr. Baum is taking Elavil.

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20. Mr. Tataru next called the Respondent, Dr. Baum, as on direct examination. The doctor testified:
- A. That although some of the prescriptions included in the Board's allegations were written for legitimate medical purposes, some of them were not. He admitted that he had abused Percocet for a period of time.
 - B. That he has not taken Percocet since January or February of 1980. Although he has used Percocet and Tylox in the course of his training and in his Marysville practice, he has never received either those or any other narcotic back.
 - C. That he last had alcohol in July, 1984. He has taken Antabuse as prescribed since then, and had understood until the day of the hearing that the screenings he had requested Dr. Todd to perform were for both alcohol and drugs.
 - D. That he has been in bars since July, 1984, but drinks diet soda or juice rather than alcohol.
 - E. That he began a solo surgical practice in Marysville, Ohio following completion of his residency at Ohio State University and became associated with Union County Memorial Hospital. He testified that he resigned his hospital privileges when the hospital learned about the criminal charges that had been made against him because, "They made it clear that somebody with my past in a small community was not going to be a viable situation." (Transcript at 84) He last practiced in Marysville in October, 1984.
 - F. That since leaving Marysville he has been interviewing for jobs and has worked on two occasions in emergency rooms. Other than that, he has not practiced medicine or written prescriptions since October, 1984.

21. On cross-examination by Ms. Ross, Dr. Baum testified:

- A. That his staff privileges at Union County Memorial Hospital had been temporarily suspended on October 26, 1984, and he was subsequently scheduled to have a hearing before the Executive Committee on that suspension. He testified that he had not attended the meeting because he had slept through it. He further testified that a formal hearing had been scheduled, but the matter was resolved prior to hearing when he executed a letter of resignation effective back to October 26, 1985. He stated that the original allegation upon which he had been suspended involved an alleged problem with nurses in the intensive care unit.

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22. In response to questions by the Hearing Officer, Dr. Baum clarified his earlier testimony, stating:
- A. That on the basis of his criminal problems and information obtained from Ohio State University, he had been asked by the Committee at Union Memorial Hospital to go to Licking County Hospital for a 96-hour evaluation. He was told at Licking Memorial that he would have to commit himself to six to eight weeks of inpatient treatment and he was not interested in doing that at the time, so he left the hospital.
 - B. That he attends Alcoholics Anonymous meetings once or twice a week, but does not have a sponsor. He does not belong to an Impaired Physicians Program.
23. Prior to resting the Respondent's case, Mr. Tataru identified the following exhibits and offered them for the record:
- A. Respondent's Exhibit A, the curriculum vitae of Dr. William Todd.
 - B. Respondent's Exhibit B, Dr. Todd's billing records indicating the dates of Dr. Baum's appointments with him.
 - C. Respondent's Exhibit C, drug screenings conducted by Dr. Todd.
 - D. Respondent's Exhibit D, a letter from a potential employer of the Respondent in Alabama indicating their awareness of the Ohio Board's proceedings and their continued interest in hiring him.
24. The above identified exhibits are hereby admitted to the record on behalf of the Respondent.
25. In her closing arguments, Ms. Ross distinguished between the charges against Dr. Baum pertaining to his prescribing of Percocet to himself and acquaintances and his abuse of that drug, and the Respondent's current ability or inability to practice medicine according to acceptable and prevailing standards of care by reason of mental condition or alcohol or drug dependency.
- A. With regard to the former, Ms. Ross contended that Dr. Baum's prescribing of Percocet purely because it was his drug of choice indicated his, "Failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," in violation of Section 4731.22(B)(2), Ohio Revised Code.
 - B. Ms. Ross further contended that Dr. Baum's acts of prescribing Percocet for another person, giving some of the medication to that individual for recreational use, and keeping the rest for his own recreational use were "A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to a patient is established," in violation of Section

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4731.22(B)(6), Ohio Revised Code.

- C. Ms. Ross further contended that the Respondent's testimony and admissions established that his acts constituted, "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," in violation of Section 4731.22(B)(3), Ohio Revised Code.
 - D. With regard to the allegations concerning the Respondent's ability to practice medicine according to acceptable and prevailing standards of care, Ms. Ross stated that the psychiatric and psychological evaluations admitted to the record indicated that Dr. Baum was currently unable to practice according to those standards without present and continuing treatment, evaluation and monitoring.
26. In his closing statements on behalf of Dr. Baum, Mr. Tataru stated that the doctor did not deny his acts with regard to the Percocet prescriptions, but argued that his acts were the offshoot of the Respondent's alcohol addiction. He urged the Board to consider the Respondent's age, the years he had spent preparing to become a physician and surgeon, and his own acknowledgment of his alcohol and drug problems. He also emphasized the treatment the doctor has been undergoing and the reports of the physicians who had examined him, all of which found that Dr. Baum could effectively practice medicine.
27. Subsequent to the July 23, 1985 hearing, the Hearing Officer requested that both parties provide any additional information concerning Dr. Baum's relinquishing hospital privileges that would be pertinent to the Section 4731.22(B)(15) allegations made by the State Medical Board. The parties complied by stipulating to three letters as supplemental exhibits to the July 23, 1985 proceedings. These letters are identified below and are hereby incorporated into the record along with the stipulation of the parties:
- A. A letter dated February 15, 1985 from James Johnson, Administrator of Union County Memorial Hospital, to Medical Board investigator Jay Hunter, concerning Dr. Baum's temporary suspension of staff privileges for abusive behavior toward hospital personnel, his apparent confusion concerning the treatment of two patients which he attributed to his taking cold medicine, and his resignation from the medical staff.
 - B. A letter dated February 15, 1985 from John Evans, M.D., Chief of Staff at Union County Memorial Hospital, to Medical Board investigator Jay Hunter, concerning the events leading up to the temporary suspension of Dr. Baum's staff privileges. Dr. Evans' letter mentions that there was initial concern about a drug abuse problem, but that subsequent random urine samplings produced negative results.
 - C. A letter from James Sampsel, M.D., Chief of Surgery at Union County Memorial Hospital, which states that Dr. Baum had "certain personality conflicts with the nursing staff" and decided to resign and seek opportunity elsewhere.

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FINDINGS OF FACT

1. By his own admission, Dr. Michael R. Baum wrote most of the prescriptions listed in the Board's May 9, 1985 citation letter (State's Exhibit #1) for non-medical purposes and diverted the drugs to his own use for recreational purposes.
2. By his own admission, Dr. Michael R. Baum provided some of the medication obtained with the prescriptions listed in State's Exhibit #1 to friends or acquaintances without prior medical examination and for non-medical use by those individuals.
3. Criminal charges were filed in the Franklin County Court of Common Pleas against Dr. Michael R. Baum in August, 1984, alleging that the doctor had made a false prescription for a Schedule II controlled substance.
4. By order of the Franklin County Court of Common Pleas, Dr. Michael R. Baum was permitted to seek treatment in lieu of conviction, and the proceedings against him were subsequently dismissed when the Court found that he had been rehabilitated, was no longer drug dependent or in danger of becoming drug dependent, and had completed all other conditions imposed.
5. Dr. Baum had been receiving psychiatric treatment from Dr. William Todd since July, 1984, and continues to see Dr. Todd on a periodic basis.
6. Dr. William Todd has conducted random urine screenings at the Respondent's request since December, 1984. With one exception, which Dr. Todd attributes to error, all of these screenings have been negative for drugs.
7. The random urine screenings conducted by Dr. Todd have not tested for the presence of alcohol.
8. Dr. Michael R. Baum's staff privileges at Union County Memorial Hospital were temporarily suspended on October 26, 1984. Prior to a formal hearing, Dr. Baum relinquished his staff privileges retroactive to October 26, 1984.

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CONCLUSIONS

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1. Dr. Michael R. Baum's prescribing of the Schedule II controlled substance Percocet to himself, friends and acquaintances without any medical evaluation or intention of using this medication for medical purposes evidences, "Failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," in violation of Section 4731.22(B)(2), Ohio Revised Code.
2. Dr. Michael R. Baum's prescribing of Percocet to himself, friends, and acquaintances, giving some of the medication to others for recreational use and diverting the remaining medication to his own recreational use without medical evaluation or the intention of prescribing for medical purposes constitutes, "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," in violation of Section 4731.22(B)(3), Ohio Revised Code.
3. Dr. Michael R. Baum's prescribing of Percocet to himself, friends, and acquaintances, giving some of the medication to others for recreational use and diverting the remain medication to his own recreational use without medical evaluation or the intention of prescribing for medical purposes demonstrates, "A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances," in violation of Section 4731.22(B)(6), Ohio Revised Code.
4. The psychiatric and psychological evaluations of Dr. Michael R. Baum included in the record clearly indicate that he is not capable of practicing medicine according to acceptable and prevailing standards of care without continued treatment, evaluation and monitoring. Although the Franklin County Court of Common Pleas appeared satisfied with the treatment and monitoring provided by Dr. William Todd, I am concerned about Dr. Todd's failure to screen for the presence of alcohol with a patient who is an admitted alcoholic, as well as his reliance solely on the patient's request for more Antabuse as evidence that the patient is taking the prescribed medication. It is clear that this level of monitoring is insufficient to provide adequate assurances of Dr. Baum's abstinence and to afford sufficient protection to the public.

PROPOSED ORDER

It is hereby ORDERED that the license of Michael R. Baum, M.D., to practice medicine and surgery in the State of Ohio be revoked. Such revocation is stayed and Dr. Baum is placed on probation for a term of eight (8) years provided that he complies with the following terms and conditions:

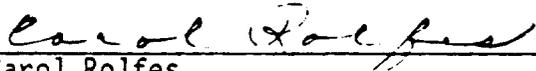
1. Dr. Baum shall obey all federal, state and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Baum shall submit quarterly declarations under penalty of perjury stating whether there has been compliance with all the conditions of probation.
3. Dr. Baum shall appear in person for interviews before the full Board or its designated representative at three month intervals, or as otherwise requested by the Board.
4. In the event that Dr. Baum should leave Ohio for three continuous months, or to reside or to practice outside the State, Dr. Baum must notify the State Medical Board in writing of the dates of departure or return. Periods of time spent outside of Ohio will not apply to the reduction of this probationary period.
5. Dr. Baum shall not prescribe, administer, dispense, order or possess (except as prescribed, administered, or dispensed to him by another person so authorized by law) controlled substances as defined by State or Federal law, except for those listed in Schedules IV and V, for a minimum of two years from the effective date of this Order. Dr. Baum shall not resume prescribing, administering, dispensing, ordering or possessing controlled substances in Schedules other than IV and V without prior written authorization from the Board.
6. Within 30 days of the effective date of this Order, Dr. Baum shall submit to the full Board for its prior approval the name and qualifications of a psychiatrist of his choice. Upon approval by the full Board, Dr. Baum shall undergo and continue psychiatric treatment no less than once per month, or as otherwise directed by the Board. Dr. Baum shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a monthly basis, or as frequently as the Board otherwise directs.
7. Dr. Baum shall submit daily specimens for random urine screenings for both drugs and alcohol by a physician to be approved by the Board. Such screenings shall be conducted weekly on a random basis, or as otherwise determined by the Board. Dr. Baum shall ensure that the weekly screening reports are forwarded directly to the Board on a monthly basis. The Board retains the right to require Dr. Baum to

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submit urine specimens for analysis without prior notice.

8. Within 30 days of the effective date of this Order, Dr. Baum shall undertake and maintain participation in an alcohol rehabilitation program acceptable to the Board no less than five times per week. In the Quarterly Reports to the Board, Dr. Baum shall provide documentary evidence of continuing compliance with this program. In addition, Dr. Baum shall undertake and maintain active participation in the Impaired Physicians Program.
9. Dr. Baum shall abstain completely from the personal use or possession of drugs, except those available for purchase over the counter OR those prescribed, administered, or dispensed to him by another person so authorized by law.
10. Dr. Baum shall abstain completely from the use of alcohol.
11. If Dr. Baum violates probation in any respect, the Board, after giving the Respondent notice and the opportunity to be heard, may set aside the stay order and impose the revocation of Dr. Baum's certificate.
12. Upon successful completion of probation, Dr. Baum's certificate will be fully restored.



Carol Rolfes
Hearing Member
State Medical Board of Ohio

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OHIO
MEDICAL BOARD

STATE OF OHIO
THE STATE MEDICAL BOARD

EXCERPT FROM THE DRAFT MINUTES OF JANUARY 8, 1986

REPORT AND RECOMMENDATION IN THE MATTER OF MICHAEL R. BAUM, M.D.

Dr. Rauch asked if each member of the Board received, read, and considered the hearing record, the proposed findings and order and any objections filed in the matter of Michael R. Baum, M.D. A roll call was taken:

ROLL CALL:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. O'Day	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Ms. Rolfes	- aye
	Dr. Oxley	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- aye
	Dr. Rauch	- abstain

Dr. Buchan asked if the report and recommendation had been modified at the December Board meeting.

Mr. Bumgarner stated that the matter was tabled at the last Board meeting and there were no modifications.

Mr. Johnston stated that Dr. Barnes had proposed amendments regarding paragraphs 5, 7 and 8 of the report and recommendation, which were tabled to this meeting.

Dr. Buchan asked if the order and Dr. Barnes' amendments had been voted on.

Mr. Bumgarner stated that the amendments were not voted on. Although they were prepared, no action was taken.

Dr. Cramblett asked the Chair if the Board was functioning under the Sturgis or the Roberts Rules of Order. He stated that, as the Board is functioning under the policy of Madame Sturgis, the slate is now clean to go forward even though the amendments have not been voted on.

Ms. Rolfes read the proposed order of her report and recommendation, the original of which shall be maintained in the exhibits section of this journal.

Dr. Lancione asked if being on probation for 8 years was too harsh. He stated it seems like a long time for someone to undergo urine screening.

Ms. Rolfes stated she gave the order a great deal of thought. Dr. Baum is a good physician, but his personality is such that he will need long-term monitoring. She further stated it is not unusual for other states to imposed probations of 8 to 10 years on impaired physicians.

DR. BUCHAN MOVED THAT THE PROPOSED ORDER BE AMENDED TO REQUIRE A PROBATIONARY TERM OF 8 YEARS, OR AS OTHERWISE DIRECTED BY THE BOARD. DR. LANCIONE SECONDED THE MOTION.

Dr. Lovshin asked if it was feasible for alcohol to be detected in urine screening. He thought alcohol screenings had to be taken through blood tests.

Dr. O'Day stated alcohol is only detected in urine the first 8 to 10 hours. She stated there are people who are very sensitive to alcohol and if they use antabuse the alcohol from even aftershave lotion can be detected.

Dr. Rauch stated a motion is on the floor concerning the terms of eight years probation. It has been seconded and not voted on.

Ms. Rolfes asked if the Board always has the right to change the probationary period.

Mr. Bumgarner stated it is not unusual to change the order.

A ROLL CALL VOTE WAS TAKEN ON DR. BUCHAN'S MOTION.

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. O'Day	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Ms. Rolfes	- nay
	Dr. Oxley	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- abstain

The motion carried.

DR. LOVSHIN MOVED TO DELETE THE LANGUAGE "RANDOM URINE SCREENINGS FOR BOTH DRUGS AND ALCOHOL" AND REPLACE IT WITH "RANDOM URINE SCREENINGS FOR DRUGS" IN PARAGRAPH 7 OF THE PROPOSED ORDER. MR. JOHNSTON SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. O'Day	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Ms. Rolfes	- nay
	Dr. Oxley	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- abstain

The motion carried.

DR. LANCIONE MOVED TO AMEND THE PROPOSED ORDER AS FOLLOWS:

PARAGRAPH #5 TO READ: "DR. BAUM SHALL NOT PRESCRIBE, ADMINISTER, DISPENSE, ORDER OR POSSESS (EXCEPT AS PRESCRIBED, ADMINISTERED, OR DISPENSED TO HIM BY ANOTHER PERSON SO AUTHORIZED BY LAW) CONTROLLED SUBSTANCES AS DEFINED BY STATE OR FEDERAL LAW, EXCEPT FOR THOSE LISTED IN SCHEDULES IV AND V, FOR A MINIMUM OF TWO YEARS FROM THE EFFECTIVE DATE OF THIS ORDER, EXCEPT THAT IN HIS CAPACITY AS ACTING MEDICAL DIRECTOR OF THE SOUTHERN OHIO CORRECTIONAL INSTITUTION AT LUCASVILLE, OHIO, DR. BAUM SHALL BE PERMITTED TO WRITE ORDERS FOR SCHEDULE II AND SCHEDULE III CONTROLLED SUBSTANCES TO INMATE PATIENTS TO BE ADMINISTERED BY OTHER PERSONNEL."

PARAGRAPH #7 BE AMENDED TO ADD: "IN THE EVENT THAT DR. BAUM FAILS TO SUBMIT TO A DAILY URINE SPECIMEN AS REQUIRED BY THIS ORDER DUE TO UNAVOIDABLE CIRCUMSTANCES WHICH ARE NOT THE FAULT OF DR. BAUM, HE SHALL WITHIN 24 HOURS NOTIFY THE BOARD IN WRITING OF THE CIRCUMSTANCES WHICH PREVENTED HIM FROM COMPLYING WITH THIS REQUIREMENT. THE BOARD MAY EXCUSE AN OCCASIONAL MISSED URINE SPECIMEN SUBMISSION IF IT DETERMINES THAT THE REASONS THEREFOR WERE IN FACT UNAVOIDABLE AND NOT THE FAULT OF DR. BAUM."

PARAGRAPH #8 BE AMENDED TO REQUIRE: "DR. BAUM TO UNDERTAKE AND MAINTAIN PARTICIPATION IN AN ALCOHOL REHABILITATION PROGRAM ACCEPTABLE TO THE BOARD NO LESS THAN THREE (3) TIMES PER WEEK, RATHER THAN NO LESS THAN FIVE (5) TIMES PER WEEK. ALL OTHER PROVISIONS OF PARAGRAPH #8 SHALL REMAIN UNALTERED." DR. BUCHAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. O'Day	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Ms. Rolfes	- aye
	Dr. Oxley	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- abstain

The motion carried.

DR. STEPHENS MOVED TO APPROVE THE REPORT AND RECOMMENDATION IN THE MATTER OF MICHAEL R. BAUM, M.D., WITH THE THREE AMENDMENTS. DR. BUCHAN SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- abstain
	Dr. Lancione	- aye
	Dr. O'Day	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Ms. Rolfes	- aye
	Dr. Oxley	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- abstain

The motion carried.

MS. ROLFES MOVED THAT THE EFFECTIVE DATE OF THE ORDER BE IMMEDIATE UPON RECEIPT OF NOTICE. DR. LANCIONE SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Dr. Cramblett	- aye
	Dr. Lancione	- aye
	Dr. O'Day	- aye
	Dr. Buchan	- aye
	Dr. Lovshin	- aye
	Ms. Rolfes	- aye
	Dr. Oxley	- aye
	Dr. Stephens	- aye
	Mr. Johnston	- aye

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
Suite 510
65 South Front Street
Columbus, Ohio 43215

May 9, 1985

Michael R. Baum, M. D.
714 N. Maple, Apt. C-10
Marysville, Ohio 43043

Dear Doctor Baum:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine under the provisions of Section 4731.22, Ohio Revised Code, whether or not to limit, reprimand, revoke, suspend, place on probation, refuse to register, or reinstate your certificate to practice medicine or surgery for one or more of the following reasons:

1. On or about the following dates you issued purported prescriptions for the Schedule II controlled substance, Percocet-5, in the amounts indicated, in the names of the individuals identified in the attached patient key (Key to be withheld from public disclosure). No patient records were maintained regarding the individuals in whose names the purported prescriptions were issued. The Percocet-5 obtained by the use of said purported prescriptions was not intended exclusively for the legitimate medical use of the individuals in whose names they were written.

<u>PATIENT NUMBER</u>	<u>DATES</u>	<u>AMOUNTS</u>
1.	2-28-84	25
	Undated	35
2.	11-7-81	50
	4-23-82	35
	5-13-82	40
	5-31-82	50
	7-2-82	40
	9-1-82	40
	2-5-83	35
	2-15-83	35
	2-25-83	35
	4-5-83	35
	4-10-83	35
	6-3-83	40
	6-3-83	40
	10-3-83	35
	10-13-83	35
	11-11-83	35
	12-23-83	35
	1-13-84	35
	1-20-84	35

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<u>PATIENT NUMBER</u>	<u>DATES</u>	<u>AMOUNTS</u>
3.	1-25-83	35
	1-28-83	35
	3-28-83	35
4	12-22-81	40
	2-1-82	40
	6-28-82	35
	7-23-82	35
	8-21-82	40
	8-25-82	40
	9-17-82	40
	4-16-83	35

Patients Number 3 and 4 are the same individual.

5	4-13-82	50
6.	12-30-83	40
	2-4-84	40
	2-14-84	40
7.	4-18-82	50
	4-24-82	35
8.	3-23-82	40
	3-26-82	40
	4-29-83	35
	5-16-83	40
9.	9-25-82	35
	9-25-82	35

Such acts in the above paragraph (1), individually and/or collectively, constitute "failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," as those clauses are used in Section 4731.22 (B)(2), Ohio Revised Code.

Further, such acts in the above paragraph (1), individually and/or collectively, constitute "selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes", as that clause is used in Section 4731.22(B)(3), Ohio Revised Code.

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Further, such acts in the above paragraph (1), individually and or collectively, constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

2. You are unable to practice according to acceptable and prevailing standards of care by reason of illness, excessive use of alcohol, excessive use of controlled substances, drugs, or chemicals, or as a result of a mental or physical condition.

Pursuant to Section 4731.22(B)(15), Ohio Revised Code, the Ohio Medical Board may limit, revoke, suspend, refuse to register or reinstate a certificate or reprimand or place on probation the holder of a certificate for one or more of the reasons listed in the above paragraph (2).

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing on this matter. If you wish to request such hearing, that request must be made 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 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 made 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 or surgery, or to reprimand or place you on probation.

Very truly yours,



Henry G. Cramblett, M. D.
Secretary

HGC:caa

CERTIFIED MAIL NO. P 569 361 779
RETURN RECEIPT REQUESTED

Enclosure

cc: Terry Tataru, Esquire

CERTIFIED MAIL NO. P 569 361 780
RETURN RECEIPT REQUESTED