

STATE MEDICAL BOARD
OF OHIO

2006 APR 28 A 9 54

**STEP II
CONSENT AGREEMENT
BETWEEN
GARY W. WALTZ, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Waltz 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 violations of Section 4731.22(B)(19), Ohio Revised Code, “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills,” and/or Section 4731.22(B)(26), Ohio Revised Code, “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/or 4731.22(B)(5), Ohio Revised Code, “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board.”
- B. The Board enters into this Step II Consent Agreement in lieu of formal proceedings based upon the violations of Sections 4731.22 (B)(19) and (B)(26), Ohio Revised Code, as set forth in Paragraphs E and F of the Step I Consent Agreement Between Gary W. Waltz, M.D., and The State Medical Board of Ohio, effective on or about July 13, 2005 [July 2005 Step I Consent Agreement], and the violations of Sections 4731.22 (B)(5), (B)(19), and (B)(26), Ohio Revised Code, as set forth herein. The Board expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or

after the effective date of this Consent Agreement. A copy of the July 2005 Step I Consent Agreement is attached hereto and fully incorporated herein. 2006 APR 28 A 9 54

- C. Dr. Waltz is applying for the reinstatement of his license to practice medicine and surgery in the State of Ohio, License # 35-044019, which is currently suspended pursuant to the terms of the above-referenced July 2005 Step I Consent Agreement.
- D. Dr. Waltz states that he is not licensed to practice medicine and surgery in any state or jurisdiction other than Ohio.
- E. Dr. Waltz admits that, on or about June 8, 2005, he reported to the Board that he had relapsed on alcohol on May 28, 2005, and was subsequently involved in an automobile accident. Dr. Waltz further admits that, on or about July 19, 2005, in Bedford Municipal Court, he entered a plea of no contest to and was found guilty of Operating a Vehicle while Impaired. Dr. Waltz admits that, on or about August 3, 2005, while in treatment in The Cleveland Clinic's intensive outpatient program [IOP], he admitted to having consumed alcohol "in moderate amounts off and on for the past year," which is contrary to the self-report of relapse that he provided to the Board on June 8, 2005. Dr. Waltz further admits that his August 3, 2005 admission is contrary to the factual admissions he asserted in the July 2005 Step I Consent Agreement, which constitutes publishing a false, deceptive or misleading statement related to the practice of medicine.
- F. Dr. Waltz admits that, following a three-day drug and alcohol assessment at The Cleveland Clinic, a Board-approved treatment provider in Cleveland, Ohio, he entered The Cleveland Clinic's IOP, which he successfully completed on or about August 26, 2005. Dr. Waltz admits, and the Board acknowledges receipt of information to support, that he entered into an aftercare contract with The Cleveland Clinic on September 6, 2005. Dr. Waltz states that he has been and continues to be compliant with the terms and conditions of the aftercare contract he entered into with The Cleveland Clinic on September 6, 2005. The Board acknowledges receipt of information concerning Dr. Waltz's compliance with his aftercare contract from Dr. Collins in his report dated February 16, 2006.
- G. Dr. Waltz states, and the Board acknowledges, that Gregory B. Collins, M.D., a psychiatrist at The Cleveland Clinic, undertook a psychiatric evaluation of Dr. Waltz and provided a written report dated January 10, 2006, indicating that Dr. Waltz's ability to practice had been assessed and that he was found to be incapable of practicing medicine and surgery according to acceptable and prevailing standards of care, due to a relapse of his previously diagnosed mental illness, to wit: severe major depression with psychotic and paranoid features. In the January 10, 2006 report, Dr. Collins set forth the following as the basis for his conclusions: on November 24, 2005, Dr. Waltz's treatment team at The Cleveland Clinic received notification from the United States Secret Service that Dr. Waltz was being investigated for writing

“threatening, bizarre letters” to President Bush and Governor Taft; despite Dr. Waltz’s agreement to stop writing such letters, Dr. Waltz continued to “write angry letters to other dignitaries,” including Secretary of State Rice and Vice President Cheney; Dr. Waltz changed his appearance and, “in honor of John Lennon,” began wearing dark, large glasses; Dr. Waltz stopped taking his prescribed medications, Zyprexa and Depakote, and refused to restart them; and, after being admitted by Dr. Collins to a Cleveland Clinic inpatient unit on December 8, 2005, for a dual diagnosis assessment, Dr. Waltz left against medical advice on December 9, 2005. Dr. Waltz states, and the Board acknowledges, that Gregory B. Collins, M.D., submitted to the Board a second written report dated February 16, 2006, indicating that Dr. Collins had reassessed Dr. Waltz’s psychiatric condition and his ability to practice, and that, in Dr. Collins’ opinion, Dr. Waltz is now capable of practicing medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements are in place.

- H. Dr. Waltz states, and the Board acknowledges, that Dr. Waltz’s Board-approved treating psychiatrist, Scott Dowling, M.D., submitted a written report dated March 24, 2006, in which Dr. Dowling discussed the events that occurred in November and December of 2005, as set forth in Paragraph (G), above. In said report, Dr. Dowling noted that December is a difficult month for Dr. Waltz, as it is the anniversary of his wife’s death, but that the concerns he had about Dr. Waltz psychiatric status in December of 2005 and January of 2006 had “largely abated,” and that, in his opinion, Dr. Waltz is capable of practicing medicine and surgery according to acceptable and prevailing standards of care, as long as certain treatment and monitoring requirements are in place. Dr. Dowling specified that Dr. Waltz can return to work in a setting where he can receive “ongoing careful supervision,” to include daily observation and regular full supervision.
- I. Dr. Waltz states, and the Board acknowledges, that Victoria L. Sanelli, M.D., a physician knowledgeable in the area of addictionology, who has been approved by the Board to provide assessments, assessed Dr. Waltz on October 4, 2005, and again on March 28, 2006, and provided a written report dated March 30, 2006, indicating that Dr. Waltz’s ability to practice had been assessed and that he was determined to be capable of practicing medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements were in place.
- J. Dr. Waltz states, and the Board acknowledges, that Robert Liebelt, M.D., a physician knowledgeable in the area of addictionology, who has been approved by the Board to provide assessments, assessed Dr. Waltz on September 21, 2005, and again on March 30, 2006, and provided a written report dated April 4, 2006, indicating that Dr. Waltz’s ability to practice had been assessed and that he was determined to be capable of practicing medicine and surgery according to acceptable and prevailing standards of care, so long as certain treatment and monitoring requirements were in place.

STATE MEDICAL BOARD
OF OHIO
APR 28 9 54 AM '06

- K. Dr. Waltz states that, although he had planned to move to Zambia in mid-July 2005, as stated in the July 2005 Step I Consent Agreement, he did not move to Zambia and, at this time, intends to resume practice in Ohio.

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

1. Dr. Waltz shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.
2. Dr. Waltz 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 July 2005 Step I Consent Agreement with 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. Waltz 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 July 2005 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. Waltz 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.
5. In the event Dr. Waltz 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.

2006 APR 28 A 9 54

STATE MEDICAL BOARD
OF OHIO

MONITORING OF REHABILITATION AND TREATMENT

Drug Associated Restrictions

6. Dr. Waltz shall keep a log of all controlled substances prescribed. Such log shall be submitted, in the format approved by the Board, thirty days prior to Dr. Waltz's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Waltz shall make his patient records with regard to such prescribing available for review by an agent of the Board upon request.
7. Dr. Waltz 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. Waltz to administer or personally furnish controlled substances, Dr. Waltz 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 thirty days prior to Dr. Waltz's personal appearance before the Board or its designated representative, or as otherwise directed by the Board. Further, Dr. Waltz shall make his patient records with regard to such prescribing, administering, or personally furnishing available for review by an agent of the Board upon request.

Sobriety

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

Drug and Alcohol Screens/Supervising Physician

10. Dr. Waltz shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Waltz 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.

Dr. Waltz shall abstain from the consumption of any food or liquid that may produce false results in a toxicology screen, including, but not limited to, poppy seeds and cider.

Dr. Waltz and the Board agree that the person or entity previously approved by the Board to serve as Dr. Waltz's supervising physician pursuant to the July 2005 Step I Consent Agreement is hereby approved to continue as Dr. Waltz's designated

STATE MEDICAL BOARD
OF OHIO
APR 28 4 54 PM '07

supervising physician under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Waltz submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Waltz shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Waltz. Dr. Waltz and the supervising physician shall ensure 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, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results. Further, the supervising physician shall ensure that additional testing of urine specimens for ethyl glucuronide is done on a random basis to include at least two out of every six urine specimens.

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

Dr. Waltz shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

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

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

11. The Board retains the right to require, and Dr. Waltz agrees to submit, blood and/or urine specimens for analysis of medication levels or any other purpose at Dr. Waltz's expense upon the Board's request and without prior notice. Dr. Waltz's refusal to

submit a blood or urine specimen upon request of the Board shall result in a minimum of one year of actual license suspension.

Psychiatric Treatment

12. Dr. Waltz and the Board agree that the person previously approved by the Board to serve as Dr. Waltz's treating psychiatrist pursuant to the July 2005 Step I Consent Agreement is hereby approved to continue as Dr. Waltz's designated treating psychiatrist under this Consent Agreement, unless within thirty days of the effective date of this Consent Agreement, Dr. Waltz submits to the Board for its prior approval the name and qualifications of an alternative psychiatrist of his choice.

Dr. Waltz shall undergo and continue psychiatric treatment weekly or as otherwise directed by the Board, except that, during the months of November and December, Dr. Waltz shall undergo psychiatric treatment at least two times per week. Dr. Waltz shall comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric disorder. Dr. Waltz shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Waltz's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Waltz's compliance with his treatment plan; Dr. Waltz's mental status; Dr. Waltz's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Waltz shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Waltz is unable to practice due to his psychiatric disorder. It is Dr. Waltz's responsibility to 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. Waltz's quarterly declaration.

In the event that the designated treating psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Waltz must immediately so notify the Board in writing. In addition, Dr. Waltz shall make arrangements acceptable to the Board for another treating psychiatrist within seven business days after the previously designated treating psychiatrist becomes unable or unwilling to serve unless otherwise determined by the Board. Furthermore, Dr. Waltz shall ensure that the previously designated treating psychiatrist 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 psychiatrist proposed to serve as Dr. Waltz's designated treating psychiatrist, or to withdraw approval of any psychiatrist previously approved to serve as Dr. Waltz's designated treating psychiatrist, in the event that the Secretary and Supervising Member of the Board

STATE MEDICAL BOARD
OF OHIO

2006 APR 28 A 9 55

determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Practice Plan/Monitoring Physician

13. Prior to Dr. Waltz's commencement of practice in Ohio, or as otherwise determined by the Board, Dr. Waltz shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Waltz's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Waltz shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Consent Agreement.
14. At the time Dr. Waltz submits his practice plan, he shall also submit 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 or Supervising Member will give preference to a physician who practices in the same locale as Dr. Waltz and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Waltz and his medical practice, and shall review Dr. Waltz'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. Waltz and his medical practice and on the review of Dr. Waltz's patient charts. Dr. Waltz 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. Waltz's quarterly declaration.

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

Rehabilitation Program

15. Within thirty days of the effective date of this Consent Agreement, Dr. Waltz shall undertake and maintain participation in an alcohol and drug rehabilitation program,

STATE MEDICAL BOARD
OF OHIO

2006 APR 28 A 9 55

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. Waltz shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Waltz's quarterly declarations.

Aftercare

16. Dr. Waltz shall contact an appropriate impaired physicians committee, approved by the Board, to arrange for assistance in recovery or aftercare.
17. Dr. Waltz shall maintain continued compliance with the terms of the aftercare contract entered into with his treatment provider, provided that, where terms of the aftercare contract conflict with terms of this Consent Agreement, the terms of this Consent Agreement shall control.

Releases

18. Dr. Waltz shall provide continuing authorization, through appropriate written consent forms, for disclosure by his treatment providers to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for them to fulfill their respective duties and obligations.

Required Reporting by Licensee

19. Within thirty days of the effective date of this Consent Agreement, Dr. Waltz shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Waltz shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

Within thirty days of the effective date of this Consent Agreement, Dr. Waltz shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Waltz further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Waltz shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

STATE MEDICAL BOARD
OF OHIO

2006 APR 28 A 9:55

21. Dr. Waltz shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Waltz chemical dependency and/or psychiatric treatment or monitoring.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Waltz 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. Waltz has violated any term, condition or limitation of this Consent Agreement, Dr. Waltz agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

Dr. Waltz shall not request termination of this Consent Agreement for a minimum of five years. In addition, Dr. Waltz shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Waltz 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. Waltz 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. Waltz 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.

STATE MEDICAL BOARD
OF OHIO
APR 17 87

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.



GARY W. WALTZ, M.D.



LANCE A. TALMAGE, M.D.
Secretary

28 April 2006

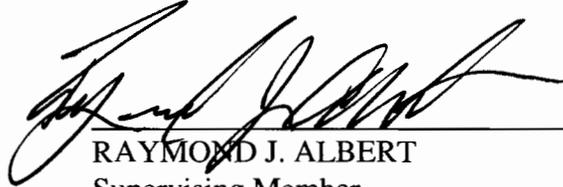
DATE

5-10-06

DATE



KEVIN P. BYERS
Attorney for Dr. Waltz



RAYMOND J. ALBERT
Supervising Member

APRIL 28, 2006

DATE

5/10/06

DATE



KATHLEEN S. PETERSON
Enforcement Attorney

May 1, 2006

DATE

2006 APR 28 A 9 55

STATE MEDICAL BOARD
OF OHIO

**STEP I
CONSENT AGREEMENT
BETWEEN
GARY W. WALTZ, M.D.,
AND
THE STATE MEDICAL BOARD OF OHIO**

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

Dr. Waltz 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 violations of Section 4731.22(B)(19), Ohio Revised Code, “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills,” and/or Section 4731.22(B)(26), Ohio Revised Code, “impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Sections 4731.22 (B)(19) and (B)(26), Ohio Revised Code, as set forth in Paragraph E. below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. Dr. Waltz is licensed to practice medicine and surgery in the State of Ohio, License # 35-044019.
- D. Dr. Waltz states that he is not licensed to practice medicine and surgery in any state or jurisdiction other than Ohio.
- E. Dr. Waltz admits that in August 2002 he entered initial treatment for alcohol dependency at The Cleveland Clinic Foundation, a Board approved treatment provider in Cleveland, Ohio, upon referral by his employing hospital following the detection of alcohol on his

breath during practice hours. Further, Dr. Waltz states that after release from the 28-day residential program at The Cleveland Clinic, treatment complete for alcohol addiction and major depression with psychotic features, he entered into an advocacy contract with the Ohio Physicians Effective Program, now known as the Ohio Physicians Health Program [OPHP], entered into an aftercare contract with The Cleveland Clinic, and participated in AA and Caduceus.

Dr. Waltz admits that following a sobriety period of approximately two and one half years, he relapsed on alcohol on May 28, 2005, by consuming a vodka martini and three to four glasses of red wine in a social situation, and subsequently was involved in an automobile accident. Further, Dr. Waltz admits that following his relapse on May 28, 2005, he resigned from his medical practice facilities and continued to consume alcoholic beverages for approximately one week. Further, Dr. Waltz admits, and the Board acknowledges, that on June 8, 2005, Dr. Waltz self-reported his relapse to the Board. Further, Dr. Waltz admits that on June 13, 2005, he reported to The Cleveland Clinic for a three-day drug and alcohol assessment, which resulted in the recommendation that he complete the intensive outpatient program, then enter appropriate psychiatric treatment and sobriety support programs. Further, Dr. Waltz states that he is currently participating in the intensive outpatient program at The Cleveland Clinic.

Further Dr. Waltz admits that following the May 28, 2005 automobile accident, he was cited for Driving or Physical Control While Under the Influence [OVI], in violation of Section 333.01(a)(1) of the Codified Ordinances of Chagrin Falls, Ohio, and Failure to Control, in violation of Section 331.34(a), of the Codified Ordinances of Chagrin Falls, Ohio, and that a pre-trial hearing on such charges is set for July 6, 2005, in Bedford, Ohio, Municipal Court.

- F. Dr. Waltz states that he plans to move to Zambia in mid-July 2005. Further, the staff of The Cleveland Clinic has opined that the move to Zambia is "a sensible plan," given, in part, Dr. Waltz's chronic depression and unresolved grief over the 2002 death of his wife.

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

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Waltz to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time, but not less than 90 days.

OHIO STATE MEDICAL BOARD

Sobriety

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

Releases; Quarterly Declarations and Appearances

4. Dr. Waltz 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. Waltz's chemical dependency, and/or psychiatric condition, and/or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Waltz 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.
5. Dr. Waltz shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
6. Dr. Waltz shall appear in person for an initial 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.

If Dr. Waltz leaves the United States to live in a foreign country, and appropriately notifies the Board in accordance with paragraph 13 below, he will not be required to make personal appearances during the time that he is living in a foreign country, but shall appear in person before the Board or its designated representative during the third

month following the month in which he returns to live in the United States. 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; Supervising Physician

7. Dr. Waltz shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Waltz 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.

Dr. Waltz shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Within thirty days of the effective date of this Consent Agreement, Dr. Waltz shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Waltz shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Waltz. Dr. Waltz and the supervising physician shall ensure 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, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Waltz shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

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

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

OHIO STATE MEDICAL BOARD

JUN 30 2005

8. The Board retains the right to require, and Dr. Waltz agrees to submit, blood or urine specimens for analysis at Dr. Waltz's expense upon the Board's request and without prior notice.

Rehabilitation Program

9. Within thirty days of the effective date of this Consent Agreement, Dr. Waltz 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. Waltz shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Dr. Waltz's quarterly declarations.

Psychiatric Treatment

10. Within thirty days of the effective date of this agreement, Dr. Waltz shall submit to the Board the name of a psychiatrist who will provide psychiatric counseling to him. Dr. Waltz shall undergo and continue psychiatric counseling weekly or as otherwise directed by the Board and comply with his psychiatric treatment plan, including taking medications as prescribed and/or ordered for his psychiatric status. Dr. Waltz shall ensure that psychiatric reports are forwarded by his treating psychiatrist to the Board on a quarterly basis, or as otherwise directed by the Board. The psychiatric reports shall contain information describing Dr. Waltz's current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Waltz's compliance with his treatment plan; Dr. Waltz's mental status; Dr. Waltz's progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Waltz shall ensure that his treating psychiatrist immediately notifies the Board of his failure to comply with his psychiatric treatment plan and/or any determination that Dr. Waltz is unable to practice due to his psychiatric disorder. It is Dr. Waltz's responsibility to ensure that quarterly reports are received in the Board's offices no later than the due date for Dr. Waltz's quarterly declaration.

In the event that the designated treating psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Waltz must immediately so notify the Board in writing. In addition, Dr. Waltz shall make arrangements acceptable to the Board for another treating psychiatrist within thirty days after the previously designated treating psychiatrist becomes unable or unwilling to serve, unless otherwise determined by the Board. Furthermore, Dr. Waltz shall ensure that the previously designated treating psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

OHIO STATE MEDICAL BOARD

JUN 3 0 2005

CONDITIONS FOR REINSTATEMENT

11. The Board shall not consider reinstatement of Dr. Waltz's certificate to practice medicine and surgery until all of the following conditions are met:
- a. Dr. Waltz shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Waltz 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. Waltz has successfully completed any required inpatient treatment.
 - ii. Evidence of continuing full compliance with 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. Three written reports indicating that Dr. Waltz's ability to practice has been assessed and that he has been found capable of practicing according to acceptable and prevailing standards of care.

Two reports shall be made 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. Waltz. Prior to the assessments, Dr. Waltz 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. Waltz, and any conditions, restrictions, or limitations that should be imposed on Dr. Waltz's practice. The reports shall also describe the basis for the evaluator's determinations.

One report shall be made by a psychiatrist, approved in advance by the Board, who shall conduct a psychiatric examination of Dr. Waltz. Prior to the examination, Dr. Waltz shall provide the psychiatrist with copies of patient records.

OHIO STATE MEDICAL BOARD

JUN 30 2005

records from any prior evaluations and/or treatment that he has received, and a copy of this Consent Agreement. The report from the evaluating psychiatrist shall include the psychiatrist's diagnoses and conclusions; any recommendations for care, counseling, and treatment for the psychiatric diagnoses; any conditions, restrictions, or limitations that should be imposed on Dr. Waltz's practice; and the basis for the psychiatrist'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. Moreover, Dr. Waltz agrees that should he leave the United States to live in a foreign country, the three required examinations shall not occur until he establishes compliance with the requirements of Paragraphs 7 and 10 above during a period of residency in the United States for a minimum of 90 days immediately preceding the examinations.

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

Further, upon reinstatement of Dr. Waltz'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. Waltz 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. Waltz has maintained sobriety.

12. In the event that Dr. Waltz's license to practice medicine and surgery is suspended for a period in excess of two years, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Waltz's fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

13. Should Dr. Waltz leave the United States to live in a foreign country, he shall notify the Board in writing within 10 days of such action. Moreover, Dr. Waltz shall, in compliance with Section 4731.281, Ohio Revised Code, provide written notice to the Board of any change of principal practice address or residence address within 30 days of the change. Moreover, Dr. Waltz shall, no more than ten days after returning to live in

the United States, provide written notice to the Board of the address and telephone number of his residence.

14. Within thirty days of the effective date of this Consent Agreement, Dr. Waltz shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Waltz further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Waltz shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
15. Within thirty days of the effective date of this Consent Agreement, Dr. Waltz shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Waltz shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.
16. Dr. Waltz shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Waltz chemical dependency and/or psychiatric treatment or monitoring.

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

FAILURE TO COMPLY

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



GARY W. WALTZ, M.D.

6-28-05

DATE



LANCE A. TALMAGE, M.D.
Secretary

7-13-05

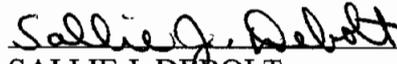
DATE



RAYMOND J. ALBERT
Supervising Member

7/13/05

DATE



SALLIE J. DEBOLT
Enforcement Attorney

7/1/05

DATE